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Services – Reply from POLAND

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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NOTE

from :	the Polish delegation
to :	the Schengen evaluation Working Party
No. prev. doc. :	6557/06 SCH-EVAL 25 COMIX 183
Subject :	Schengen evaluation of the new Member States - Questionnaire - Additional questions presented by the Commission Services – Reply from POLAND

Question 2

Is it possible to provide an exhaustive list of databases (specifying which data they contain) currently used by the Border Guards and that will in the future be integrated into a general Border Guard Central Database? When will this general database become operational?

The construction of the Border Guard Central Data Base (CBD SG) is planned to be finished in September 2007. The CBD SG will support carrying out the basic, statutory tasks imposed on the Border Guard by the provisions of Polish law or international agreements. Almost all data gathered in the existing Border Guard data base systems will be transferred into CBD SG. These are:

1. ZSE II (Integrated Register System II) – a system supporting border.
2. In accordance with Ordinance nr 22 of the Commander-in-Chief of the Border Guard ZSE II consists of the following subsystems:

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- **EZ - Order Register** (located in the Border Guard Headquarters) used for registering and providing access to data on measures ordered by competent authorities in relation to persons crossing the border of the Republic of Poland. The EZ register contains data of persons who are, among others, wanted on a basis of a national or European arrest warrant, persons whose place of residence is to be established, as well as persons in relation to whom a preventive measure has been applied in the form of prohibition to leave the country. It also contains a list of aliens whose presence within the Polish territory is undesirable, updated in an electronic way with data from the Office for Repatriation and Aliens' data base. Data from the EZ is distributed in an electronic way to the central and local ZSE II databases enumerated below;
- **CAO - Central Registry of Controls** (located in the Border Guard Headquarters) gathers and provides access to data on persons subject to border control, mechanical road vehicles, as well as data on border traffic including the simplified checks. Information contained in the Registry is transferred electronically from ZSE II local databases;
- **ZSE II Central Data Base** (located in the Border Guard Headquarters) constituting a platform for operation of a border control subsystem based on radio terminals – the so called Mobile Border Control System (SMOG). The data base contains data on persons in relation to whom alerts were issued (updated on-line from the Order Register) as well as data on wanted (searched for) vehicles (updated off-line from the National Police Information System). The data base is also a source for glossary registers distributed electronically to the local ZSE II data bases. Data on persons checked in the SMOG system are transferred to appropriate local ZSE II data bases and are not archived in the central data base;

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- **Local ZSE II data bases** located in Regional Units' Headquarters and Border Guard Posts. The data bases constitute a platform for stationary border checks. They contain alerts on persons (updated on-line from the Order Register) and data on wanted (searched for) vehicles (updated on-line from the central ZSE II data base) as well as manually updated registers of lost documents. The local ZSE II data bases gather data on persons who underwent border control at the border crossings located in the respective area (including the data on checks carried out in the SMOG subsystem), as well as mechanical road vehicles. Statistical data covering the, so called, simplified checks as well as border traffic of all types of means of transport are also included in those data bases. All the gathered data is automatically exported to the Central Registry of Controls (in a daily cycle).

Currently a, so called, **IT broker** project is under implementation which is to centralise queries from stationary terminals at the border crossing point directly to the registers of persons in relation to whom an alert has been issued as well as wanted (searched for) vehicles registered in the central ZSE II data base. After launching the broker, the aforesaid registers in the local ZSE II data bases will be kept only as a backup in case of failure.

3. JAGA II – a system (located in the Border Guard Headquarters) registering data on aliens applying for a Polish visa at the Polish diplomatic and consular missions, data on persons and authorities issuing invitations, as well as the replies (within the scope resulting from the correspondence received from Polish diplomatic and consular missions)
4. SEI (Information Register System) – gathers information on incidents falling within the scope of the Border Guard competence on the basis of written dispatches, the method of preparation and the format of which is strictly determined by the provisions of the Ordinance nr 22 of the Commander in Chief of the Border Guard. The system covers central register located in the Border Guard Headquarters as well as local subsystems located at the headquarters of Border Guard Regional Units.

