

## **Position on Press Articles Challenging the Reliability of Information Disclosed to Investors by the Executive Board of Impel SA**

### **Current Report No. 49/2004**

In the light of the press articles which have either directly or indirectly challenged the reliability of information disclosed to investors by Impel SA, the Executive Board would like to provide the following clarifications:

1. The Company's Issue Prospectus was prepared with due care and in accordance with the applicable laws and regulations; and, furthermore, the provisions contained therein on government aid to employers of the disabled were in line with the positions presented by the state administration authorities.
2. In the chapter on risk factors, the Company accurately accounted for those legal aspects of the Company's environment which could affect its performance. This information in the Issue Prospectus was reviewed by the Company's legal advisers.
3. In preparing the financial forecasts for 2004, the Company took into account the applicable laws and regulations, including the Act on the Occupational and Social Rehabilitation and Employment of the Disabled, as well as actions taken and positions presented by the administrative authorities (such as the inclusion of funds necessary to disburse subsidies provided for in the Act in the budget of the State Fund for the Disabled, and the position of the Office of the Committee for European Integration of November 27th 2003).
4. As evidenced by the information released in Current Report No. 45/2004 of July 9th 2004, Impel SA took steps in an attempt to define the types and amounts of subsidies for which the Company may apply under the existing legal system.

#### Statement of reasons:

1. The Act Amending the Act on the Occupational and Social Rehabilitation and Employment of the Disabled was adopted on December 20th 2002. Although it came into force on February 1st 2003, the provisions under which the Company (as well as other supported employers of the disabled) lost their right to partial VAT reimbursement came into force as of January 1st 2004. Such a lengthy *vacatio legis* was justified by the necessity to provide sufficient time to companies to take measures to adapt to the changed situation, and followed from the established line in the Constitutional Tribunal's decisions. The Issue Prospectus of Impel SA contains a detailed discussion of the issue in the section on the relevant risk factor, including an estimate of the value of the lost subsidies.

In addition, both the Company's internal forecasts as well as the information disclosed to investors in the Issue Prospectus and in the current and interim reports (including the Q1 2004 report, dated May 17th 2004, and the financial forecast sustained therein) were based on the provisions of the Amendment to the Act on the Occupational and Social Rehabilitation and Employment of the Disabled of December 2002 (hereinafter referred to as "the Act"), and, as they became available and were reviewed, on subsequent amendments thereto, which came into force at different dates up until June 1st 2004. All the new provisions of the Act (including also those binding today) upheld in force the rules governing aid to supported employers of the disabled in force as of January 1st 2004.

Upon Poland's accession to the European Union, our national legal system came to include the Commission Regulation (EC) No. 2004/2002 of December 5th 2002, under which the member states do not have to notify the European Commission of the provided aid as long as they apply the instruments provided therein. Otherwise, the activation of an aid scheme requires the prior notification and consent of the European Commission. Concurrently, within the framework of the Accession Treaty, Poland obtained acceptance of its *Stable Employment* scheme, whose execution does not require prior consent of the European Commission.

In analysing its legal environment, Impel SA trusted the state authorities, taking into consideration the then existing application of an appropriate *vacatio legis* and rules governing the enactment of law in the Republic of Poland, which require every legal act to be assessed in terms of its compliance with the EU regulations (and in practice also with the drafts of EU regulations). Thus, the Company assumed that in preparing the Amendment to the Act of December 20th 2002 and all subsequent amendments thereto, the government and the legislator took into account all applicable EU regulations (including the Commission Regulation (EC) No. 2004/2002). Based on the statements made by government representatives, subsequent amendments to the Act were implemented as part of their alignment with the EU regulations, provisions of the Accession Treaty, and accounted for any actions which the government was taking or planning to take in this area, such as the *Stable Employment* scheme, the fact that subsidies were subject to the transitional procedure (list of schemes exempt from the EU procedures was closed on April 30th 2004), or the notification requirement provided for in the EU regulations. Thus, there was no way that the Company could have presumed that the provisions which came into force on January 1st 2004 would cease to be binding after a mere four months, be it upon the application of the abovementioned Commission Regulation (EC) or the Polish regulations. The Company's belief that no such threat existed was confirmed by the fact that funds had been reserved in the budget of the State Fund for the Disabled for the disbursement of subsidies provided for in the Act. As a consequence, the Company had every reason to assume that also upon Poland's accession to the European Union, the rules defined in the Act governing the grant of aid to supported employers of the disabled would be fully applicable and that EU regulations (including the provisions of the Commission Regulation (EC) No. 2204/2002) would not in practice affect the amount of the funds receivable by the Company under the Act.

It was only upon the publication of the Directive of the Polish Council of Ministers concerning detailed rules governing aid to employers of the disabled, dated May 18th 2004, that the above state of affairs changed, as reported on in Current Report No. 40/2004 of May 28th 2004.

