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**Subject: State Aid SA.38830 (2015/N) – Poland.  
Evaluation plan regarding the Regional aid scheme for economic  
entities conducting business activity within the special economic  
zones under permits issued between 25 December 2014 and 31  
December 2020**

Sir/Madam,

## 1. PROCEDURE

- (1) By electronic notification of 15 January 2015 Poland submitted a summary information sheet pursuant to Article 11(a) of the Commission Regulation (EU) No. 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty<sup>1</sup> (hereinafter "GBER") on the Regional aid scheme for economic entities conducting business activity within special economic zones under permits issued between 25 December 2014 and 31 December 2020 (hereinafter: SEZ scheme) which it had put into effect on 25 December 2014 pursuant to Article 1 (2) (a) of the GBER and plans to implement until the end of 2020. This submission was registered as SA.40523 (2015/X).

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<sup>1</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty

Jego Ekscelencja  
Pan Grzegorz SCHETYNA  
Minister Spraw Zagranicznych  
Al. J. Ch. Szucha 23  
00-580 Warszawa  
POLSKA

- (2) This aid scheme, with an average annual budget of approximately EUR 500 million constitutes a large scheme in the meaning of Article 1(2)(a) of the GBER. Under this provision, aid schemes are exempted only for a period of six months after their entry into force, unless a longer period of exemption is authorised by the Commission following the assessment of an evaluation plan for the scheme to be notified by the Member State concerned.
- (3) In order to obtain that prolongation, Poland notified an evaluation plan for the scheme on 15 January 2015 which was registered by the Commission under SA.38830 (2015/N). By letter of 17 March 2015 the Commission asked for supplementary information. By letter dated 7 April 2015 Poland requested a deadline extension until 30 April 2015. The Commission approved the extension by letter dated 10 April 2015. Poland provided the requested information on 27 April 2015, submitting a substantially amended evaluation plan including now also an evaluation at the level of the enterprise. By letter of 12 May 2015 the Commission asked for additional information. Poland provided the requested information on 20 May 2015. This was followed by a further informal information request on 20 May 2015 (2015/047316) to which the Polish authorities reacted on the same day.

## **2. DETAILED DESCRIPTION OF THE KEY ELEMENTS OF THE NOTIFIED EVALUATION PLAN**

- (4) As required by Article (2)(16) of the GBER and in line with best practices established in the Commission Staff Working Document on Common methodology for State aid evaluation<sup>2</sup> (hereinafter: "Staff Working Document"), the notified plan contains the description of the following main elements: the objectives of the aid scheme to be evaluated, the evaluation questions, the result indicators, the envisaged methodology to conduct the evaluation, the data collection requirements, the proposed timing of the evaluation including the date for submission of the final evaluation report, the approach for the selection of the independent body conducting the evaluation, and the modalities for ensuring the publicity of the evaluation.

### 2.1 Objectives of the aid scheme to be evaluated

- (5) This scheme, in place since 1994, is the key Polish regional investment aid scheme. It foresees income tax breaks for companies investing in the Special Economic Zones. Its average annual budget is approximately EUR 500 million.
- (6) The evaluation plan covers the measure's duration from 25 December 2014 to 31 December 2020. Detailed principles for granting public aid within the framework of the Scheme are specified in the Regulation of the Council of Ministers issued pursuant to Art. 4 para. 4 of the Act on SEZ.<sup>3</sup>
- (7) The rationale for the scheme is the disparity between the different regions in Poland in terms of socio-economic development that results mainly from

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<sup>2</sup> Commission Staff Working Document on Common methodology for State aid evaluation, Brussels, 28.5.2014, SWD(2014) 179 final.

<sup>3</sup> Journal of Laws of 2015 42, item 282.

differences in the availability of infrastructure and location disadvantages of certain regions.

