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Shipyards plants were a significant element of Polish government marine policies between 2005 and 2008. The decision made by the Council of Ministers, aimed at taking countermeasures against the credit balance of the following companies of the ship building sector: Stocznia Gdynia S.A., Stocznia Szczecińska Nowa Sp. z o.o. (SSN) and Stocznia Gdańsk Grupa Stoczni Gdynia S.A. (Stocznia Gdańsk GSG S.A.). The only way to achieve economic stability was first through a complete overhaul of their functioning and then through a privatization process. After Poland joined the EU on 1st May, 2004, the process of restructuring these companies was being


2 Before the shipyards were privatized, they had been first restructured. The process of restructuring Stocznia Gdynia S.A., SSN and Stocznia Gdańsk GSG S.A. had begun before Poland joined the European Union and it included finances, employment, and an increase of productivity. See: Ministerstwo Gospodarki, Strategia dla sektora stoczniowego (morskie stocznie produkcyjne) w Polsce w latach 2006–2010 (material przyjęty przez Radę Ministrów w dniu 31.08.2006 r.), Warszawa, sierpień 2006, p. 3; Leksykon prywatyzacji, Warszawa 1998, p. 180.
conducted using public financial aid, to which the European Commission had to give its permission. While becoming the EU member state, Poland was obliged to inform the European Commission of its intention to financially help the shipyards. The Commission’s decision in this matter depended on how it assessed the plan of restructuring these companies.

The aim of this paper is to compare the policies of Kazimierz Marcinkiewicz’s, Jarosław Kaczyński’s and Donald Tusk’s governments in privatizing shipyards during the investigated period of time. At the same time the author tried to present the reasons and circumstances of liquidating both Stocznia Gdynia S.A. and SSN. The paper is based on materials produced by the Council of Ministers, Sejm (the lower house of the parliament in Poland) and the Office of Competition and Consumer Protection.

The privatization of the State Treasury’s wealth, which included the above mentioned shipyards plants, was one of the economic principles of the governmental programs. Poland’s PM, K. Marcinkiewicz in his policy statement, said that privatization “is not only about selling, but it is also all kinds of obligations on the new owners”. The Prime Minister’s speech delivered in the Sejm, which contained guidelines of the new government’s policies, is contained in a document entitled “A Loyal State. Kazimierz Marcinkiewicz’s government policy statement”. The tasks defined in the the document were supposed to be implemented by the government’s respective ministers. Piotr Woźniak, the Minister of Economy, was made responsible to prepare a strategy for the shipyard industry. The head of the State Treasury, Andrzej Mikosz, was responsible for privatization, which was

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also supposed to be based on the information policy aimed at making the public aware of ownership changes. The money obtained from the privatization procedure was supposed to be spent on modernizing and restructuring the country’s economy.

On 22nd Feb, 2006 a meeting between the undersecretary of state of the Ministry of Economy, Tomasz Wilczek, and representatives of the European Commission took place. During the talks on the economic situation of the shipyards in Szczecin, Gdańsk and Gdynia, the Polish side committed itself to preparing by April, 2006, a governmental strategy of the shipyard sector, and by the end of June to modify individual restructuring projects of the shipyards after they have been privatized. The economic programs were supposed to be handed over to the Commission who after reading them, should have pronounced a decision of whether or not they should be implemented. A positive decision of the European Commission in this matter depended on whether the Polish government would take into consideration in its project the requirements set by the Commission, including profitability of the companies in question. The Commission’s opinion was that prospective investors should take part in discussions on how to restructure the shipyards and that they should be given freedom of choice which specific method of restructuring they would like to use. The Commission told the Polish Council of Ministers very clearly that it would not accept a strategy for Poland’s shipyard industry that would make it possible first to “park” the shares of Stocznia Gdańsk GSG S.A. in the investor controlled by the State Treasury and second, to sell the shipyard to a private investor. According to Neelie Kroes, the EU’s Commissioner for Competition, selling Stocznia Gdańsk GSG S.A. to an investor controlled by the State Treasury would not guarantee an increase in profitability. Neither would it make it possible to sell it later off to a prospective private investor. The only way to increase the competitiveness of Polish shipyards on the international market was their quick privatization – owing in mind that it had started in 2002–2003.

10 Ibidem.
12 Ibidem.
In June 2006, N. Kroes, the Commissioner for Competition accused the Polish government that it had not prepared a strategy for the shipbuilding sector of the economy and that it had not modified the individual plans of how to restructure it according to the agenda approved by both Poland and the EU. The Commissioner also criticized what the shipyards had done to restructure their economic activity. The public help given to the Polish shipyards was not in accordance with the EU law. In the light of these facts the Commissioner warned the Polish side that the Commission would always make negative decisions about public help provided to any shipyard. A negative decision of the European Commission about the financial help provided to the Polish shipyards meant that these companies would have to return it. The total amount of the public financial help given to these three Polish shipyards since Poland joined the EU to the end of July, 2008, amounted to 8,532.6 mln PLN (a nominal amount). The figures are presented in Table 1.

When J. Kaczyński took over as Poland’s Prime Minister, he did not change the government’s policies affecting the ship-building production plants. On 19th July, 2006 during a parliamentary session\textsuperscript{13} and while presenting the Council of Ministers’ agenda, the PM pointed out that the process of restructuring the shipyards will proceed according to the guidelines adopted by the former PM K. Marcinkiewicz.