SEI contains information on:

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- a) fact of crossing the border illegally,
 - b) transport of the following items across the state border without permission: weapons, ammunition and explosives, intoxicants and psychotropic substances, waste, harmful chemical substances, nuclear and radioactive materials, etc.
 - c) other crimes or minor offences, investigating and prosecuting of which lies within the scope of the Border Guard competence,
 - d) issued refusals of entry,
 - e) carrying out the tasks set out in the Act on Aliens of 13 June 2003,
 - f) issued border passes and passes for seamen,
 - g) aliens received and transferred within the framework of readmission,
 - h) aliens applying for asylum,
 - i) discrepancies in documents,
 - j) pollution of border waters,
 - k) infringements of road traffic, international road transport and insurance regulations.
5. KAC (Alien Files Register) – a register system gathering information on the place of storing personal files of aliens, who underwent or undergo a process of assessment by the Border Guard in relation to their application for a temporary residence permit for permanent residence within the Republic of Poland.
6. POR (a registry of persons whose documents were checked) – a decentralised system covering local databases maintained by Regional Units' headquarters, containing information on persons whose documents were checked by Border Guard officers within the (territorial) area under their responsibility. The scope of contents of the stored data is regulated by Ordinance No 22 of the Commander-in-Chief of the Border Guard. No centralisation of the ROL resources is planned before creation of CBD SG.

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The Border Guard Central Data Base will be prepared for co-operation with the following external systems:

1. new-built Border Guard systems:

- criminal analysis system (export of data to the system)
- T-EWIDA system (a separated, the classified as secret part of the present EWIDA; exchange of data)
- the Integrated Radiolocation Surveillance System (ZSRN)

2. Other national systems:

- POBYT – a data base of aliens applying for refugee status or asylum, also containing a list of aliens whose presence within the Polish territory is undesirable (exchange of information),
- CEPiK – Central Register of Vehicles and Drivers (checks in the system)
- KSIP – National Police Information System (exchange of information),
- KCIK – National Criminal Information Centre (exchange of information),
- PESEL – Polish Electronic Population Register (checks in the system)
- REGON – National Register of Business Entities (checks in the system)
- TERYT – National Official Register of Territorial Division of the Country (providing glossary data system),
- AFIS – Automated System for Dactyloscopic Identification (exchange of information),

3. Systems of the European Union:

- Schengen Information System – SIS II (checks in the system),
- VIS and VISION visa consultation systems
- EURODAC (sending fingerprint data via CRD)

Besides the Operational and Investigation Department of the Border Guard operates the EWIDA Data Base containing information on persons and vehicles of interest to the Border Guard.

Information from EWIDA is used for preparatory proceedings, in cases involving operations and in classified cases. In accordance with the Act on The National Criminal Information Centre (KCIK) the data gathered in EWIDA is transferred to KCIK, in accordance to the latter's scope of competence.

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Do you also have a system of registration of entries/exits at the border (see reply to question n° 35, pp. 49-50)? If so, which categories of people are entered into this system?

Registration of entries/exits of persons at the state border is carried out in accordance with the Ordinance No 22 of the Commander-in-Chief of the Border Guard on the methods and procedures for collecting and processing information within the field of state border protection and border traffic control.

Entries and exits at the border are registered in the ZSE II – the Integrated Register System which is used in the course of border control. The system gives access to the data on alerts on persons and vehicles, compares them with the data of the checked persons and vehicles and registers the fact of performing the border control. ZSE II contains information on all persons whose data were checked in an electronic system when crossing the border.

All categories of persons are entered into the system. Every person who has been checked in an electronic system when crossing Polish border is entered into the system. Data on all persons who crossed the state border are entered into ZSE II. The only exception is the data of persons who were subject to simplified or random control. Such types of control are allowed by the Regulation of the Minister for Interior and Administration of 25 June 2002 on border control performed by Border Guard officers. In such cases only numerical data is collected in ZSE II.

Question 2 (p. 4)

Is it possible to have more details about the existence of risk analysis reports at the central and local level?

What are the main findings?

The central body of the Border Guard responsible for risk analysis with the use of the CIRAM model is the Independent Unit for Risk Analysis (SZAR) a part of the Border Guard Headquarters. SZAR's main tasks are: analysis of the risks and threats at the state border and legal, logistic, financial and personnel-related and other issues with a view to assess the influence thereof on the border protection management system, as well as preparation of other analyses for the Border Guard management and state administration authorities.

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From the moment of the establishment of SZAR, the Unit co-operated with the Risk Analysis Centre (RAC) in Helsinki (among others they prepared the Polish contributions to the 4th and 5th Risk Analysis Report as well as the answers to the questionnaire on immigration of African nationals), and it is responsible for co-operation with the FRONTEX Agency in the field of risk analysis. As a result of SZAR's position in the Border Guard Structure (Border Guard Headquarters), the analyses developed by the Unit are of strategic character and their contents answer particular needs and comply with the orders of the Commander-in-Chief of the Border Guard and the Ministry of Interior and Administration.

