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SPECIAL ECONOMIC ZONES IN POLAND AND THE COMPETITION POLICY OF THE EUROPEAN UNION

The process of the integration of Poland with the European Union is slowly approaching its deciding phase. Most of the legal issues connected with the adaptation of EU law to Polish conditions have been successfully resolved. However, there are still a few unsolved and rather ticklish problems which have appeared during the proceeding negotiations. One of the sore points is the fact of the existence of Special Economic Zones (SEZ), introduced in Poland in 1994. The EU will not accept such tools of regional policy in Poland because they do not accord with its Competition Strategy (CS). This strategy is one of the most important points of the EU policy regulated on the EU level.

The purpose of this paper is to present the results of a political and economic analysis of Polish SEZ in context of integration with EU structures. To fulfil the assignment, the author will present among others: the conditions for creating SEZ, advantages and disadvantages of SEZ, initial evaluation of their functioning in Poland, the future of SEZ in the face of the integration of Poland with the European Union.

INTRODUCTION

The creation of preferential economic zones (PEZ) is one of the most common methods in the world for attracting foreign capital. In the attainable literature, there are 23 terms defining different types of preferential economic zones. Various studies and analyses performed by world organizations demonstrate that SEZ is the most popular form. It is estimated that in the nineties there were about 500 PEZ functioning in the world. At the moment, the greatest number of PEZ are established in Central Europe and in the countries of the former Soviet Union. They were established to draw the capital that would activate the economy of the selected regions. The activation is possible due to tax relief or even full tax exemption and creation of new work places, especially in local labour markets with an excess of labour force. Another significant reason for the establishment of SEZ in Poland is an attempt to revitalize some of the business units and

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regions, well equipped with technical infrastructure, qualified workers and large stocks of production halls, stores, sidings and a good transport system.

The two types of investments may be distinguished in Poland:

1. Brownfield investments employing existing technical and transport infrastructure, which have gained a lot of popularity in Poland.

2. Greenfield investments, which do not use the existing infrastructure.

The EU attitude towards the preferential zones is disadvantageous for Poland. In 1997, the member countries came to a political decision about limiting the number of preferential zones and their gradual liquidation. Meanwhile, only in 1997 in Poland, the government decreed that the initial number of 6 SEZ will be increased to 11. This decision met with the disapproval of the EU and provoked opinions that such a resolution may lengthen the process of integration. Although the decrees about the establishment of 11 (in fact 15) SEZ in Poland contained special clauses which gave supremacy to the EU rules over Polish law, the criticism continued. According to those paragraphs, the Polish Government, if put under EU pressure, may immediately change the conditions for obtaining tax relief or even liquidate the whole SEZ. Despite those special provisions, the investors are still ready to start businesses in the Polish SEZ.

In the opinion of the EU Commission the public support in preferential zones in Poland does not accord with the EU Competition Strategy and with the provisions of The Single European Act. The public support in SEZ is aimed at stimulating the economy, lowering the rate of unemployment and embraces only selected regions.

This sort of support is of a mixed nature. The EU attempts to separate these two types of aid because of their incompatibility with fair competition and the free market.

The author of this article intends to analyse the EU objections to the Polish SEZ. The criticism has been particularly strong after 19th May 1999, which is connected with reaching a new stage of the negotiations concerned with EU Competition Strategy.

The author tried to answer several questions: Are the EU objections to Polish SEZ only of a substantial character or perhaps they should be treated as a power struggle? The Polish government attempted to appease EU criticism by an amendment to the bill on the SEZ and a related bill on obtaining and supervising state financial support. Is the EU Commission going to acknowledge these efforts? Do all member states comply with EU rules connected with the functioning and creating of SEZ?

Can Poland afford to liquidate its SEZ and to create new investment incentives?

These questions and many more may be asked after investigating the argument of both the sides. The analysis is concerned not only with the EU criticism of Polish SEZ, but also with the social and macroeconomic context of the establishment, and efficiency of the SEZ and its influence on the domestic market.

This research, dealing with the comparison of planned and actual effects of Polish SEZ and their influence on the process of integration, was carried out on data gathered from various sources. Taking into consideration the fact that rules of functioning of SEZ in Poland were constantly changing in the last decade, the author derived most of the essential information from the local press such as: "Gazeta Wyborcza", "Rzeczpospolita" and the economic press: "Puls Biznesu" and "Gazeta Bankowa".

For explaining strictly economic and legal mechanisms, the author made use of professional economic literature such as the scientific publications of the Universities of Economics and other publishers for example: Polish Economic Associations, Polish Economic Press and Polish Agency for Polish Investment (PAIZ).

1. THE DEFINITION AND TYPES OF SPECIAL ECONOMIC ZONES

The definition "special economic zones" is not unequivocal. In the legal field, it means an enclave in a country's territory which is not embraced by its economic law. It may be also defined as a specific legal and political structure creating more attractive conditions for investment than those existing outside the zone (Kryńska 2000, p.17).

The preferential conditions include:

- full tax exemption
- income tax relief and local duties relief
- custom duties relief
- exemption from custom duties
- simplifying the custom procedures
- accelerated depreciation of fixed assets
- limited interference of local authorities
- free flow of capital
- loan guarantee

- diminishing of wage costs
- lowering or exemption from property tax
- simplifying the procedures of recruiting and dismissing employees (Jędrzejewska p.130).

In the economic field, SEZ are the inactive instruments of government industrial policy (Durski 1998, p.102). Industrial policy is the government intervention in industry. It modifies the allocation of resources through the market (Winiarski 1994, p. 194 & 197). This government policy appoints the particular conveniences for trade and productive activity of domestic and foreign enterprises in selected regions, for example in the SEZ. Thus, the preferential zones are a form of the government's indirect support for particular businesses and whole regions. The SEZ influence the industrial development and rational economy of a selected territory and improve the co-ordination of local and regional systems. In a more general view, SEZ is a way of connection with the international market through special financial and economic stimuli. The countries decide to establish preferential zones and to limit government authorization, hoping for their beneficial effects on their country's economy. The principal reasons for creating SEZ are usually:

1. Increase in economic activity of a particular region.
2. Inflow of foreign capital.
3. Adaptation of Polish economy to world standards.
4. Lowering of production costs.
5. Creation of new work places.
6. Employment of existing industrial and economic resources.
7. Increase in volume of transit and re-export.
8. Attraction of new technologies.
9. Exchange of organizational and marketing experience (Jędrzejewska 1999, p.131).

Many types of preferential zones are being established. The most popular include:

- free trade zones
- foreign trade zones
- processing export zones
- special economic zones
- free economic zones

Besides the zones mentioned above (UNCTC 1991) there are 23 other terms defining preferential zones (Kryńska 2000, p.20).

Research and analysis carried out by the international organizations indicate that the most popular form of preferential zones are the special economic zones.

2. SPECIAL ECONOMIC ZONES IN THE WORLD

According to the International Labour Organization (ILO) in 1997 there were 850 SEZ established and the companies located in them employed about 27 million workers. The actual force of SEZ creation may be seen in the World Bank data from 1990. It estimated that in 1990 there were only 86 SEZ which employed 530,000 workers (Szwinta, 2000). This low number of registered SEZ may be explained statistically by the fact that the World Bank evaluation does not include SEZ existing in economically advanced countries such as the USA. Thus, 230 SEZ were not classified only in the USA. Still, the great popularity of this economic tool cannot be denied (Kryńska 2000, p. 21 & 22).

In Europe, two types of SEZ may be distinguished:

- SEZ existing in EU countries
- SEZ operating in the rest of Europe

This distinction is necessary for the reasons mentioned below:

- the reasons for the establishment of SEZ are different in the member countries and in the other countries
- the EU countries have a different level of economic advancement
- different time of establishment (EU countries in the sixties and the seventies; the rest of the countries in the early nineties)
- different legal conditions of functioning.

Continuing the above division the author of this article will give examples of SEZ operating in the member countries.

The most known and successful SEZ is the Irish Shannon SEZ. It is a preferential zone established in 1959 in the territory of a former military airport. In 1998, Shannon operated 120 thousand companies employing 7,000 workers. In the Shannon Zone there are representatives of modern industries such as telecommunication, insurance, production of computers, electronic and medical equipment.

Another country from outside continental Europe but belonging to the EU is the United Kingdom. The UK created examples of enterprises which aimed at reviving old industrial areas and the creation of new work places in regions endangered by unemployment.

The British program is called the Activity Zone. In 1981, 11 such zones were established in Britain. After two years, their number increased by another 13. The zones are small (from 1 to 11 hectares). Unfortunately, they fell below British Government expectations. 86 % of the zones belonged to the same county. The structure of investments was also unfavourable. New work places were created mainly in trade, mostly in retail trade and manufacturing industry.