- (8) At the end of 2013, the total area of the 14 individual special economic zones in Poland covered 16.2 thousand hectares, including 9.9 thousand hectares developed by investors. The zones were located in 151 cities and 217 communes. Undertakings implanted in the SEZ invested a total of more than EUR 23 billion and created some 200,000 new jobs.
- (9) The maximum aid intensity available to aid beneficiaries takes into account the different level of economic development of the individual regions in which SEZ are located. In line with the regional aid map 7.2014-2020 for Poland<sup>4</sup>, four NUTS II regions of Eastern Poland benefit from the the maximum aid intensity of 50%. For other regions, the permitted aid intensity ranges from 35% to 10%. The Polish authorities expect that this differentiation in the level of the aid intensity will help to improve the investment attractiveness of the less advanced areas.
- (10) The main objectives of the SEZ scheme are:
- developing specific areas of business activity,
  - developing new technical and technological solutions and using them in domestic economy,
  - developing export,
  - increasing the competitiveness of products manufactured and services provided,
  - developing the existing industrial assets and economic infrastructure,
  - creating new jobs,
  - developing untapped natural resources in compliance with the principles of ecological balance.

At the beneficiary level, the following impacts are expected:

- new jobs,
  - new investments,
  - higher level of innovation,
  - improved skills of employees.
- (11) The scheme provides support to companies of all sizes. Priority is given to investments in the following sectors: automotive, aerospace, electronics, engineering, biotechnology, low-tonnage chemistry, R&D and the modern service sector.
- (12) In order to be eligible, investments must have the following features:
- innovative,
  - implemented in priority sectors,
  - supporting the development of clusters, industrial and technology parks,

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<sup>4</sup> Official Journal: [JOCE C/210/2014](#)

- increasing the degree of industrialization of less industrialized regions,
- creating a certain number of new jobs or of certain minimum eligible investment costs - depending on the unemployment rate in the district.

## 2.2. Evaluation questions

- (13) According to the Polish authorities, the scheme will be evaluated at four different levels: at the level of enterprises receiving the aid; at the level of communes within the territory of which the zones in which enterprises receiving aid have made investments are located; at regional level (1. Western and Central Poland, 2. Eastern and North Eastern Poland, 3. Warsaw) and at the national level. For these levels, the evaluation plan contains a set of evaluation questions, several of which are related to the assessment of the effectiveness of the scheme in promoting investments and creation of jobs. The evaluation questions also address the issue of whether the impact of the scheme on its beneficiaries differs by their size and whether the scheme has a positive impact on innovativeness. Spill-over effects of the scheme, at the regional level and in relation to specific sectors, will also be addressed. A specific question concerns the issue of foreign direct investments and whether the new antirelocation provision included in Art. 13 (d) of the GBER will affect them. Finally, the plan includes a question on the proportionality and appropriateness of the aid measure.

## 2.3. Result indicators

- (14) At the level of enterprises-beneficiaries, the following will serve as result indicators: i) number of jobs created/maintained by supported investments, ii) value of fixed capital formation, iii) value of net income from sales, including exports, iv) share of innovative enterprises, v) value of expenditure on employee training.

At the commune level, the following indicators will be used: i) number of jobs created by the beneficiaries of the scheme, ii) number of all jobs created in communes in which beneficiaries of the scheme are located; iii) amount of expenditure on new investments by the beneficiaries of the scheme, iv) amount of all expenditure on new investments in communes in which beneficiaries of the scheme are located. All these indicators will also be analysed with respect to the division into specific branches of industry, according to the Polish Classification of Activity.

## 2.4. Envisaged methodology to conduct the evaluation

- (15) At the level of beneficiaries, a counterfactual approach will be taken. Using the data provided by the Central Statistical Office, a control group will be built. It will consist of entities that did not receive public aid and it will serve as an estimation of the counterfactual. The selection of the control group will be made on the basis of a list of selected characteristics (control variables) affecting, on the one hand, the decision to invest within the SEZ and, on the other hand, the potential effects of aid. This approach is aimed at minimizing the so-called selection bias in estimating the effects of support. To reduce the selection bias, a broad list of control variables (including the dynamics of the companies in terms of evolution of profits, number of employees etc.) will be used. Furthermore, information on additional public support for the companies in the target and

control groups from other schemes/sources will be taken into account. Statistical analysis of the data will include the difference-in-difference method, using panel data to control for persistent differences between the groups.

The counterfactual approach will also be applied at the level of communes, also using the difference-in-difference method. This type of analysis will be complemented by theory-based evaluation and case studies.

## 2.5. Data collection requirements

- (16) The data at the beneficiaries level will be provided by the Central Statistical Office. These data are collected on the basis of the "annual Enterprise Survey" and the "Reports on Innovations in Industry". The data at the level of the zones will be collected by the companies responsible for managing the zones. The provision of data at the national level will be the responsibility of the authority responsible for implementing the Scheme.

