



Warsaw, 25 October 2016

**The Rt. Hon
Beata Szydło
Prime Minister of Poland**

Al. Ujazdowskie 1/3
00-583 Warszawa

Dear Ms. Szydło,

The International Group of Chambers of Commerce in Poland (IGCC), which associates the thirteen largest Chambers of Commerce, representing both foreign-owned and leading domestic insurance companies, would like to express deep concern about recent actions taken by Towarzystwo Ubezpieczeń Wzajemnych Polskiego Zakładu Ubezpieczeń Wzajemnych (TUW PZUW), supported by the Ministry of State Treasury.

So far, property agreement insurance policies for companies with State Treasury shareholding have been concluded in accordance with the principles of fair competition and equal access of insurance companies to the market, as guaranteed by EU legal acts, using the public procurement procedure.

But the actions taken by TUWZ PZUW create grounds for such insurance agreements to be concluded only with this particular Mutual Insurance Company, without appropriate public procurement procedures, and thereby without employing the principles of fair trade and equal treatment of all service providers (insurance companies), objectivity and impartiality.

This creates the risk of actual take-over of part of the market for the aforementioned property insurance, and exclusion from it of other insurance companies that have been operating in Poland for years. The value of the premium written resulting from the part of the insurance market that TUW PZUW intends to take over is estimated at PLN 1.2 billion.

The actions of TUW PZUW, which exclude competitiveness in the aforementioned part of the insurance market, will cause an accumulation of risk resulting from the insurance protection of companies with State Treasury shareholding being provided by one entity, which will have a negative influence on the effectiveness of this protection.

Poland, as a Member State of the European Union, should, above all else, be guided by the principles and values shared by the Community, including the principles of fair play.



The actions taken by T UW PZU raise concerns due to the breach of the aforementioned principles of fair competition, equal treatment and fair play. Therefore, the International Group of Chambers of Commerce in Poland requests you, as the Prime Minister who is the authority supervising entities from the PZU Group, to re-analyse the validity of the actions of T UW PZUW described above as well as their negative influence on the entire property insurance market in Poland and also on insurance protection of companies with State Treasury shareholding. We are convinced that comprehensive analysis of all negative effects of T UW PZUW's actions will result in a recommendation to discontinue them.

The issue of the legality of this project is a separate aspect. As legal justification of its actions, T UW PZUW indicates the provision of Art. 103 of the Act of 11 September 2015 on insurance and reinsurance activities.

However, one should note that Poland is bound by the Directive of the European Parliament and the Council 2014/24/EU of 26 February 2014 on public procurement (the so-called classical directive), as well as the Directive of the European Parliament and the Council 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors (the so-called sectoral directive), which do not provide for the exclusion of the use of public procurement procedures for insurance agreements concluded between a mutual insurance company and its members. The provisions of national law, including Art. 103 of the Act of 11 September 2015 on insurance and reinsurance activities which is referred to by T UW PZUW, cannot be interpreted in a manner that is inconsistent with the requirements of EU directives, and this has been confirmed on numerous occasions by the Court of Justice of the European Union, the Polish Supreme Court and the common courts. As a result, there are justified grounds to claim that the aforementioned actions taken by T UW PZUW, aimed at the actual take-over of part of the insurance market and at the exclusion of other domestic and foreign insurance companies from it, are a breach of: the principles of public procurement, non-discrimination, equal treatment of entrepreneurs, the freedom to provide services and fair competition resulting from both the norms of Community law – which Poland is bound by – and from the provisions of national law.



We think that in this situation it would be advisable for you, as the Prime Minister, to engage in a dialogue with the participation of representatives of insurance companies represented by the International Group of Chambers of Commerce in Poland and representatives of TUW PZUW, to find a good, balanced solution which would be compliant with the principles of equal treatment of entrepreneurs and fair competition.

Yours sincerely,

On behalf on IGCC Chambers of Commerce:

American Chamber of Commerce in Poland
Belgian Business Chamber
British-Polish Chamber of Commerce
Camara de Comercio Polaco-Española
Camara de Comercio Polonia-Portugal
Camera di Comercia e dell' Industria Italiana in Polonia
Chambre de Commerce et d'Industrie Francaise
Polish-German Chamber of Commerce
Irish Chamber of Commerce
Netherlands-Polish Chamber of Commerce
Polish Canadian Chamber of Commerce
Scandinavian-Polish Chamber of Commerce
Swiss Chamber Poland

A handwritten signature in blue ink, appearing to read 'M. Kern', is written over a light blue horizontal line.

Michael Kern
General Direktor
Polish-German Chamber of Commerce

CC: Mrs. Commissioner Margrethe Vestager
EU Commission