A different kind of SEZ existing in the EU is represented by the International Business Centre on the Portuguese Madeira. It is considered to be one of the leading economic zones in the EU. It offers convenient conditions for establishing and operating businesses. Up to June 1998, the zone attracted 3,000 enterprises which obtained exemption from full income tax and value added tax. These incentives will exist until 2011. In 1996, the European Union Commission permitted creating an economic zone on Corsica. In this zone, the investors may obtain the corporate income tax relief and exemption from national insurance premiums SEZ existed also in Germany. They were called the "Industrie-Kerne" (Industrial Kernels). It was an initiative of particular areas aiming at stimulating industrial advancement of particular lands and treated as a guarantee for the existence of the 3rd sector of industry. After 1995 they were changed to technology centres (Zentrum der Technologie) such as the Dresden Zone (Błocian 1995, p. 15).

The youngest SEZ in Europe is operating in northern France. It was established in the hope of attracting the Japanese giant, Toyota (Oktaba 1998).

A second group of European SEZ are operating in countries outside the EU. These countries may be divided into two groups:

1. Countries of the former Soviet Union
2. Countries of Central and Eastern Europe

The countries belonging to the first group are: Ukraine, Belorussia, Moldova, Russia (Kaliningrad). In Ukraine, 12 SEZ exist but only 6 of them are actually functioning. The declared investments amount to 800 million USD but the real investments equal 60 million USD. Ukraine does not have unified rules about the SEZ. Each zone works on different principles (Iwaniak, 2000).

A very specific preferential zone is being created in Breeze in Belorussia. It is unusual due to its plan stretching onto the next 50 years. SEZ in Breeze is appointed to: use foreign investment for economic advancement of Belorussia, create new work places, accelerate technical and scientific

advancement, increment the trade and economic partnership with other countries (Belorussia's Presidential decree the 20th March 1996).

Other countries where SEZ exist, are: Bulgaria (8), Slovenia (8), Romania (8).

3. THE ADVANTAGES AND DISADVANTAGES OF SEZ

An important thing when analyzing SEZ are their economic effects. They may affect: local economic activities, employment, inflow of investments, the whole industry of a particular country. The SEZ may have the following negative effects:

1. The idle gear effect: when an increase in employment is not an effect of the SEZ, but occurs independently. Thus, the establishment of the SEZ must be thought of as unnecessary.

2. The substitution effect: when the investors start businesses in the SEZ, but at the same time they withdraw the capital from other regions (without the government's support) and thus cause unemployment and economic activity decrease in these areas.

3. The elimination effect: when business entities from the SEZ (supported by the government) eliminate similar enterprises (not supported by the government) and thus increase the rate of unemployment.

SEZ are not the most efficient way of stimulating economic growth. More important factors are: market demand, qualified workers, a well-developed communication system and institutions surrounding businesses. A lot of investment incentives do not promote economic liberalism, but they disturb free competition and cause the elimination of business entities without government support (Kryńska 2000, p. 14, 33-34). But still, despite the above negative effects and high costs of the SEZ establishment, they are created and governments expect their specific benefits.

The advantages of SEZ may be divided into two groups:

1. The direct benefits of SEZ such as:

- an increase in employment,
- inflow of foreign capital,
- attracting foreign capital and investors, the significant investors are usually from economically advanced countries.

2. The indirect benefits of SEZ, such as:

- transfer of modern technologies,
- improvement of workers' technical qualifications,

- initiation of modern management,
- creation of associations between the export sector and the country's economy,
- widening access to international markets (Boroń, 1998).

The most important reason for the creation of SEZ is an attempt to draw the attention of significant foreign investors. Their importance for a country's economy cannot be denied (especially for Poland, undergoing economic transformation). The inflow of foreign capital enables the acceleration of economic development, particularly when it is invested in economic activity (Sadowski, 1999, p.17–18). Foreign investments widen workers' qualifications and make the particular region's economy more innovative. Scientists from the Institute for Market Economy have distinguished five main factors of foreign investments' direct benefits such as an increase in: level of investments, production, employment, market demand, economic efficiency. Foreign enterprises also affect: reorganization of businesses, rationalization of employment and costs of production, initiation of new technologies. The indirect benefits of foreign enterprises are: an increase in the country's international reliability, and higher Gross National Product (GNP), budget inflows. Foreign investments strongly affect the economy of a given region. In this field the most important effects are: restructuring of the region's economy, the influence on the local business environment and on market competition (Olesiński, p.46 & 204).

4.THE FUNCTIONING OF SEZ IN POLAND

The inflow of foreign direct investments plays an important part in the reconstruction of the Polish economy. In years 1989–1999, the volume of foreign investment amounted to USD 40 billion and in the first half of 2000 the inflow of foreign capital reached the level of USD 4,1 billion. Thus, the whole amount of FDI came to about 43 billion USD and another USD 12 billion are guaranteed. One of the methods of attracting foreign capital to Poland is the establishment of SEZ (Pisera 2000).

The first Polish SEZ was established in September 1995 in Mielec (Euro-Park Mielec). The next two (Katowice SEZ and Suwałki SEZ) were created in 1996. The process of establishing SEZ accelerated in 1997. The next SEZ (Legnica SEZ, Łódź SEZ, Wałbrzych SEZ) were created. In April 1997 and in the autumn of the same year, nine more were established: Kostrzyń-Słubice SEZ, Słupsk SEZ, Tarnobrzeg SEZ, Starachowice SEZ, Tczew SEZ,

Warmińsko-Mazurska SEZ, Częstochowa SEZ, Żarnowiec SEZ, Caiman Guar SEZ and two tech-parks: in Kraków and in Modlin, near Warszawa. After the establishment of the new administrative structure in Poland, SEZ function in 11 voivodships. The greatest concentration of SEZ occur in: Dolnośląskie and Pomorskie voivodship (3 zones each), Podkarpackie, Świętokrzyskie, Warmińsko-Mazurskie (2 zones each). Suwałki and Tarnobrzeg SEZ exist simultaneously in two voivodships (Suwałki SEZ in Podlaskie and Warmińsko-Mazurskie voivodships). Only 5 voivodships are left without any SEZ: Zachodniopomorskie, Wielkopolskie, Pomorsko-Kujawskie, Opolskie and Lubelskie (Kryńska 2000, p. 43–44). The existing SEZ are mostly of a greenfield type with electricity, gas, water and sewage system installed. Greenfield investments are more popular among investors because the building of a wholly new company is thought to be faster, less expensive and it is estimated that it better suits the needs of newly created businesses. There were also attempts made to establish brownfield investments, using the infrastructure of bankrupt companies (such as the buildings left by the bankrupt Aroma in Suwałki SEZ), but the remaining buildings are often unfinished and devastated. A similar situation existed in the rest of Polish SEZ (Oktaba, 1999). Most of the Polish SEZ are divided into several sub-zones. Some expert economists evaluate this division as advantageous due to the fact that it better stimulates the given region than one compact enclave does. The opponents of such segmentation argue that the administration of such zones is much more complicated and expensive (Oktaba 1998). The established SEZ may be divided into five groups because of their aims. There may be considered:

1. A method of restructuring old industrial regions such as: Katowice SEZ and Wałbrzych SEZ (restructuring the pit-coal mining industry and related conglomerate of heavy industry), Legnica SEZ (diversification of region's economic structure – a monoculture of industries connected with copper mining and processing), Łódź SEZ (restructuring of light industry), Tarnobrzeg SEZ (diversification of region economic structure – monoculture of sulphur mining and processing), Mielec SEZ (restructuring of Factory of Communication accessories PZZ Mielec), Starachowice SEZ (restructuring of Staropolski Industrial Region). The establishment of a SEZ enabled to maintain the unused areas in old post-industrial regions. This was the reason for creating the Żarnowiec SEZ (an area of an unfinished nuclear power station).

2. A method of stimulation (acceleration of industrial development) in underdeveloped regions such as: Suwałki SEZ, Warmińsko-Mazurska SEZ and Słupsk SEZ.

3. A way of maintaining the scientific research field, for example: Kraków Technology Park and Modlin tech park.

4. A method of limitation of a high rate of structural unemployment; Częstochowa SEZ, Tczew SEZ, Caiman Guar SEZ.

5. A method of taking advantage of a border crossing proximity: Słubice SEZ and partly Suwałki SEZ.

5. THE INITIAL EVALUATION CONCERNING FUNCTIONING OF POLISH SPECIAL ECONOMIC ZONES

The proper evaluation of the functioning of SEZ in Poland is impossible because the state of the investment has been rapidly changing, especially during the last months of 2000. These changes have been caused by the government's draft of the new law concerning the functioning of SEZ in Poland. On 1st January 2001, two new Acts came into force: the Act on obtaining and supervising of State Aid, and amendments to the Act on the operating of SEZ. Due to the above facts, during the last several weeks of 2000, the governing authorities in 15 SEZ granted 300 new permits for investment. Until the end of December 2000 all the existing SEZ granted 730 permits for new investments in Polish SEZ. According to these declarations, it is estimated that the volume of investments in SEZ amounts to over PLN 13 billion (Kościńska, Kluska 2001). Considering the above facts, the author of this article will present the effects of SEZ which are already noticeable. Much more time is necessary to observe real effects of Polish SEZ because the accomplishment of the investments is connected with:

- negotiations of the legal conditions for the beginning of an economic activity between the investor and the zone authorities
- indicating of the investment location in the zone
- managing of the particular area by the investors
- beginning of economic activity
- the fulfilment of the investor's legal obligations.