Throughout the operation of the scheme, data will be collected concerning the enterprises applying for aid under the scheme in specific zones, including: enterprise identification data, investment location, size of enterprise, conditions specified in the operating permits authorising to carry out business operation in the zones (which constitute the aid granting decisions) and deadlines for meeting them, extent to which the conditions specified in the permit have been met at the end of a given year, amount of tax exemption, amount of aid received from other sources, volume of exports.

The ongoing collection of data will also apply to data concerning indicators related to the achievement of objectives of the scheme, pertaining to the level of both specific enterprises obtaining permits to carry out activity within the zone and specific zones.

The enterprises that obtain permits which authorize them to carry out the activity within the zone will be obliged to provide data necessary to monitor the above-mentioned indicators. These enterprises will also be obliged to assist in the evaluation by participating in field studies, giving interviews or providing answers in survey studies and by providing data, especially as part of case studies.

Other data necessary for the evaluation will be obtained from publicly available statistical data collected by the Central Statistical Office.

## 2.6. Proposed timing of the evaluation, including the date of submission of the final evaluation report

- (17) According to the Polish authorities, the foreseen timing for the evaluation is composed of the following phases:

Task	Deadline
Development of the data collection system and data collection for the purposes of evaluation	July 2015 - 2019
Selection of the evaluator for final evaluation	Q1 2019
Preparation of the report by the evaluator	Q1 2019 - Q1 2020
Submission of the final evaluation report to the European Commission	June 2020
Utilization of evaluation results in the design of a successor scheme	Q3 and Q4 2020
Publication of the evaluation results	Q4 2020

The Polish authorities thus committed to submitting the final evaluation report to the Commission in June 2020.

#### 2.7. Independent body selection to conduct the evaluation

- (18) The Polish authorities confirmed that evaluation will be conducted by a team of independent experts that will be selected by an open tender. The terms of reference of the tendering procedure will ensure full independence of the entity conducting the evaluation. The criteria for the selection of the entity conducting the evaluation will notably include requirements related to the qualifications and experience of the entity conducting the evaluation and of the members of the evaluation team in carrying out evaluative research concerning schemes and instruments designed for the improvement of the competitiveness and innovation of the economy and for local and regional development while using methodological approaches planned for the purposes of the present evaluation.

#### 2.8. Modalities for ensuring the publicity of the evaluation

- (19) The Polish authorities confirm that the evaluation plan, data collection system, draft report and evaluation report approved by the Steering Committee will be made publicly available on the website of the Ministry of Economy. In addition, the involvement of stakeholders will be ensured by the evaluation Steering Committee appointed by the Minister of Economy. The steering Committee will be composed of the Minister of Economy, a representative of the Ministry of Infrastructure and Development, 3 representatives of Administrative Boards of voivodeships in which SEZs are located, a representative of the Polish Evaluation Society and a representative of the National Chamber of Commerce. The Steering Committee will be in charge of directing the data collection system, will serve as a communication forum between stakeholders of the scheme and it will approve the evaluation report.
- (20) The results of the evaluation will be presented at a conference organised by the Ministry of Economy, to which stakeholders will be invited. They will be used by the Ministry in the design of the successor scheme. Data collected for the evaluation, excluding data constituting proprietary information and raw data from field studies (transcripts of individual and group interviews), shall be rendered available by the Ministry of Economy in accordance with the statutory rules of access to public information.

### **3. ASSESSMENT OF THE EVALUATION PLAN**

- (21) The correct application of the GBER is responsibility of the Member State. The present decision on the evaluation plan does not assess whether the aid scheme to be evaluated was put into effect by the Member State in full respect of all applicable provisions of the GBER. It does therefore neither create legitimate expectations, nor does it prejudge the position the Commission might take regarding the conformity of the aid scheme with the GBER when monitoring it, or assessing complaints against individual aid granted under it.