In most cases the analyses developed by SZAR concern particular fields of Border Guard activity or possible problems therewith. The most important (priority) fields of the Unit's interest are considered to be: threat of border crime and risk related thereto in the Border Guard Regional Units, personnel-related issues (recruitment, the level of professional development of the officers, the training system, etc) and corruption.

Due to the planned changes in the Border Guard's structure and its way of functioning, the materials prepared by SZAR also concern the legislation building up the legal framework for the Border Guards operation and analyse the possibility of increasing the effectiveness of BG's operation by changes in existing provisions.

SZAR uses internal Border Guard resources in preparation of the analyses (including statistics collected and gathered by various organisational units of the Border Guard, information gained as the result of operational activities, conducted inquiries and investigations, reports from institutional control, audit, information received from independent risk analysis sections of the Border Guard Regional Units). It also uses such external resources as information from the central and local administration authorities, scientific and research institutes, press, the Internet, etc.

The most important analyses prepared by SZAR concerned:

- the situation and most important events/phenomena at the state border Such analyses are prepared in a monthly cycle for the Border Guard management and the BG territorial bodies, government authorities and administration, co-operating services and authorities (including the Police, the Office for Repatriation and Aliens) and are used in the process of decision making;
- the system of recruitment for training - as the result the Commander-in-Chief of the Border Guard issued a new ordinance governing the recruitment for training within the Border Guard. The changes mainly consisted in eliminating the possible biased or non-objective assessment of the candidates as well as any possibilities of corruption related therewith.

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- the process of recruitment to the service at the Border Guard – the arrangements creating the possibility of corruption were shown and there was indicated the necessity of introduction into the existing regulations of provisions that would increase the transparency of the whole process. As a result the Regulation of the Minister for Interior and Administration governing the recruitment procedures was amended.
- the most important projects necessary for preparation of the Border Guard to the Schengen Evaluation missions – the analysis performed led to issuing appropriate orders for implementation of the tasks indicated by SZAR to be performed by the territorial bodies of the Border Guard;
- migration threat posed by Russian citizens of Chechen nationality at the border with the Czech Republic – as the result the Commander-in-Chief of the Border Guard ordered the BG organizational units at the southern section of the border to undertake appropriate measures and he ordered to carry out control of those unit.
- the Border Guard officers remuneration system –it led to modifications in the prepared arrangements concerning the increase in the remuneration of the officers who perform their duties directly at the border.
- draft legislation within the framework of consultation of prepared acts (finding possible mistakes and loopholes as well as possible questions that might put the effectiveness of the Border Guard's operation at risk) – it led to introducing necessary changes into the draft acts/proposals;
- project materials of the special body established for conducting the implementation of the Central Border Guard Data Base – the projects were appropriately amended as the result.

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Question 6

Is it possible to have the number of apprehended persons by nationality?

Aliens detained for crossing or attempting to cross the national border illegally or apprehended in the course of residence legality control								
Year	2002		2003		2004		I-IX 2005	
Most common nationalities		number of persons		number of persons		number of persons		number of persons
	Ukraine	2 588	Ukraine	3 158	Ukraine	3 935	Ukraine	2 478
	Bulgaria	975	Belarus	716	Russia	710	Belarus	647
	Afghanistan	575	Bulgaria	638	Belarus	634	Russia	539
	Belarus	577	Armenia	494	Bulgaria	603	Vietnam	307
	Russia	565	Russia	487	Armenia	318	Moldova	298
	Armenia	488	Vietnam	512	Moldova	313	Bulgaria	244
	Vietnam	432	India	368	Vietnam	297	Armenia	224
	India	262	Pakistan	248	China	267	Georgia	76
	China	256	China	247	Pakistan	199	Romania	72
	Romania	230	Romania	212	India	120	Mongolia	57

Question 7

Is the EU Training Core Curriculum for Border Guards part of the training of PL border guards?

After modifications in 2004 a programme corresponding to the minimal EU training requirements (Common Core Curriculum) was included into the BG training programme.

Question 7/8

How many hours are devoted on the training concerning EU legislation?

The following numbers of hours are devoted to the courses covering EU legislation are carried out in the Border Guard Training Centres:

Elementary training – 24 hours

Junior (non-commissioned) officer training – 21 hours

Warrant officer training in the preparatory service – 15 hours

Warrant officer training in the permanent service – 16 hours

Officer training – 35 hours

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Besides within the framework of advanced training in the Central Training Centre of the Border Guard the following courses are carried out:

- EU Training Day – 12 hours
- “Crossing the external and internal border of the EU and staying within the Schengen territory” –(training for multipliers) – 35 hours
- “Schengen provisions in the field of control of the external border” (advanced training) – 21 hours

Currently there is a new programme for multipliers prepared in the field of EU legislation. The programme will consist of 70 hours of training. After completing the course the multipliers will carry out five-day trainings (of about 35 hours) in their home BG units. The first trainings will begin in September 2006.