The exact date of carrying out all these stages cannot be established. This is connected with: the type and the size of investment, the competence of the

zone authorities and the extent, to which the zone is equipped with the infrastructure.

According to research carried out at the beginning of 2000, in Polish SEZ there exists a mutual dependency on the simultaneous inflow of Polish and foreign capital. Foreign investment capital stimulates the industrial advancement of particular SEZ and creates its growth, for example Wałbrzych SEZ, Kostrzyń-Słubice SEZ and Katowice SEZ have the greatest number of foreign investors (Katowice SEZ: Opel, Isuzu), the higher volume of investment capital and they are highly developed. In the above list the Słubice SEZ with an inflow of only Polish capital is disadvantageously evaluated (Olesiński, Predygiel 2000, p. 223). The analysis indicates that the most efficient investments have been developed in the four following zones: The Euro-Park Mielec, Katowice SEZ and Legnica SEZ. They possess a highly advanced infrastructure and apart from greenfield territories, they offer also post-industrial objects such as production halls and other buildings (brownfield investments). These four zones mentioned above also have a good labour force (qualified, experienced and educated workers).

Small agricultural zones are less attractive for foreign investors because they demand high expenditure (building of infrastructure, installation of electricity, gas and a communications system). The above zones are monopolized by small investors with Polish capital (Olesiński, Predygiel 2000, p. 223&224). This analysis is confirmed by the number of foreign investments in Poland classified according to voivodships:

- Mazowieckie 483,
- Elbląskie 268,
- Wielkopolskie 231,
- Dolnośląskie 166,
- Pomorskie 146,
- Łódzkie 118,
- Małopolskie 111,
- Kujawsko-Pomorskie 81,
- Zachodniopomorskie 77,
- Lubelskie 56 (Rot, 2000).

The starting of all planned businesses who have obtained required permits will result in the creation of 38,000 new work places. At the moment SEZ employ 20,000 people. The investment input for creating and administrating all SEZ (including planned ones) amounts to USD 3 billion. The Ministry of Economy calculated that in the closest neighbourhood of SEZ, 17,000 new work places have been created. This is a result of co-

operation between the producers in SEZ. Local enterprises deliver the raw materials and components. The most effective co-operation of this kind exists in Katowice and Mielec SEZ. Building a completely new industrial and infrastructural elements in SEZ (greenfield investments) provides good economic conditions for creating: building, geodesic and projective enterprises. The contractors and sub-contractors of most of the building projects are Polish enterprises from SEZ territories. It is estimated that the described boom may be maintained by building planned housing estates for domestic and foreign professionals, employed in businesses located in SEZ. Such housing estates were built for example in Katowice SEZ and Mielec SEZ. Furthermore, new work places are being created in the service sector for investors in SEZ. There are many more enterprises operating in the SEZ neighbourhood such as: courier, laundry and security enterprises (only in Mielec 300 people are employed in such companies). There are also estate agencies and catering centres. The establishment of food processing industries in SEZ will enable the stimulation of agricultural production. These phenomena will probably occur in the Lubuskie voivodship. The local poultry processing enterprise is interested in buying supplies from local breeders. The furniture industries maintain a high position in the manufacturing sector. Most of their products are destined for export. The participation of building materials, food processing and sanitary goods industries are becoming more and more significant. According to the Ministry of Economy, enterprises manufacturing technologically advanced equipment are marginal in the industry (like it is in the whole country's economy). However, manufacturers operating in SEZ are considered to be Polish or even European leading producers. The production processes in most of these enterprises are automatic or computer controlled. Computer network and electronic media are generally available (Oktaba 2000). Despite the above advantages of a SEZ in Poland, the Supreme Chamber of Control (SCC) found some flaws in their functioning. In the years 1995–98 the SCC controlled all 17 SEZ existing in Poland. According to the SCC, the 6 SEZ established from September 1995 to April 1997, functioned correctly. The rest of the SEZ were created without proper preparation of grounds' legal status, with some economically unattractive territories incorporated into them. The then Minister of Economy (Wiesław Kaczmarek from the SLD – Democratic Left Alliance) did not supervise the functioning of a SEZ in the right way. In the years 1995–1998, neither the Ministry of Industry and Trade, nor its follower the Ministry of Economy controlled the enterprises administrating the SEZ. The Ministry of Economy rejected the SCC

criticism because, in its opinion, a different department should be blamed, since the Ministry of Economy does not have owner's rights for enterprises operating in the SEZ and the rightful owner of most of the companies is the Ministry of Finance, some of the shares also belong to communes, and these organs should supervise the businesses in the SEZ. SCC also revealed that enterprises administrating the SEZ's assets managed them in the wrong way, for example: Warmińsko-Mazurska SEZ bought agricultural land at a higher price (the loss amounted to at least 414,000 zlotys) and sold the shares of Indykpol at a lower price (the loss amounted to 747,000 zlotys). The Supreme Chamber of Control also accuses the enterprises administrating the SEZ of spending inadequate sums of money for advertising. In Wałbrzych SEZ the expenditure on business travel rose by almost four times in one year. The SEZ representatives visited Greece, Luxembourg, Italy and Norway without any visible results, because none of the enterprises of the visited countries started a business in Poland.

6. THE CONTRADICTIONS BETWEEN THE EU AND POLAND. THE STANDPOINT OF POLAND AND THE EU

The SEZ in the EU are treated as a manifestation of public aid to business units. The issues connected with regulating of this aid are included in acts of EU laws concerning the Competition Strategy. The clause of the Treaty of Rome (concerning the conception of the market's integration) states: the goal of the EU is to harmonize industrial advancement and the living standards in the whole EU. To accomplish these assumptions there is a demand for the establishment of a system protecting competition in the Common Market against unfair practices. Specific rules of competition are contained in the provisions of the Treaty of Rome. These are the basis of the evaluation of market adjustments and state aid. The main assignment of the competition policy in the EU is the maintenance of competition of the market to achieve an efficient allocation of resources (Majewska-Jurczyk 1998, p.7&10).

The section of the negotiations concerned with the competition strategy is divided into: the provisions addressed to the investors (anti trust), the provisions addressed to the government. Polish standpoint in this section of negotiations was directed to EU representatives on 29th January 1999.

The chairwoman of the Polish delegation was the former vice chairwoman of the UOKIK (Monopoly Agency) Elżbieta Modzelewska-

Wąchal, a member of the Polish negotiation team responsible for this part of the negotiations. With regard to the subject matter of this article, the author will concentrate on the second group of the negotiations' matters (concerning the Competition Strategy) – the provisions about competition addressed to the government. Taking into consideration the diagnosis of the actual state of the Polish economy and the foreseen changes of its economic basis and structure, the Polish government sees the necessity of the establishment of interim periods for SEZ, i.e. until the end of the year 2011. The length of the interim periods for SEZ is motivated by the necessity of respecting the rights acquired by investors. These laws will expire in particular zones in the years 2009–2017.

Their influence on competition is not significant because the granted support, according to the data from the year 1997, amounted to Euro 4,054 billion. The export support is permitted only in one SEZ and may potentially include 22 investors who obtained permits for starting economic activity before 20th October 1997, when the amendment to the Bill about the establishment of Mielec SEZ came into force and prohibited export support. At the moment in Mielec SEZ only four investors possess the rights to export support. The present harmonizing efforts caused the prohibition of export support determined by the export effects in the rest of the SEZ.

The alignment of Polish economic law with the EU provisions before 2017 will be concerned with the necessity of payment of compensation for investors who invested in SEZ and lost incentives guaranteed by law. In 1999 an Act about the SEZ was amended, it was fully harmonized with conditions for obtaining State Aid in the EU. The Act states that the obtained laws will be respected only if the investors invested in the SEZ before the described amendment came into force, i.e. before the end of December 2000. The Polish government declared that it would not grant state aid to investors operating in: textiles, shipbuilding, steel and automotive industries. These industries are considered to be sensitive in the EU. Furthermore, Poland announced that it will not create any new SEZ (Progress... 2000, p. 87).

In reply to the proposals delivered by the Polish government, the EU rejected the demand of interim periods for some forms of public support applied in the SEZ. The EU indicated the fact that public support in the SEZ is against Polish obligations under the Single European Act, which came in force at the moment of the SEZ establishment and required Poland to liquidate this divergence as soon as possible. The EU concluded that there is no need for applying the transformation clause to Poland. The EU suggested

a different way of taking into consideration Poland's specific economic situation, such as the application of all methods permitted by the EU law (Progress... 2000, p.39). In June 2002, during the last consultations between Poland and the EU Commission concerning the future of the Polish SEZ, an initial resolution of this problem was established. Both sides agreed that about 700 investors, who started their SEZ businesses before 1st January 2000 should be divided into those who have had a significant influence on conditions of competition in 15 member states and those who operate only within the country.