To the best of the Company's current knowledge, the Company's opinion was consistent with the statements made by the state administration authorities, which did not regard the Commission Regulation (EC) No. 2204/2002 as a deterrent that would prevent or make it very difficult to grant aid to supported employers of the disabled in accordance with the rules provided in the Amendment to the Act, and assumed that the relevant steps would be taken within the framework of the pre-accession procedures, or that following the accession the European Commission would be notified by way of the procedure provided for in EU regulations. In a letter to the Chairman of the National Board for Employment of the Disabled (KRAZON), dated August 14th 2003, the Government Ombudsman for the Disabled stated: "however, the Commission Regulation (EC) does not require EU member states to limit their aid to only that referred to in the Regulation. Nevertheless, the states are required to notify

and obtain the consent of the European Commission in relation to any planned aid scheme.” Furthermore, he stated that: “it is therefore important to quickly amend the statute defining the conditions under which public aid may be granted to companies, in order to provide a legal basis for the preparation and adoption in Poland of public aid scheme which will become effective upon their earlier acceptance by the European Commission within the framework of the transitional procedure, even before Poland’s accession to the EU (...) such steps were taken.”

Similarly, in issuing on November 11th 2003 its opinion on the amendment to the Act on the Occupational and Social Rehabilitation and Employment of the Disabled, the Office of the Committee for European Integration found no discrepancies between its provisions and the EU legislation. The Office’s letter included the following statements: “The provisions of the Act, convergent with the requirements provided for in the Regulation, should be notified to the European Commission as an aid scheme. In all other respects, the Act should serve as a framework to obtain the State aid, whose grant is conditional upon obtaining a positive opinion of the Polish Anti-Trust and Consumer Protection Authority and consent of the European Commission. Undoubtedly, a most comprehensible legal solution, allowing the Act on the Occupational and Social Rehabilitation and Employment of the Disabled to be rearranged to reflect the new shape of the *acquis*, would be to split the existing Act’s provisions on financial aid to employers of the disabled, including supported employers, into two parts, i.e.: a part concerning the aid notified as an aid scheme, as defined by the Commission Regulation (EC) No. 2204/2002, and a part concerning aid which is subject to individual notification requirement and which may be granted to any employer, in relation to the forms of aid which were not provided for in the Regulation or in relation to the forms and amounts of aid which exceed the relevant ratios or aid to employers not included in the list of undertakings entitled to obtain the State aid without the notification requirement as stipulated in the Regulation. However, at the present stage of analysis of the Commission Regulation (EC) No. 2204/2002, the performance of the abovementioned obligation would be premature, since the *Stable Employment* scheme attached to the Accession Treaty has allowed Poland to obtain approval for various forms of financial aid to employers of the disabled, provided for in the Act but not in the Regulation (e.g. subsidies to the remuneration of the disabled) and the Polish authorities intend to take further actions to obtain approval, as a part of the aid scheme, of exemption of all forms of aid provided for in the Act from the individual notification procedure. It seems therefore that if the European Commission approves the abovementioned scheme, no amendment to the Act will be necessary.”

To conclude, while preparing the Issue Prospectus, the Company had no grounds to include detailed analysis of amendments in Polish legislation in the context of the EU accession, and particularly to describe the Commission Regulation No. 2204/2002. Based on the experience from the previous amendments and acting with confidence in the State authorities, the Company assumed that the entitlements set forth in the Act were introduced in a prudent manner, and not temporarily, until April 30th 2004. As pointed out above, there were no reasons to doubt that Polish legal regulations were prepared not only with due consideration of the EU regulations, but also with the purpose of adjusting Polish law to these regulations, nor were there grounds to suspect that the State authorities would not take actions ensuring the practical application of the provisions of the Act post accession as well.

Accordingly, the relevant risk factor in the Prospectus contains the description of the expected cancellation of the right to a VAT refund, as well as a general indication that

“A change in the aid provided by the state for employing the disabled, the uncertainty of the future amount and form of the aid and a possible reduction of subsidies may adversely affect the economics of employing disabled persons, and at the same time the financial results of the Issuer and its Group.” (incidentally, this obviously important excerpt from the Prospectus was omitted in the press publications), and that “Changes in other legal regulations [other than the Act] may also directly or indirectly affect the Issuer or its customers. Such changes may be expected in the context of Poland’s accession to the European Union and the related restructuring of the public finance”. Such a description was the only true and accurate account of the Company’s knowledge at the time of drawing up the Prospectus and executing the public offering.

2. In the context of the publication of the Q1 interim report on May 17th 2004, in which the forecast of the Company’s results was sustained, Impel SA states very firmly that prior to the publication of the Directive of the Polish Council of Ministers concerning detailed rules governing aid to employers of the disabled, dated May 18th 2004, not only was the Company unaware of the plans to implement the Directive, but also had no reasons – considering the consecutive amendments to the Act designed to adapt Polish law to the EU regulations, as should have been expected – to believe that any Polish secondary legislation which would in fact limit access to the aid provided for in the Act may be implemented. The opinion of the Office of the Committee for European Integration of November 27th 2003, a part of which is quoted above, confirmed that there was no such threat. According to the Company’s information, the enactment of the Directive came to a surprise of all the interested companies.

Notwithstanding the above, the legal opinions obtained by the Company indicate that the Directive of the Polish Council of Ministers of May 18th 2004 is in conflict with Polish legal order (violating Art. 92.1 of the Polish Constitution) and, to some extent, limits the scope of aid available without the notification procedure required under the Commission Regulation 2204/2002.

Art. 81.1.2 and Art. 97.2.4.a) of the Polish Securities Act