Beginning from 2004 the following courses are carried out within the framework of the advanced and specialist training at the Border Guard Training Centre:

- “The European Union and the provisions of the Schengen Treaty in the field of crossing the border and border control” (a week training)
- “Training for multipliers in the field of border control” (a three-day training) covering three modules:
 - Crossing the external borders of the EU and stay within the EU territory in relation to national and EU legislation
 - Legal aspects of issuing administrative decisions
 - Detention for the purposes of expulsion
- “Specialist training in the field of preparation of Border Guard officers for the Schengen Evaluation” (a week training)

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Question 9

Is it possible to get more information on the reserve units, and in particular on the Morski Regional Unit reserves (p. 10): status of the personnel, training that they have already undergone, tasks and powers of their members, etc?

Apart from the Nadwiślański Regional Unit, within the structure of the Border Guard organisational units there are reserve units (rapid response forces). There are 15 reserve units of rapid response forces that carry out border activities: 9 reserve companies, 2 independent reserve companies, 3 special reserve platoons and 1 reserve platoon. Besides within the organisational structure of the 8 reserve companies and 1 independent reserve company there are 9 special platoons. The main tasks of the abovementioned units is to carry out border actions and support Border Guard organisational units in carrying out border control and border surveillance. The scope of competence of the companies' members does not extend beyond the competence of BG officers as set out in relevant legislation.

The Independent Reserve Company operating within the structures of the Morski Regional Unit of the Border Guard has 2 reserve platoons, a special platoon and a diving platoon.

It enters into action in emergency situations, and its role is to, among others:

- support Border Guard Posts in performing border activities,
- undertake interventions relating to re-establishing public order in the vicinity of border crossing points as well as in the areas under the responsibility of the Border Guard,
- ensure safety of international sea transport,
- giving support in activities relating to ensuring public order and public policy at the Polish Marine Areas.

Besides it carries out co-operation with other authorities established for keeping the public order within the territory of the Republic of Poland on the basis of separate agreements concluded by the Commander of MOSG (Morski Regional Unit). Joint activities are carried out with: the Police, Customs Service, Tax Audit Office, Railway Protection Service (SOK), Military Police (ŻW), Central Bureau of Investigation (CBŚ) and Road Transport Inspection.

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With a view to a proper performance of commissioned tasks the Independent Reserve Company implements training programmes which include, among others, operation of specialist technical equipment. Besides, there is practical training performed with a view to developing best practices and procedures for intervention actions.

The tasks of the Independent Reserve Company involve especially:

1. Patrols and interventions at the sea, air and land border crossing point, during the periods of increased battle readiness or increased terrorist threat.
2. Prevention patrols in the border area in the periods of increased tourist traffic during holidays.
3. Protection of teams controlling vessels on the territorial waters of the Republic of Poland.
4. Antiterrorist operations: freeing hostages and kidnapped persons, detained in buildings, vehicles, vessels, planes and trains.
5. Counteracting terrorist attacks directed against facilities and personnel of Polish oil platforms located on the Baltic Sea as well as against port facilities.
6. High risk apprehensions – apprehension of particularly dangerous and aggressive criminals.
7. Protection of very important persons (VIP).
8. Protection of mass events.

The Independent Reserve Company of the Morski Regional Unit employs 37 Border Guard officers which amounts to 80.7 percent of available posts.

Question 21

Future connections from Swinoujście with non Schengen ports: Are there already plans for the opening of such connections? When could it take place?

Currently there are no plans to establish any regular ferry connections between Świnoujście and non-Schengen ports. The traffic between Świnoujście and non-Schengen ports is sporadic and involves only commercial vessels, without any regular connections.

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Question 23

Is it possible to get separate data for ferries and cruise ships? What is the distinction between three categories of fishing vessels based upon?

Is there any explanation for the dramatic fall on the amounts of non EU vessels in 2005?