The first group would have to comply with EU provisions about competition, before the accession of Poland to the EU. The second group of investors would operate in the existing conditions for several years more. The second group was supposed to include all enterprises employing no more than 250 workers, and with an income lower than Euro 50 million per year, but the EU Commission is much more restrictive. According to its opinion the long interim period could be permitted for small businesses only, so enterprises employing no more than 50 workers and with a yearly income lower than Euro 5 million. Middle-sized businesses could also have interim periods but for a much shorter time. The argument is also about the length of the interim period, independent from the involved businesses. The Polish government wants to finish the interim period at the exact moment of the SEZ planned expiry date, thus in most cases after the end of 2017. The EU Commission does not define its standpoint very clearly but all cases exceeding 2010 would be very difficult to accept. Polish and Union negotiators did not reach a decision about the treatment of firms operating in so-called sensitive sectors such as: the automobile industry which is very well represented in SEZ (General Motors, Isuzu, Volkswagen) and many more of their sub-contractors. Considering the fact of chronic overproduction in these industries, there exist specifically rigid rules for obtaining public support. Poland and the EU plan to close this stage of negotiations (the competing strategy), including the issue of SEZ by the end of Autumn 2002 (Bielecki 2002).

7. THE EUROPEAN UNION OBJECTIONS TO POLISH SPECIAL ECONOMIC ZONES

The Act on the creation of the EU establishes in article 87 the rule of conditional availability of public aid. This is permitted after the positive

decision of the EU (among others). Aid is destined for the industrial development of regions with abnormally low living standards or with a high rate of unemployment (article 87.3.a), and it is also destined to stimulate selected forms of economic activity or of selected industrial regions (article 87.3.c). The above provisions establish ground for obtaining regional support from the Member States. The regional support is a tool of active influence on a region's social and industrial structures aimed at the equalization of the disproportion and the acceleration of a region's development. Since 1994 Poland's SEZ have been serving as such.

According to the 3rd article from the Act on SEZ, they may be established to accelerate the economic advancement of a country's particular region. It may be assumed that this acceleration of development includes only territories with a high rate of unemployment and recession, but such an assumption is not very precise. The legislator did not follow any economic signals which would confirm the economically disadvantageous situation of the region. Due to the above fact, the decisions about establishment of a particular SEZ could have a political character instead of an economic one. It seems that such a possibility has been used (Stasiak 2000). The criteria used in EU law when granting public aid have been precisely formulated in provisions about a country's regional support. According to these provisions (article 87.3.(a)) regional support may be permitted in regions with GNP per capita below 75% of the Union average and according to article 87.3.(c) in regions with a GNP lower than 85% or where the rate of unemployment is above 115% of the country's average. While examining the support program, the EU takes into consideration the rate of unemployment or GNP of the given country and compares it with the Union average. The smaller difference between these two figures, the greater disproportion in the development of country's particular regions is required, if the country wishes to grant public support in accordance with article 87.3.c. Polish law has different criteria of granting regional support. EU regional support, justified by the level of the region's economic advancement, is illustrated with "a map of regional support". The Polish SEZ do not comply with EU laws about permitting regional support. Thus, the creation of a similar map of regional support in Poland is impossible. However, this does not exclude the possibility that a SEZ may function as an additional tool of regional policy in the future, if it only complies with EU law and attracts investors (Stasiak 2000). The Act the 20th October 1994 about SEZ, permitted granting of public aid in circumstances different from those described in the provisions. Article 12 par. 1 and 2, permitted granting the investment

incentives such as full income tax exemption for the SEZ investors, extending into the half of the period of the SEZ existence and in an amount which does not exceed 50% of income of the rest of the period.

The act did not assume the size of support. Therefore, the value of support in the period of the SEZ existence could exceed the value of investment. EU law established the limits for investment intensity. The limits are: 50% and 20% of the investment value according to articles 87.3.(a) (50%) and 87.3.(c) (20%) (Stasiak 2000, p. 33–36). Operational support is permitted in accordance with the established Act conditionally, only in regions described in article 87.3.(a) of the Treaty establishing the EU and when:

- it is justified by a region's problems with economic development,
- it is provided in accordance with the proportionality rule,
- it has a declining character (it diminishes with the passage of time),
- it is limited to a defined period of time.

Article 12 par. 3 permitted investment expenditure relating to the purchasing of fixed assets, not associated directly with economic activity in the SEZ (paid for by the investors who did not obtain income tax exemption) was included in the deductible cost in the tax year, in which they were expended. This was the established basis for permitting operative support in the opinion of the EU commission. According to *acquis communautaire* (the legal achievement of the EU) this would still be illegal even if it was considered to be investment support (instead of an operational one). Since the Act states that the value of the supported investment includes only expenditure on grounds, buildings and machines, thus fixed assets. Article 12 par. 6 point 4 permitted export support. The European Commission and the member countries do not care about the markets and the volume of goods exported. The only issue important to them is the fact that Polish law permits such support and in this way endangers the trade exchange between Poland and the member countries. The acts do not particularly regulate the issue of granting public support for so-called sensitive sectors. The Polish government promised not to locate new investors from these sectors (steel, shipbuilding and textile industries) excluding the automobile industry (Stasiak 2002, p. 37). The Single European Act states that public aid misshaping or endangering to misshape the competition by favouring some enterprises or production of some goods (article 63.1.iii) is incompatible with its provisions and "every procedure incompatible with the above article will be judged according to the Acts 92

and 94 of the Treaty of Rome” (article 87 of the Treaty Establishing the EU).

Poland has to comply with these provisions while still in its pre-integration period. Before integration, the future member countries are obliged to prove that the implemented laws are correctly understood and applied by organs of administration and that the investors are able to comply with the new rules. These facts are considered by the European Commission to be a guarantee for the member states competitiveness (Stasiak 2000).

8. THE FUTURE OF POLISH SEZ FACED WITH THE ACCESSION OF POLAND INTO THE EU

The member negotiations connected with the integration of Poland with the EU cause lively discussion about the future existence of the SEZ in Poland. In this part of the article, the author will try to evaluate, from different points of view, the prospects for real solutions to the problem of SEZ in the light of the negotiations. During further examination there is a necessity for three assumptions.

1. The official EU attitude towards Poland during the whole pre-integration period, regarding real advantages offered to Poland as a substitute for SEZ. Internal compliance with the law about SEZ by the Member States. The attitude of the lobbying groups operating in the EU towards the Polish SEZ.

2. Poland's attitude towards the negotiations, i.e. Poland's disregard for the Single European Act, lack of consistency in changing the rules about the SEZ. The real possibilities of SEZ liquidation and its replacement by different economic tools.

3. Poland's attitude towards the WTO objections and the perception of Poland by other significant international industrial organizations.

Public support applied in the Polish SEZ is strongly questioned. The SEZ are criticized since they are seen as a definition similar to “governing”, “interventionism”, “protectionism” and the EU discredits all of the above terms, they are rejected by Western economic principles or they get a pejorative meaning.

Nevertheless, they are widely applied, which is proved by the fact that the general number of public support notifications for the different sectors of the economy in the EU is always rising. For example, in 1989 there were

296 notifications of public support and in 1990 the number increased to 429 (Ciamaga et al. 1998, p. 171, 177).

Confronted with the constantly rising number of public aid notifications, at the beginning of 1997 the EU politically decided to establish stricter laws. Since the 3rd December 1997 a new taxation procedure was established. This new code is so far voluntary, breaking its rules does not cause any legal sanction, although in 1998 the EU established orders which forced compliance with it. The first clause of the new code (the so-called "freeze clause") states that from the 1st January 1998 the member states are obliged not to establish a tax system which would provide special privilege for selected regions or investments. The second clause of the code, the so-called "return clause" obliges member states to annul during a period of five years all the privileges that were granted. However, the EU has left a loophole for countries which will not be able to annul all the privileges in so short a period of time. They will have to justify the further existence of the privileges. The EU Minister Council will then decide if the motivation is adequate. The European Commission has already established a special group which examines the rules about granting public aid, and SEZ (Prusek 1998). However, the EU taxation code carries a deeper meaning. It is supposed to civilize tax competition in the EU. An interesting phenomenon has occurred. There is a noticeable increase in citizen taxation (35% to 42% during the last few years) with a simultaneous decrease in the rate of corporate income tax (from 45% to 34 %). Thus, Poland's economic and social potentiality in this field is disputable (Cydejko 1998).

According to many members of the European Commission, complying with the rules of this code will be very difficult, also for reasons different from Polish ones. SEZ are established in regions with an extremely bad economic situation. One of them has existed for ten years in Shannon, a backward territory in Ireland which the Irish government tried to stimulate by offering very good conditions for investment. A similar zone was established in Wales where the mines were closed. Unemployment afflicted entire cities. The same situation occurred in the Belgian region of Aarlon where the government shut down the coal mines.

A SEZ may also be established for particular enterprises. Recently a French town near the Belgian border, won a competition as a location of Toyota investment. It succeeded thanks to special tax relief and land free of charge for the building of Toyota's enterprises (Prusek 1998). In April 2000, the Italian Prime Minister decided to establish tax relief for businessmen who would invest in the northern part of Italy (for the period of ten years).