- (22) Pursuant to Article 1(2)(a) GBER, certain aid schemes<sup>5</sup> in the meaning of Article 2(15) GBER<sup>6</sup>, if their average annual State aid budget exceeds EUR 150 million, should be made subject to evaluation. The Commission notes that the annual average budget of the aid scheme concerned exceeds EUR 150 million as set in Article 1(2)(a) GBER.
- (23) As the Commission explained in recital 8 of the GBER, the evaluation of large schemes is required *"in view of the greater potential impact of large schemes on trade and competition"*. The required *"evaluation should aim at verifying whether the assumptions and conditions underlying the compatibility of the scheme have been achieved, as well as the effectiveness of the aid measure in the light of its general and specific objectives and should provide indications on the impact of the scheme on competition and trade."* State aid evaluation should in particular allow the direct incentive effect of the aid on the beneficiary to be assessed (i.e. whether the aid has caused the beneficiary to take a different course of action, and how significant the impact of the aid has been). It should also provide an indication of the general positive and negative effects of the aid scheme on the attainment of the desired policy objective and on competition and trade, and could examine the proportionality and appropriateness of the chosen aid instrument.<sup>7</sup>
- (24) In the light of these considerations, Article 2(16) of the GBER defines as evaluation plan "a document containing at least the following minimum elements: the objectives of the aid scheme to be evaluated, the evaluation questions, the result indicators, the envisaged methodology to conduct the evaluation, the data collection requirements, the proposed timing of the evaluation including the date of submission of the final evaluation report, the description of the independent body conducting the evaluation or the criteria that will be used for its selection and the modalities for ensuring the publicity of the evaluation."<sup>8</sup>
- (25) The Commission considers that, as described in section 2 of this decision, the notified evaluation plan contains these minimum elements and was notified within 20 working days after Poland put the aid scheme into effect for in application of the GBER.
- (26) The evaluation plan gives a concise description of the key objectives of the scheme concerned, and provides sufficient information to understand the underlying 'intervention logic'. The scope of the evaluation is defined in an appropriate way. It also identifies and justifies pertinent result indicators that integrate the evaluation questions and explains the data collection requirements and availabilities necessary in this context.
- (27) The evaluation plan sets out and explains the main methods that will be used in order to identify the impacts of the scheme, and discusses why these methods are

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<sup>5</sup> Schemes under Sections 1 (with the exception of Article 15), 2, 3, 4, 7 (with the exception of Article 44), and 10 of Chapter III of this Regulation (Article 1(2)(a) GBER)

<sup>6</sup> 'Aid scheme' means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount (Article 2(15) GBER).

<sup>7</sup> See the Staff Working Document cited in footnote 2 (footnote 3, section 2, second paragraph).

<sup>8</sup> Further guidance on evaluation plans is given in the Staff Working Document cited in footnote 2.

likely to be appropriate for the scheme in question. The proposed evaluation methodology sufficiently allows identifying the causal impact of the scheme itself.

- (28) The proposed timeline of the evaluation is reasonable in view of the characteristics of the scheme concerned and the relevant implementation periods for projects supported under the scheme.
- (29) The proposed criteria for the selection of the evaluation body on the basis of an open tender meet the independence and skills criteria.
- (30) The proposed modalities for the publication of the evaluation results are appropriate and ensure transparency. In particular, the Commission takes note of the commitment to disseminate and make publicly available the results of the evaluation report and underlying data to stimulate research and assessment of the functioning of special economic zones in Poland.
- (31) In view of the above, the Commission considers that the evaluation plan meets all requirements laid down in the GBER, is established in line with the common methodology proposed in the Staff Working Document, and is suitable given the specificities of the large aid scheme to be evaluated.
- (32) The Commission notes the commitment made by the Polish authorities to conduct the evaluation according to the plan described in the present decision and to inform the Commission of any element that might seriously compromise the implementation of the plan. The Commission also notes the commitment by the Polish authorities to fulfil the obligation to submit the final evaluation report by 30 June 2020.
- (33) Therefore, pursuant to Article 1(2)(a) of the GBER, the Commission decides that the exemption for the aid scheme for which the evaluation plan was submitted is prolonged beyond the initial six months until 31 December 2020.
- (34) Alterations to this scheme, other than modifications which cannot affect the compatibility of the scheme under the GBER or cannot significantly affect the content of the approved evaluation plan, are pursuant to Article 1(2)(b) of the GBER excluded from the scope of the GBER.

#### **4. CONCLUSION**

The Commission has accordingly decided:

- to prolong the exemption of the scheme under the GBER until 31 December 2020.
- to publish this decision.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent electronically to the following address:

European Commission,  
Directorate-General Competition  
State Aid Registry  
B-1049 Brussels  
[Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu)

Yours faithfully  
For the Commission

Margrethe VESTAGER  
Member of the Commission