The statistics concerning the number and type of the vessels from the EU and third countries entering ports in the years 2002-2004 and in the period from January to September 2005 is shown in the table below:

Type of the vessel	2002		2003		2004		January-September 2005	
	EU	non EU	EU	non EU	EU	non EU	EU	non EU
large passenger vessels /cruise ships/	3 498	34	3 786	35	548	11	118	6
ferries	6 493	0	8 307	0	7 708	0	3 745	0
excursion ships	7 100	2 055	5 397	1 951	2 581	1 118	1 122	21
In total	17 091	2 089	17 490	1 986	10 837	1 129	4 985	27

The division into three categories of fishing vessels (ships, cutters and boats) results from the rules adapted by the Border Guard at the beginning of the 1990. with respect to the method of collecting data on border traffic of transportation means used at that period of time. Starting from January 2006 in the statistics of border traffic cutters and boats were joined into one category, with ships left as a separate category.

Reasons for the fall on the amounts of non EU vessels in 2005

At the sea section of the border the decisive factor that influenced the decrease of the number of non-EU vessels in 2005 were the restrictions on the freedom of sea traffic at the Russian part of the Vistula Lagoon (Zalew Wiślany) connected to the visa obligation imposed on the citizens of Poland.

The introduced by EU legislation restrictions on the traffic of vessels using flags of convenience in the EU ports is also one of the reasons for the said decrease. Such restrictions result from entry into force of the ISPS Code on 1 July 2004 governing the traffic of vessels in EU ports. The condition required for a vessel to enter an EU port is to have an International Ship Security Certificate confirming the verification of compliance of the vessels security system with the requirements set out in the ISPS Code.

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Question 23 (p. 40-41)

Specific practices on the control of Polish fishing vessels: Does it refer to all the Polish fishing vessels or only coastal ones? Do these special practices also apply to other Member States' fishing vessels that are under the same circumstances?

How are cruise ships controlled?

Fishing vessels

Polish fishing vessels which leave ports where they are registered and fish within the Polish Exclusive Economic Zone without entering to other ports undergo random border control. Polish cutters which do not fulfil the above requirements are subject to standard onboard control.

Currently the following rules for carrying out random border control of fishing cutters are applied:

- skippers provide relevant Border Guard Posts with updated lists of crewmembers, one of which remains with the Border Guard for further reference
- skippers inform via the radio about their intention to enter the port and inform whether the composition of the crew is the same as stated on the lists handed earlier to the Border Guard.
- on the basis of the crewmember list the members of the crew are checked whether they are not wanted or if competent authorities did not order to apply measures determined by separate provisions to them or to their transportation means, as well as to execute these measures
- the fact of carrying out random control is properly noted at the crewmember list which is kept by the Border Guard for reference and archived in service documentation

If the Border Guard has information that some border-related provisions have been infringed by the cutter's crew or if any doubt arises concerning the composition of the crew, the vessel undergoes a detailed control.

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Foreign fishing vessels, including the vessels from the EU, are subject to onboard control carried out in accordance to generally accepted rules and none of the above facilitations are applied

Passenger vessels

Each time before the beginning of the tourist season the Commanders of the Border Guard Posts meet with agents (ship-owners' representatives) who are in charge of and prepare the passenger ships for the border control. Information on the applicable regulations in the field of border control is communicated during the meeting. The procedure and method of transferring information on the crew and passengers of the ship by agents are also discussed.

The agency assisting in clearing the passenger ship notifies the Border Guard on the presumed time of entering into the port and the time of departure from the port each time, giving, among others, the following data: the name of the vessel, its flag, port of departure, destination port. In addition, at least two days before the planned time of entering the port the ship owner's agent provides the Border Guard Post with a list of crew members and passengers. The list shall include the following information: names, citizenships and dates of birth, number of documents authorising to cross the national border, and in relation to the crew members also the position.

After receiving the list of crew members and passengers, the Commander of the Border Guard Post carries out a risk analysis and checks in the accessible databases. The analysis performed has a direct impact on the composition of the control team and the number of controllers, as well as its technical equipment. Border control of crew members and passengers is carried out in separate room on board of the vessel using mobile control terminals.

Border control covers:

- checking the authenticity and validity of the document authorising to cross the national border,
- verifying the identity on the basis of the presented document authorising to cross the national border
- checking whether the person is not wanted or if competent authorities did not order to apply measures determined by separate provisions to this person or to his/her transportation means, as well as to execute these measures

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- determining whether the person, their transportation means or objects in possession of this person do not endanger the State's security, public order or public health
- performing proceedings related to gathering of data from the carried-out checks.