What threat could this decision bring? Perhaps exclusion from the EU? The above questions were answered in a direct way by the Vice Minister of Economy, Tadeusz Donocik: "... It is more difficult to access a new country into the EU than to exclude its present members and that's why we, the Polish people must be more papal than the Pope Himself (...)". At the beginning of 1995 there was a rumour about the Volkswagen company, which invested in the former East Germany obtaining state aid granted illegally. For five years this case has been examined by the EU Tribunal and any possible sanctions are so far fictional. During the long-running discussion about Polish SEZ compatibility with EU laws, there is the necessity to go back to the beginning of SEZ establishment in Poland and the contemporary EU attitude towards this phenomenon. In 1995, the EU agreed to finance such an undertaking as the Polish SEZ but only in regions with a rate of unemployment higher than 10% in the rest of the country (Krzyk 1995). At that moment in Poland there were 29 voivodships with a rate of unemployment higher by 110% than the country's average. In 1996, the voivodships with a high rate of unemployment included among others: Wrocławskie, Jeleniogórskie, Łomżyńskie and Sieradzkie and an alarmingly consistent block of Małopolskie voivodships such as: Tarnobrzесьkie, Tarnowskie and Krośnieńskie.

The list of voivodships potentially requiring SEZ did not include the Katowickie voivodship despite the above facts the EU granted financial means (200,000 euro) from the Phare fund for the establishing of a SEZ in the Katowickie voivodship. As well as that, the EU granted money for creating the Mielecka SEZ. If Poland acted in agreement with EU law, it would have created SEZ in 29 voivodships, which is undesirable for Poland and not acceptable to the EU in the long run. But it is necessary to bear in mind the fact that SEZ were established in Poland, thanks among other things to the favourable attitude of the EU. At the moment, the EU demands Poland to fully comply with the whole of *Acquis*, rejecting the possibility of applying interim periods for SEZ. Nevertheless, the EU did not give any particular date for ending negotiations about the possible admission of Poland to the EU. That was the situation during the summit of 15 December 2000 in Helsinki. Again nothing definite was said about the date of the EU extension.

The reforming of EU institutions is supposed to precede the admission of the new members. Not until that happens will the ratification of the negotiation results take place and admission be possible after 1st January 2004. A year and a half earlier Poland will have to show a tolerable

readiness for membership to end the negotiations in time. If the preparations do not finish now, they will be more difficult later because of planned elections (which will block them). In such case, the EU either will extend in 2004 without Poland, or it will not admit any new members until it has planned the budget for the next seven years (i.e. in year 2011). In this way Poland would be deprived of large financial support and could not have any influence on the amounts of allocations from the EU Treasury until 2013. It was said that for the issues most difficult for Poland, the EU was ready to accept interim periods, but it was said neither which issues would be considered as such, nor the length of the interim periods. The EU proposed interim periods also due to the fact that it will give it more time for opening in aspects that may be dangerous for the EU, for example access to the EU labour market. During the next meeting of the heads of member states, which took place in June 2002 in Seville, a substantial plan of the integration of Poland was presented (and the rest of the candidate countries) with the EU. According to what was said in Seville, the EU will decide to admit 10 candidate countries simultaneously (including Poland) in 2004. This admission is called a "Big Bang". The EU plans to sign the Member Treaties with the candidate countries not later than 31st March 2003 but the exact date has not yet been established. It is supposed to be the period between June and July 2004. These member treaties will be ratified by the parliaments of the 15 EU countries, European Parliament and approved by referendums in the candidate countries. However, the calendar of admission is conditional, which means that its fulfilment depends on continuing the pace of negotiations and alignment with EU economic law (Bielecki 2002). After admission it will be difficult to change the temporary provisions established during the negotiations. Nevertheless, it is possible. Spain won access to the EU labour market and the fishing fleets of the EU earlier than was established in its member treaty. It also gained more money from the common fund (Safiuta 2000). The issue of obtaining money from EU funds (from the structural funds) turned out to be another problem. The EU declared the possibility for Poland of obtaining money from the structural funds after its integration with EU structures. This money is supposed to be a new source of income, in place of the liquidated SEZ. But at the same time, the structural funds may be the starting point of collision of interests. The admission of the present candidate CEFTA countries (Poland, Czech Republic, Hungary and Slovenia) will increase the number of EU citizens by 64 million which is the same number as Irish, Greek and Spanish citizens put together. At the same time, the new countries will use most of the money

granted by the structural funds. According to the EU calculations, the admission of all candidate countries will decrease the EU GDP (Gross Domestic Product) by at least 15% which would expose the member countries to the danger of deprivation of part of the money obtained from the structural funds. It would be a strange assumption that EU taxpayers would accept the increase in their income tax to help Central and Eastern Europe countries (Ciamaga et al. 1998, p. 470), especially if taking into consideration the fact of the establishment of the new tax code, which the author of the article described above. The objections of the member countries are reflected in an EU new document called Santa's package, concerning the rules about the EU's new regional policy for 2000–2006. The new provisions (concerning the volume of money granted by the structural funds) state that the support granted according to EU's new policy must not exceed 5% of the GDP of the country. Therefore, the higher the country's GDP, the smaller the help it will obtain from the structural funds. In addition, the establishment of such limits, in the opinion of some Brussels officials, will enable to diminish the burden put on the EU budget, connected with the admission of the new members. Moreover, the European Commission proposed limiting the number of people embraced by regional policy from 51.6% to 35–45% of EU citizens, thus about 130 million people. The EU indicated the fact that, due to the structural funds, two economic factors will be improved: the volume of GDP per citizen, and the rate of unemployment. Whereas the VI Periodical Report of General Management concerning the social and economic evolution of the EU regions 1994–1999 accepted by the EU Commission on the 3rd February 1999 shows that the improvement indicated by the EU is not so evident. The volume of GDP (Gross Domestic Product) per capita increased by 9% (from 41% to 50% of the EU average) in the poorest regions, and by 7% (from 52% to 59% of the Union average) in not very prosperous regions. But still, there is no success in lowering the rate of unemployment in the poorest regions of the EU, which additionally shows an increase in the rate of long-term unemployment and in the number of young people staying out of work. Taking the above facts into consideration, it may be assumed that the high volume of the rate of advancement is not sufficient to decrease unemployment. There is a need for an integrated approach to the problem, strengthening workers' qualifications or even a system of aid in finding employment (Pietrzyk 2000, p. 22, 123 & 134).

Lobbying groups play an important role in the EU. Some of them express their opinion about the problems of Polish SEZ. The author of this article

managed to find out about the opinions of two significant German lobbying groups: The Federal Association of German Industry (Bundesverband der Deutschen Industrie BDI) and the Internal Revenue Office. Obviously, these two organizations are against the functioning of SEZ in Poland. The BDI from its standpoint considering the extension of the EU (German Industry Association 2001) votes for the liquidation of Polish SEZ. In the BDI's opinion, all Polish zones have to be liquidated before Poland's accession to the EU. Unless this happens, the BDI is against Poland's admission. (German Industry Association 2001, p. 9) The BDI represents the interests of economic policy of industry for the parliament, government, political parties, trade unions and other important social groups. In the international arena BDI represents the interests of German industry towards other countries, the EU, UNICE and towards different world organizations. The BDI's assignment is to support its members and to secure the competitiveness of German industry in competition for the best localization and work places (Muhlbrand 1999, p. 74). The standpoint of the Internal Revenue Office is expressed in a clearer way. According to the bilateral agreement about tax on economic activity between Poland and Germany, paid by Polish enterprises to German ones, which are their legal owners, are taxed according to two rates. When the German enterprise owns at least 25% of the capital, it is taxed at the 5% rate. When the German enterprise owns less than 25% of the capital the dividends gained by the German owner are taxed at the 25% rate. Before the taxation of the dividends takes place, the Polish enterprise income is burdened with 27% corporate income tax. A different situation takes place in the SEZ due to the investment tax allowance. In practise it means that from 100 zlotys of earned income, 5 zlotys is deducted. Such a dividend is subordinated to the so-called elimination method in Germany, which means that it is not taxed. This situation is not favourable for the German Internal Revenue Offices. They demand this method of taxation of the dividends from the Polish enterprises operating in SEZ to be stopped. This means that the dividends from the SEZ would be taxed in the way established and accepted by the German provisions, not by agreement with Poland.

Such a situation would cause a decrease in investor interest in Polish SEZ, because they would have to pay higher taxes in Germany (Tomaszewski 2000). The Polish government neglected many things concerned with the operating of Polish SEZ. The first of them was connected with the Single European Act, indirectly concerning SEZ. The Single European Act from the 1st March 1992 to the 1st March 1997

considered public aid to be compatible with its provisions about the programs fighting against unemployment and programs of restructuring enterprises. On the 1st March 1997 the above provisions expired and Poland lost its privileged position guaranteed by the Act. At the moment the criteria used when judging Polish public support and its possible negative influence on trade between Poland and the EU, are based on articles 85, 86 & 92 of the Single European Act. The loss of Poland's privileged position put into question the legality of creating and operating of SEZ defined by the Act about SEZ from 20th October 1994. After this date Poland did not apply for the next interim period, although there existed a lot of reasons for such a decision. The next example of the Polish government's inconsistency in policy toward the EU was the decisions of the Ministry of Economy about SEZ taken in May 1999 and in December 2000. On 21st May 1999 the Vice Minister of Economy, Tadeusz Donocik, suspended the permits for starting economic activity in SEZ. The above decision was an effect of the negotiations concerning the competition strategy, which took place in May 1999. It caused the withdrawal of eight already prepared tenders in the Katowice SEZ (Oktaba 1999). This decision also resulted in the formulation of the following questions:

1. Did the Polish government break the law by encroaching on the interests of the investors who negotiated, purchased the land in the SEZ and established the enterprises, fulfilled all the conditions for obtaining the permits for economic activity in the SEZ?
2. Did the decision diminish the reliability of Poland and its institutions by causing a loss of feeling of economic security?
3. Did Vice Minister Tadeusz Donocik break the law by suspending the provisions about the functioning of a particular SEZ established by the Council? Did he encroach the Act about the SEZ?
4. Did Tadeusz Donocik have the right to have his will in a way different than the sitting of the Ministry of Treasury representatives, in a situation where the enterprises administrating SEZ (as an enterprise of trade law) have their own statutory organs such as the supervisory board and the general meeting?
5. What guarantees have the investors with the long-term agreements or businessmen thinking about continuing negotiations, obtaining permits and signing long-term agreements considering the inconsistent, unequal and changeable policy of the Polish government?
6. Did the Vice Minister 's decision destroy the image of Poland, taking into consideration the fact that many of the present enterprises and potential

ones are foreign businesses or investments with mixed capital. This ban on the permits was withdrawn after 21 days because of strong Government pressure and the pressure of the SEZ administration and the territorial autonomies. Nobody suffered the consequences of this decision and Vice Minister Donocik apologized to SEZ authorities. A clearer picture of the Polish government's lack of consistency towards the EU may be seen through the acts from December 2000. The Polish government decided about the extension of Katowice SEZ, Legnica SEZ, Tczew SEZ and about the lengthening of the validity period of the agreement on Kraków Technology Park and a Kamienna Góra SEZ from 12 to 20 years which indicates the lack of a long-term strategy for these matters. The next element of inconsistency of Polish policy is the lack of stability of the tax system.

Businessmen in general and investors from SEZ should be prepared for frequent, sudden and unfavourable changes in the tax system. Another disadvantage of the tax system is its vagueness and a great number of tax exemptions and relief, addressed to foreign investors. The tax preferences are not defined by one act but by six acts, which is a problem to Polish and foreign investors alike. It causes many controversies, setbacks and generates serious problems with enforcing behaviour compatible with the legislator's intentions (Pietrzak, Polański 1997, p. 316 & 317). Another example is the behaviour of the European Integration Committee towards the two acts about the functioning of SEZ in Poland, to the amended act about SEZ from 16th November 2000 and the act about obtaining and supervising of public aid for investments. These two acts regulate the present functioning of SEZ and are compatible with EU law. Their main goal of the amendment was the accommodation of Polish rules on granting of public support in SEZ to EU provisions. Article 12 of the amended law assumed that income obtained through economic activities (after obtaining permission) is exempt from personal income tax and corporate income tax. The acts also state that the exemption cannot exceed the volume of the public support granted for the territories which have qualified for the highest volume of public aid, thus according to the rules from the act about the obtaining and supervising of the state financial support, including the accumulation and sensitive sector rules. An analogous provision (par. 1, article 17, point 34) was included in the act about permitting and supervising of public aid for investors. The article 12 states that state financial support is permitted in regions with a volume of GDP per capita lower than 75% of the average volume of GDP per capita in the EU. Since the whole region of Poland fulfils the above conditions, there will be a need for the differentiating of the value of public

aid considering among other things: the rate of unemployment, changes in the rate and structure of unemployment, volume of GDP per citizen, population density, demographic conditions, rate of migration, economic activity structure, participation of the economic sectors demanding restructuring. According to the above factors, maximal aid will be permitted in economically and socially backward regions and in some of the SEZ. The act omits the issue of operational and export support (Stasiak 2000). The above acts were presented to the EU representative, Karl Van Miert. The EU commissioner at the beginning accepted the act about permitting and supervising of public aid for investors. It was estimated that Brussels would take into consideration the "social costs" of restructuring the industry. After the EU accepted the acts, it was judged by the EC Commission (UKIE).

It seemed that the Polish government's decisions (considering the opinion of the EU) could not be negatively evaluated. Nevertheless, the EC Commission found two elements incompatible with EU provisions. The EU permits public aid but this support is conditional on the volume of GDP per capita in the given country. When the volume of the GDP changes, the value of the public support also changes. The second element incompatible with EU law is connected with the obtained laws of the investors. Allowing for the support in the SEZ that exceeds 50% of the investment's value is also against EU rules. That was the ECC opinion about the Polish acts. Considering the above facts, the Ministry of Economy had to express its standpoint. It stated that:

- referring to the first objection of the EU considering the provision that public aid in the EU may be corrected every year because there are also ISPA and SAPARD funds which are destined for the protection of the environment, development of agriculture and the rural regions. There is also the PHARE programme connected with regional policy. Taking the above facts into account, it may be assumed that the policy may be changed every year because in the given region (district, voivodship and gminas) the volume of GDP may be different each year. The same issues are connected with the rate of unemployment. Considering the above facts, public aid may be granted directly, each year differently in different regions. However, the SEZ is a different way of stimulating regional development. It is a zone of granting financial state support not conditioned by the rate of unemployment and the volume of GDP. In this situation, the SEZ will continue to operate although there will be no permission for granting of public aid in the given region. If Poland wished to create an Act fully compatible with EU laws, it

would have to prepare an Act liquidating all Polish SEZ from 1st January 2001. At the moment Poland cannot afford such a solution.

- referring to the second objection of the EU Commission, no matter if Poland pays compensation to investors in 15 or 17 years' time or immediately, it would still be a public support incompatible with EU provisions. Thus, every solution concerning the obtained laws for 17 years or laws obtained as a compensation, is incompatible with EU laws.

Besides the arguments connected with SEZ, there is also a problem concerning notification of the SEZ by the WTO (World Trade Organization). According to WTO provisions, segmented zones are unacceptable. However, there is a possibility of finding a different way of defining a segmented SEZ. It could be treated as a specific subsidy, thus as aid for a particular region. It would be treated as support for a given region and demanded of it only a notification of: the number of enterprises obtaining such aid during each year and the volume of state subsidy. It is estimated that in such a situation the subsidy is specific and may be declared as lawful. Moreover, it is difficult to prove that a production of the given region amounts to 5 % of the whole production of a given product on a nation-wide scale and that the plaintiff suffered because of production in this particular zone. The whole phenomena is difficult to grasp in the legal field. Changing the management of a particular SEZ and making sub-zones independent could be a solution to the problem. It should be pointed out that not all SEZ functioning in the member countries (WTO) fulfil the legal conditions and yet they have got notification (Oktaba 1998).

Besides the facts mentioned above, concerning Poland's and the EU's negligence towards the functioning of SEZ in Poland, there are also objective factors which indicate that at the present stage of economic development, Poland cannot risk liquidating the SEZ. The investors who obtained permits for economic activity have a guarantee of tax relief up to the SEZ expiry date, i.e. to the end of 2001. If Poland decided to liquidate the SEZ because of the planned accession to the EU, the investors would probably complain to the constitutional tribunal. The tribunal would probably decide that the liquidation of Polish SEZ was incompatible with the Polish constitution, since Polish law protects the so-called businesses in operation. Therefore, the Polish government would have to repay enormous compensation to all investors operating in the SEZ (Tomaszewski 2000). Moreover, according to expert opinion, the liquidation of SEZ would result in the loss of 175,000 jobs, considering only employment data from 1998 (Bielecki 1999). Furthermore, the question is: will Poland be perceived as a

good place for the location of foreign investment, having broken established agreements?

Another question should be asked: can Poland afford to pay compensation for investors (the volume of which has yet not been calculated) and the loss of so many work places considering the constantly rising rate of unemployment (January 1999 – 11.4%, December 1999 – 13.1%, January 2000 – 13.7 %, December 2000 – 15.0%) (Statistical bulletin 2000 p. 129).

The next issue that needs considering is the reason why there were neither questioning nor signals about the incompatibility of SEZ with EU laws, when in November 1996 Poland was admitted to the OECD (Organization for Economic Co-operation and Development). The OECD assembles 21 of the most advanced countries, including the EU member states. It prepares a report about the economic situation of the member states. OECD recommendations are not obligatory, but still they often effect changes in member states' economy or even in their internal legislation. (Łoś-Nowak 1998, p. 145). Neither before Poland's accession, nor after was nothing said about Polish SEZ, i.e. about their negative influence on European Market competition. Simultaneously, the same OECD praises Poland for its economic successes and includes it in those European economies in Central and Eastern Europe which have achieved the most significant economic successes in the first decade after the collapse of the communist regime (Dialog 1999, p. 94). Also another international body, the European Bank for Reconstruction and Development, estimates the Polish economy very positively, especially its reform of the mining industry (where the best Polish SEZ took part, for example Katowice SEZ and Wałbrzych SEZ) (Dialog 2000, p. 63).