During border control of aliens the BG officers apply the following procedure:

- checking of authenticity and validity of visa or other permits, if required,
- checking the fulfilment of the conditions for entry in relation to the financial means for the entry, stay, transit, departure from the territory of the Republic of Poland, as well as means to cover medical treatment,
- determining the purpose for entering the territory of the Republic of Poland,
- checking if departure from the territory of the Republic of Poland takes place prior to the expiration of the visa's validity or the period of stay determined in bilateral agreements and Council Regulation EC 539/2001.

In relation to a defined category of aliens who travel as passengers, a simplified border control may be applied, limited to the following control measures:

- checking the authenticity and validity of the document authorising to cross the national border,
- verifying the identity on the basis of the presented document authorising to cross the national border,
- checking if the departure from the territory of the Republic of Poland takes place prior to the expiration of the visa's validity or the period of stay determined by separate provisions.

After performing border control at the entry to the Republic of Poland the passengers of the ship may leave the ship, carrying with them the documents authorising to cross the national border. Persons who were not permitted to cross the national border receive administrative decisions on refusal of entry into the territory of Poland and remain on board of the vessel. The above-mentioned decisions are communicated to the captain of the ship who is responsible for preventing the persons covered by these decisions from leaving the ship. A refusal of entry into Poland is made in accordance with the Act on Aliens.

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If a passenger without documents authorising to cross the national border (passport and visa) is detected on board of the ship, the Commander of the Border Guard Post applies to the Voivod to impose an appropriate administrative fine on the carrier.

Border control on departure from the Republic of Poland is performed in the same way as the entry control, taking into account the direction and the changes in the composition of the crew and the passengers which had taken place during the stay of the ship in the port. Permits issued to seamen are also collected.

Border control of a passenger ship coming from the EU or a third country is carried out by the BG officers in the same way.

In the case a crew member, who is a citizen of a country covered by the visa obligation, signs off the ship, the Commander of Border Guard Post may issue him a visa to cross the territory of the Republic of Poland in transit, in accordance with the Act on aliens.

Question 23 (p. 41)

The figures in the second paragraph refer to border controls or do they include other kind of controls or controls carried out by other authorities (customs, police, sanitary controls)?

Under the provisions applicable in the Republic of Poland the authority competent for performing border control is the Border Guard. There are also other authorities competent to perform their tasks on a the vessel entering the port. Among those authorities there are the Police, Customs Service and Sanitary Control Service.

The data provided in the second paragraph concern only border control performed by the Border Guard. Border Guard does not keep record of proceedings (including controls) carried out by other authorities.

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Question 35

Do you have statistics on the number of persons crossing the external borders by train?

Passenger border traffic at the rail border crossing points at the external border in the years 2002 – 2004 and in nine months of 2005 is presented in the table below (in thousands of persons):

	2002	2003	2004	nine months of 2005
departure from Poland	1 745.2	1 252.2	1 232.9	785.7
entry into Poland	1 182.8	676.9	626.9	444.9
In total	2 928.0	1 929.1	1 859.8	1 230.6

Question 44

Do you intend to clarify the legislation in relation to the grounds for which the voivods refrain from imposing penalties?

At present, in accordance to paragraph 138.1 and 139.3 of the Act on Aliens of 13 June 2003 (Dz.U.03.128.1175 as amended) the carrier who, by sea or by air, brought into the territory of the Republic of Poland an alien who does not possess a travel document authorising to cross the border or who is not authorised to enter another country or to return to the country of origin, if such an authorisation is required, an administrative fine in the amount equal to a sum between EUR 3000 to EUR 5000 for each person carried shall be imposed on the carrier. The total sum of PLN for one carriage of the group of persons may not exceed equivalent of EUR 500 000.

The above provision concerns also the carriers who operate regular international connections in the field of road passenger transport.

At the request of the commanding officer of the Border Guard Post, in which the alien was refused entry, the voivod competent with respect to the seat of the requesting authority shall impose, by means of a decision, the administrative fine.

The aforesaid decisions may be appealed against in accordance to the procedure set out in the Code of Administrative Proceedings.

The problem of clarification (creating of uniform interpretation) of the legislation in relation to the grounds for which the voivods refrain from imposing penalties lies outside of the scope of the Border Guard competence.

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ADDITIONAL CLARIFICATION – VISA

60. How do you keep track of the visa stickers once the consul has taken them from the safe?

Visa stickers are kept in a safe-deposit box of the visa archive. The numbers of the visa stickers are entered to the computer register of visa stickers directly after they have been received. The successively numbered visa stickers to be printed are given out each day by the consul; the personnel of the visa section obtain it on receipt. Unused visa stickers are returned at the end of the working day, on receipt as well.