During the functioning of the SEZ in Poland there were various propositions for substitutes for SEZ, especially from Germany. These propositions include among others:

- free government loans
- sale of the land for low or even symbolic prices
- less detailed supervision of investment obligations by the country's authorities
- other capital methods (Umann 1999, p.18&19).

In Germany and other EU countries there is lot of financial instruments of assistance for economic activities such as:

- special deductions, which are applied when purchasing and producing immovable and movable fixed assets

- subsidies for industrial and infrastructural investments
- credit programs of special assets under European Recovery Program and supporting institutions such as Kreditanstalt für Wiederaufbau
- special assistance when starting one's own business, provided by Deutsche Ausgleichbank (DtA)
- credits guaranteed by Credit Banks. These credits are destined for purchasing of the means of production and are applied as investment credits. They cover about 80% of the sum of credit
- investment incentives – they exist as a basic subsidy for industrial projects (A guide..., 1995, p. 73–86).

It is noticeable that Germany has a lot of various financial instruments. Unfortunately, Poland cannot afford such support for investments, which is indicated by Poland's lower economic results compared to other EU countries, including Germany. This is clearly illustrated by macroeconomic data concerning the economies of EU countries and the Polish economy such as:

1. The value of state grants and subsidies.
2. The amount of savings of the society.
3. The volume of GDP per capita.
4. The inflation rate.
5. The interest rate on loans.

Ad 1

Budget grants and subsidies include expenditure for economic tasks, financed by the state budget. In the EU, their average share in the GDP was stabilized at about 2%. Between 1991–1996 in Poland there was a low share of budget grants and it showed a systematic decrease, i.e. from 2.7% in 1991 to 0.9% in 1995 and to 0.7% in 1996. In Germany the share of budget grants in the GDP was higher than the average of EU countries and amounted to 2.2% of GDP. The relation of the public financial sector expenditure to the GDP was, in 1998–2000, as follows:

1998 – EU 48.4 % GDP, Poland 41.1 % GDP, Germany 48.8 % GDP

1999 – EU 48% GDP, Poland 41.1 % GDP, Germany 48.9 % GDP

2000 – EU 47% GDP, Poland 39.7% GDP, Germany 45.9% GDP (Wirtschaft und Finanzen 2002, p.10).

Ad 2

The amount of savings of the society – this is the part of GDP used by the country for accumulation, i.e. the gross input of fixed assets and increase in current assets, capital transfers, increase of intangible assets and net value of liabilities or debts. The net value of the savings defines the investment

ability of the country. High participation of the net value of savings in GDP confirms a high investment propensity of the society, affecting the dynamics of industrial development and level of economy competitiveness. Greater differences between the net of the rate of personal savings in Poland and the EU may be seen when taking into consideration the gross value of savings per capita. In 1995 the average volume of savings per capita amounted to: 3441.8 dollars per capita in the EU and only 1162.0 dollars in Poland. The gross value of average personal savings was three times lower in Poland than in EU countries. This great distance between Poland and the EU countries is the result of the lower volume of GDP per capita in Poland and also of the lower gross personal savings per capita in GDP. The increase in the savings is an important factor for financing investment higher needs and for supporting the 6% dynamics of industrial development. The average savings of society in 1996 amounted to: 19.6 in the EU, 24.9 in Germany and 16.5 in Poland.

Ad 3

The volume of GDP per capita is the main factor indicating the economic strength of a particular country. In Poland it is several times lower than the average in the EU, in the EU it amounts to 17,293 dollars per capita and in Poland to 6359 dollars per capita. In Germany the value of GDP per capita amounts to 29,542 dollars (data from 1995). These differences may be seen more clearly when comparing GDP in market prices, i.e.:

1998 – EU Euro 7,632,029 million, Poland Euro 299,900 million, Germany Euro 1, 916, 381 million

1999 – EU Euro 8,016,767 million, Poland Euro 319,600 million, Germany Euro 1, 974, 200 million

2000 – EU Euro 8,524,371 million, Poland Euro 342, 100 million, Germany Euro 2, 025, 534 (Wirtschaft und Finanzen 2002, p. 4).

Ad 4

The rate of inflation illustrates the increase in the average level of prices of goods, usually during one year. In 1996 the average rate of inflation in the EU amounted to 2.7% of GDP, in Poland to 19.9 GDP. The rate of inflation proportionally influences the interest rate on loans.

In 1996 the rate of inflation in Germany amounted to 1.8% of GDP. In the following years the rate of inflation was as follows:

1998 - EU 1.3%, Poland 11.8%, Germany 0.6%

1999 - EU 1.2%, Poland 7.3%, Germany 0.6%

2000 – EU 2.1%, Poland –10.1, Germany – 2.1%(Wirtschaft und Finanzen 2002, p. 4; <http://www.stat.gov.pl> Polish Government statistics from 10th July 2002).

Ad.5

The interest rate on loans in commercial banks is an important factor in consumer behaviour. The stabilization and relatively low credit interest rate is considered to be a symptom of a healthy economy. It is advantageous for starting economic activity, using loans, attracting investors and so on. The bank rate is shaped by many different factors such as: the rate of inflation, central bank's policy, the rate of competitiveness in the financial market, the state of the economy. In 1996 in Poland the bank rate (26.1%) was higher than in Germany (10.02 %) and the whole EU. This was caused by the then very high rate of inflation, the policy of the National Bank of Poland, which was supposed to protect the rate of zloty exchange, to neutralize the excessively high loan action and weak development of financial services (Piasecki et al. 1998, p. 47–56). The described situation did not change over the next few years, because the average rate of interest on deposits in commercial banks in 1999 amounted to 15.5% and in the EU, 3% (Bielecki, Walewska 1999).

The above data clearly indicates that Poland (contrary to EU countries, especially to Germany) is not able to economically stimulate regions with extremely low living standards or with a very high rate of unemployment. However, this should not be the reason for Poland to passively wait for European Union financial assistance, nor to use economic instruments incompatible with the EU laws. Other actions may be undertaken, for example similar to those by neighbouring countries, e.g. the Czech Republic and Hungary. In 1999–2000 new legislation came into force concerned with supporting investments. This was not connected with the establishment of SEZ, but created rules about supporting investments, when the investor employs from 500 to 1,000 workers, he/she may:

- buy land at symbolic prices
- be exempt from income tax for a period of 10 years
- educate his/her workers with public funds
- create infrastructure, access roads etc.

If the investor employs additional 50 or 100 people, the above incentives may be prolonged. Considering these facts the Czechs, whose value of foreign investments for 1997 amounted to USD 1.5 billion, a year after the act about investment support came into force, increased its value of foreign investments to USD 6 billion. Since October 2000, the Polish government

has been working on a new act about new business incentives compatible with the EU laws. In the projected act there are incorporated (besides SEZ) four new categories of assistance. At the moment the project of the act is being negotiated by different ministries. State aid will be obtainable when:

- the investor employs 500 new people; in regions with a high rate of unemployment this number is lowered to 250 workers,
- the investor restructures his/her firm to keep 100 work places,
- the value of investment exceeds 10 million Euro,
- without considering the value of investment, but in this case the investment must be connected with advanced technologies. Technologies considered to be new, are those applied globally for not longer than five years.

The project of this act was supposed to be submitted to the Sejm (Polish Parliament) in the first half of 2001. These new provisions concerning investments will gradually limit the number of SEZ and at the same time they may stimulate investment in Poland.

CLOSING REMARKS

SEZ in Poland are completely new instruments of regional policy. The whole regional policy is a new field of economy which is being adapted to Polish conditions. Poland was the first country in Central and Eastern Europe to introduce such economic instruments. The instrument was supposed to stimulate the regional development by creating new work places and social and economic development of selected territories. The Polish government's efforts were aimed at finding solutions to the hopeless economic situation of the whole country and its particular regions. This government's initiative was illustrated by creating attractive conditions for mobile capital and for investments existing in the given region. The first act concerning SEZ, passed in 1994 had some mistakes. Nevertheless, this type of document was a precursory "work" included in Polish legislation, which has been undergoing constant change. The above changes are caused by the necessity of adaptation of Polish law to the new political regime and to EU provisions. The flaws in the first act were corrected by the amendment to the act on SEZ, which was synchronized with the Act concerning the granting and supervising of public aid for investments. Both of these acts were passed in 2000 and they are compatible with EU provisions. Nevertheless, the EU still objects to Polish SEZ, which function according to the act on

SEZ of 1994. The EU, after the decision about liquidation of the SEZ existing in EU territories, demands a similar decision from Poland (i.e. liquidation of Polish SEZ in 7–9 years time). Meanwhile, almost no Polish SEZ has reached the planned level of investment and production. The limitation of the number of functioning SEZ and their liquidation will make the whole attempt useless. Poland cannot liquidate SEZ in the time given by the EU. Firstly, it has to fulfil the guaranteed tax relief which attracted many investors. The closing of the Polish SEZ would put into question Poland's reliability (as a market favourable for stable investment). It would also be a backward working of the law.

Moreover, it should be remembered that Poland, despite its fast economic advancement, is still far behind EU countries and it has not yet developed: the mechanisms of investment grants, an advanced system of loan guarantees and assisting regional funds. Such solutions are applied for example in Germany, although until 1995 there were SEZ functioning similarly to Polish ones, called 'industrielle Kerne' (industrial kernels), which at present operate as for example technological parks. International investors may be attracted to Poland mainly by tax relief. Poland needs much more time to comply with EU law and to fulfil investment obligations. The existence of SEZ have completely different effects in Poland and in EU countries. Polish SEZ are good business not only for investors, but also for the whole country. Due to them there is an inflow of investment capital which is significant for Poland, new work places are being created, company and personal VAT is collected. Eventually, the whole SEZ region is stimulated. An interesting thing may be noticed – one person employed in SEZ results in employing one person from outside the SEZ, but still working for it. The most exact answer to the question: do Polish zones endanger competition in the European market?, is the fact that the WTO (which objects to SEZ existing in Poland) has not yet started any anti-subsvention procedure towards any Polish SEZ. It is obvious that Poland needs different ways of stimulating regional development or attracting foreign investors and encouraging them to locate their capital in Poland. To achieve the above goal, Poland may adapt some of the foreign models (which happened in the Kamieniogórska SEZ) or models functioning in Hungary and the Czech Republic. Such plans are made in Poland and it should be hoped that they will be put into practice as soon as possible.

To summarize, it is difficult to say how the problem of Polish SEZ and investors from their territories will be resolved. The vague situation of these objects certainly slows down the process of locating the capital and starting

investment in SEZ. Before the beginning of negotiations the EU should consider the fact that since the end of 2000, 750 investors obtained permits for starting economic activity. These enterprises declared investments amounting to PLN 13 billion. What will happen with the Polish SEZ? Will they function according to agreements made and during the planned periods, or maybe the Polish budget will be forced to pay compensation to investors for breaking agreements? The answer to these questions is still open. Everything depends on the competence of the Polish negotiators and the good will of the EU.

REFERENCES

- Bielecki J. (2002): The Big Bang in 18 months time, "Rzeczpospolita", Warszawa, 19.06.2002.
- Bielecki J. (2002): Brussels ready for compromises, "Rzeczpospolita", Warszawa, 28.06.2002.
- Bielecki J. (1999): The investors' laws over the EU provisions, "Rzeczpospolita", Warszawa, 30.01.1999.
- Bielecki J., Walewska D. (1999): Finances in rigid corset, "Rzeczpospolita", 11.01.1999
- The statistical bulletin of Dolnośląskie voivodship (2000): The Statistical Office in Wrocław, no 12, Wrocław.
- Błocian D. (1995): Structural transformations in the former East Germany, included in: Transformation processes in post communistic regime, evaluation, the course of the future actions, Wrocław University of Economics, Scientific works AE, 704, Wrocław.
- Boroń M. (1998): What is the special economic zone?, "Małopolski Investment Market", no 6 Kraków.
- German Industry Association (2001): "EU – Erweiterung zügig und realistischen Perspektiven vorantreiben" [The real perspectives of smooth extension] Berlin.
- Ciamaga L., Latoszek E., Michałowska-Gorywoda K., Oręziak L., Teichmann E. (1998): European Union, PWN, Warszawa.
- Cydejko G. (1998): The language of documents, "Gazeta Bankowa", Warszawa, 1.02.1998
- "Dialog" (1999, 2000): Berlin, number 3-4 1999, no 1-2 2000 .
- Candidate Countries – year 2002, Eurostat, Brussels.
www.europa.int/comm/eurostat/Public/datashop
- Durski A. (1998): Preferential zones in World economy, "International affairs", no 10 Warszawa.
- Germany Industrial Activities Guide, Sale of products and services, investment, supporting of economic activities (1995), Polish and German Association Supporting the Economy, Gorzów Wielkopolski.
- Iwaniak O. (2000): Relief – a loss for the budget, "Rzeczpospolita", Warszawa, 23.12.2000.
- Jędrzejwska M. (1999): Preferential zones as an element of Polish regional policy. The attitude of EU; problems of world economy with special consideration for Poland at the beginning of XXI century, AE Wrocław, AE Scientific Works no 836.

- Kozińska K., Kluska K. (2001): The SEZ gave the permits to 730 investors, "Puls Biznesu", special supplement, 5.01.2001, Warszawa.
- Kryńska E., ed. (2000): The Special Economic Zones – plans and effects, Scholar, Warszawa.
- Krzyk J. (1995): Three and nothing more, "Gazeta Wyborcza", 23.12.1995- 26.12. 1995, Katowice.
- Łoś-Nowak T., ed. (1998): The Organizations in International Relations, their Substance, Mechanisms of Functioning and Range, Wrocław University Press, Wrocław.
- Majewska -Jurczyk B. (1998): Domination in Competition Policy of EU, Wrocław University Press, Wrocław.
- Mühlbrand F. W. (1999): Economic Lexicon, Cornelsen, Berlin.
- Oktaba L. (1999): There will be an interim period, "Rzeczpospolita", Warszawa, 28. 05. 1999.
- Oktaba L. (1998): A magnet for investors, "Rzeczpospolita", Warszawa, 1. 06. 1998.
- Oktaba L. (1998): A measure unsuitable for us, "Rzeczpospolita", Warszawa, 1. 06. 1998.
- Oktaba L. (2000): Taxation paradise, "Rzeczpospolita", Warszawa, 31.08 1999.
- Oktaba L. (2000): A remedy for unemployment, "Rzeczpospolita", Warszawa, 29. 08. 2000.
- Olesiński Z. (1998): Direct foreign investments in Poland, Polish Economic Press, Warszawa.
- Olesiński Z., Predyger A. (2000): Special economic zones as a stimulus for the inflow of foreign direct investment, in: Rymarczyk J., Sutkowski M., ed: The internalization and globalization of Polish economy. International trade and foreign investments, AE, Wrocław.
- Piasecki B., Rogut A., Stawasz E., Johnson S., Smallbone D., ed., (1998): The conditions considering the economic activity of small and medium enterprises in Poland and EU countries, published by: The Polish fund for promotion and development of small and medium businesses in Poland, Warszawa.
- Pietrzak B., Polański Z., ed. (1997): The tax system in Poland – the nineties, PWN, Warszawa.
- Pietrzyk I. (2000): The regional policy and regions in EU countries, PWN, Warszawa
- Pisera R., The oasis of work, "Wprost", 5. 11. 2000, Warszawa.
- Public Statistics (2000): Digest of annual statistics 1998–2000, <http://www.stat.gov.pl>, 10th of July 2002.
- Prusek T. (1998): Too early for judgement, "Gazeta Wyborcza", special supplement, no 46, 24. 02. 1998, Warszawa.
- Progress of negotiations about the accession of Poland by the EU (2000), Government's plenipotentiary to the negotiations about Poland's Membership in EU, published by the President RM Office, Warszawa.
- Rot P. (2000): Needed like oxygen, "Gazeta Wyborcza", 19. 12.2000, special supplement, Gdańsk.
- The Belorussia's President decree the 20th of March 1966, no 114.
- Sadowski Z., ed. (1999): Foreign capital in Poland. Functioning Conditions, Bellona, Warszawa.
- Safiuta J. (2000): A small excuse, "Polityka", no 47/2000, Warszawa.
- The Polish standpoint during the negotiations about Poland's membership in the EU (2000), the government's plenipotentiary to the negotiations about Poland's Membership in the EU, published by the Council RM Office, Warszawa.
- Stasiak M. (2000): On the edge of the knife, "Rzeczpospolita", 20.06.2000, Warszawa.

- Stasiak M. (2000): Special economic zones in Poland and permitting and conditions for granting State Aid, "European Communities", no 1(101), Warszawa.
- Nobody's zones (1999), "Gazeta Wyborcza", no 215, 14.09.1999, Warszawa.
- Szwinta T. (2000): Tempting of the investors, "Magazyn Finansowy INFOR", no 171 (787), 24. 07. 2000, Warszawa.
- Tomaszewski K. (2000): Zones of support, not of privileges, "Magazyn Finansowy INFOR", no 171 (787), 24.07.2000, Warszawa.
- Umann U. (1999): Farewell to preferential zones?, "Wirtschaftsnachrichten", no 8, Berlin.
- UNCTC, 1991: The challenge of free economic zones in Central and Eastern Europe, International Perspectives, New York.
- The Union Commissioner (1998), "Gazeta Wyborcza", no 216, 15. 09.1998, Warszawa.
- Winiarski B., ed. (1994): The economic policy, AE, Wrocław.
- The economy and finances – annuals (2002), published by Eurostat, 2002, Brussels, <http://www.europa.int/eurostat/Public/datashop>, 10th of July 2002.

received: May 2002; revised version: October 2002