The access to the visa stickers is limited. The authorized people are the head of the Consular Division and the head of the Visa Section.

The visa stickers that contain mistakes, on which the data is illegible, or otherwise faulty, are cancelled by applying a “CANCELLED” (“ANULOWANO”) stamp on them and henceforth intended for destruction. Faultily printed visa stickers that are already affixed in the passport are cancelled by applying a “CANCELLED” (“ANULOWANO”) stamp on the sticker. Afterwards, the page of the travel document containing the cancelled sticker is photocopied. The information on the cancelled visa stickers left in the foreigners’ travel documents is stored along with a half-year register of visa stickers. The cancelled visa stickers are destroyed by a commission, which consists of expatriate staff, at the end of each half-year.

69. Do you require travel medical insurance also from nationals of third countries listed in Annex II of Council Regulation 539/2001?

We do not require a travel medical insurance from nationals of third country nationals listed in Annex II of the Council Regulation 539/2001, but according to the Act on Aliens of 13 June 2003 (published in Journal of Laws of 2003 , No. 128, it.1175) an alien entering the territory of the Republic of Poland is obliged to possess and present at the request of the competent authority (Border Guard) the financial means necessary to cover the costs of his/her entry into, transit through, residence on, and departure from the territory of Poland or the documents authorizing him/her to obtain those means (article 15).

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The requirements on financial means, as set out by the ordinance of the Minister of Interior & Administration of 2003, September 29th (published in Journal of Laws of 13 October 2003) include 300,- PLN (150, -PLN if the alien is a minor) per day or its equivalent in foreign currency to cover costs of his/her medical treatment in Poland. Presentation of the valid Health insurance or the original of Invitation described in the article 16 of the Act on Aliens may confirm possession of the financial means for the medical treatment.

72. Do you give the grounds for refusal of family members of EU citizens?

Polish legislation does not provide for the obligation to indicate the grounds for refusal of a visa to an alien, including a family member of EU citizen. Foreigners receive a visa refusal decision in the events defined in the art. 42 of the Aliens Act of 13th of June 2003. Foreigners are informed orally on the refusal upon the receipt of travel document. The reasons of refusal are not communicated to them especially if it is dictated by the necessity of national defense and security, safeguarding of the security and public order (article 8.1, Act on Aliens of 13 June 2003). The consul's decision on the refusal is definite. There is no possibility of appeal.

73. Do you issue visas free of charge to citizens of third countries on the basis of nationality?

Poland issues visas free of charge to citizens of the following countries:

- Ukraine
- the Republic of Moldova
- the People's Republic of Bangladesh
- the Republic of Guinea – Conakry (but only for the citizens applying for a visa in the Polish Embassy in Dakar)
- the People's Republic of China (only if the application is submitted on the territory of China)
- the Republic of Albania (only if the application is submitted in Tirana)
- the Republic of India only if the application is submitted on the territory
- the Socialist Republic of Vietnam (only if the application is submitted on the territory of Vietnam)

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74. In Alma-Ata, 17.225 visas were issued in 2004 and only 2 refused. In Brest, Grodno, Kaliningrad and Minsk, the refusal rates in 2004 were also very low (ca. 0,12 – 0,17%). How can you explain this situation?

There are three main reasons for low refusal rate in the mentioned countries:

- 1) Polish consulates register only refusals of the granting of visas (not refusals on the examining of the visa applications)
- 2) There are large Polish Diaspora in the Republic of Kazakhstan, the Republic of Belarus and the Russian Federation who are subject to visa requirement because of their citizenship, but towards whom Polish visa authorities do not have doubts on their true motives of travel to Poland,
- 3) We have bilateral agreements facilitating the procedures of visa issuance (e.g. with Belarus of 26th August 2003 and with Russia of 18th September 2003)

75. Could you provide more information on the diplomatic, service, courier and transit diplomatic visas issued at the border? How many visas have been issued at the sea border and in particular to seamen?

Diplomatic, service, courier and transit diplomatic visas may be issued only in exceptional circumstances at the border by the chief of the Polish Border Control Point. Decision on issuing a diplomatic, service or transit diplomatic visas is based on the official note of the Ministry of the Foreign Affairs of the foreign country or its diplomatic mission. A decision on refusal of such visas is final.

Diplomatic, service, courier and transit diplomatic visas issued at the sea border

	2002	2003	2004	2005 (9 months)
Diplomatic visas	1	2	4	0
Service visas	45	50	103	64
Courier visas	0	0	0	0
Transit diplomatic visas	3	1	0	28
Sum	49	53	107	92

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Total number of the visas issued at the sea border, in particular to seamen.

Sea border	2002	2003	2004	2005 (9 months)
Issued visas	542	1032	2237	1896
Visas issued to seamen	494	920	2143	1800

Additional questions - Visa:

- ***Are your diplomatic and consular posts empowered to issue residence permits?***

The only Polish authority eligible to issue residence permit is Voivod (governor) appropriate for the location of intended stay is empowered to issue Polish residence permits. If an alien applying for residence permit resides abroad, the application may be lodged via consular post which sends it to the appropriate Voivod in Poland. The Voivod's decision shall be serviced to him through the consular post.

- ***In Annex 15 CCI your country provides no form for proof of invitation, sponsorship and accommodation.***

Are there no legal provisions/administrative rules or practices on such forms?

There is a Polish form of invitation set out by the ordinance of the Minister of Interior & Administration of 2003, September 12th (published in Journal of Laws of 29 September 2003), see: attachment.

- ***Please describe the practice followed when issuing visas to applicants who are non-residents in the country where they lodge their application?***

The Polish consuls do not apply the rule of the territoriality when issuing visas to applicants who are non-residents in the country where they lodge their application. The only exception to this practice is related to employment visas, for which application can be lodged only via consul appropriate for the place of the permanent residence of the foreigner (where he/she enjoys the right of abode).

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- *Please describe the practice followed when issuing visas to holders of travel documents, which you do not recognize?*

In case of holders of travel documents not recognised by the Republic of Poland, Polish consuls use the uniform format form for affixing a visa (as from 1st December 2005) conforming to the Council Regulation (EC) No. 333/2002 of 18 February 2002 on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State. Polish consul affixes a visa to the uniform format form after consultations with the commander chief of the Border Guard and the Consular Department of MFA.

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ANNEX

AWERS

REPUBLIC OF POLAND RZECZPOSPOLITA POLSKA REPUBLIQUE DE POLOGNE
ZAPROSZENIE INVITATION / INVITATION

Zapraszający / I, the undersigned / Je soussigné(e):
Imię(imiona) i nazwisko / Firma lub nazwa / Given name(s) and Surname / Company or Name / Prénom(s) et Nom / Société ou Nom ZN 0000000
Data i miejsce urodzenia / Date and place of birth / Né(e) le / à
Obywatelstwo / Nationality / Nationalité
Rodzaj, seria i numer dokumentu tożsamości / REGON / Identity document / REGON No / Document d'identité / REGON n°
Adres zamieszkania / Siedziba / Residential / Corporate adress / Adresse / Siège
Zawód / Profession / Profession

zaprasza na okres od / invite for the period of time from / invite pour la période de
Imię(imiona) i nazwisko / Given name(s) and Surname / Prénom(s) et Nom do / to / au
Data i miejsce urodzenia / Date and place of birth / Né(e) le / à
Obywatelstwo / Nationality / Nationalité
Seria i numer dokumentu podróży / Series and number of travel document / Série et numéro du document de voyage
Adres zamieszkania / Address / Adresse
Stopień pokrewieństwa z zapraszającym / Family relationship to applicant / Lien de parenté avec le demandeur

Nazwa organu, który dokonał wpisu do ewidencji zaproszeń / Invitation registering authority / Le nom des autorités enregistrant l'invitation
Data i numer wpisu do ewidencji zaproszeń / Registration date and number / La date et le numéro d'enregistrement

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REWERS

oraz / accompanied by / accompagné(e) de:
małżonka / spouse / son conjoint
Imię(imiona) i nazwisko / Given name(s) and Surname / Prénom(s) et Nom Data urodzenia / Date of birth / Né(e) le Płeć / Sex / Sexe
dzieci / children / ses enfants
Imię(imiona) i nazwisko / Given name(s) and Surname / Prénom(s) et Nom Data urodzenia / Date of birth / Né(e) le Płeć / Sex / Sexe

Zobowiązuję się do pokrycia kosztów związanych z pobytem i wyjazdem zaproszanego cudzoziemca, w tym kosztów ewentualnego leczenia oraz kosztów wydalenia z terytorium Rzeczypospolitej Polskiej.
I agree to cover the living cost and the departure cost of the invited foreigner, including the cost of medical treatment as well the cost of deportation from Republic of Poland.
Je m'engage à prendre en charge les frais de séjour et retour de l'étranger invité, y compris les frais de soins médicaux et déportation de la République de Pologne.

m. p. Podpis zapraszającego
Signature of the person issuing invitation
Signature de la personne qui délivre l'invitation

PWPW S.A. 2002