On 31st Aug, 2006, J. Kaczyński’s government adopted a document entitled \textit{The Strategy for Shipyard Sector (Ship-Building Producing Plants) in Poland between 2006 and 2010}\textsuperscript{14}. The strategy was developed by the Ministry of Economy in cooperation with the State Treasury, the Ministry of Finance, the Office of Competition and Consumer Protection, the Agency of Industrial Development, the Export Credit Insurance Corporation, as well as by the shipyards in question. The strategy defined tasks for Stocznia Gdynia S.A., SSN and for Stocznia Gdańsk S.A., which were supposed to be taken into consideration in their individual restructuring projects\textsuperscript{15}.

\textsuperscript{14} Ministerstwo Gospodarki, op.cit., p. 1.
\textsuperscript{15} The strategy aimed at modifying the restructuring plans of Poland’s shipyards. Changes in the programs were due to changing macroeconomic circumstances resulting from both a sharp rise in steel prices on the international markets and
Table 1. The public financial help provided to Polish ship building production plants between 1st May, 2004 and 31st July, 2008.

<table>
<thead>
<tr>
<th>The governing body</th>
<th>Method of financial assistance</th>
<th>Stocznia Gdynia S.A. and Stocznia Gdansk S.A.</th>
<th>Stocznia Szczecinska Nowa Sp. z o.o.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Nominal amount</td>
<td>The equivalent of a subsidy</td>
</tr>
<tr>
<td>The State Treasury</td>
<td>Guarantees</td>
<td>645.8</td>
<td>50.4</td>
</tr>
<tr>
<td>The Operator</td>
<td>Accepting obligations</td>
<td>79.5</td>
<td>48.4</td>
</tr>
<tr>
<td>The Agency of Industry Development S.A., The Foreign Trade Enterprise FTE CENZIN Co. Ltd., The State Treasury</td>
<td>Financial help provided</td>
<td>595.0</td>
<td>595.0</td>
</tr>
<tr>
<td>The Agency of Industry Development S.A.</td>
<td>Financial help provided</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>The Corporation Polish Shipyards S.A.</td>
<td>Financial help provided</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>The Communal Association of Municipalities</td>
<td>Obligations to be paid in installments</td>
<td>0.9</td>
<td>0.3</td>
</tr>
<tr>
<td>The Corporation Polish Shipyards S.A., The Agency of Industry Development S.A.</td>
<td>Loans</td>
<td>227.9</td>
<td>6.2</td>
</tr>
<tr>
<td>The Ministry of Education, the European Social Fund</td>
<td>Subsidies</td>
<td>2.1</td>
<td>2.1</td>
</tr>
</tbody>
</table>
The implementation of the guidelines adopted in the strategy was supposed to make it possible for the Polish shipyards to regain the full ability to compete at the international market, to slow down the decrease in jobs and to create conditions for a stable increase of the sector’s productivity. The main aims of The Strategy for Shipyard Sector (Ship-Building Producing Plants) in Poland between 2006 and 2010 included:

- lowering and eventually eliminating the need for the State Treasury’s guarantees in building new vessels;
- implementing modern production technologies;
- the weakening of the American dollar. The restructuring projects of the respective shipyards were supposed to name the amount of the necessary financial help in order to implement them. The ship building production plants had begun to restructure themselves before the strategy for the shipyard sector was approved by the Polish government. Ibidem, p. 4.
The strategy for the shipyard sector was sent to the European Commission. At the same time the Commission received modified restructuring programs of the Polish shipyards. These documents were delivered with a 5-month delay. Poland’s Minister of Economy – P. Woźniak and the Minister of State Treasury – W. Jasiński17, assured The Commissioner M. Kroes that the strategy met all the EU criteria for public financial help. The ministers’ statement about the governmental document was other than the actual conditions. The governmental strategy made it possible first to “park” shares of Stocznia Gdańsk GSG S.A. in companies controlled by the State Treasury and second to sell the shipyard to a private investor. That was meant to mark off Stocznia Gdańsk GSG S.A. from the Stocznia Gdynia Group and “to facilitate both the restructuring and privatization processes of Stocznia Gdynia”18. The decision made by the Council of Ministers about “parking” the shipyard was contradictory to the position taken by the European Union. On 26th Aug., 2006, Stocznia Gdańsk S.A. was singled out from the Stocznia Gdynia Group.

On 25th Jan, 2007, J. Kaczyński’s government, while implementing its strategy for the shipyard sector, made a decision to privatize both Stocznia Gdynia S.A. and SSN before 30th June, 2007, and to privatize Stocznia Gdańsk S.A. by 31st Dec, 200719.

These deadlines were not met by the Polish government. In June, 2007, the Ministry of Economy submitted the European Commission with a schedule of the privatization process of the three shipyards. According to the documents their privatization was supposed to take place by the end of Dec, 2007. The PM Jarosław Kaczyński, in his intention to supervise the privatization process, set up a group whose aim was to implement the

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16 Ibidem, p. 7.
17 Ministerstwo Skarbu Państwa, op.cit., p. 42.
strategy into the shipyard sector. The group acting as a subsidiary body advisory to the PM informed him quarterly on how much the program was implemented and monitored:

- the strategy for the shipyard industry and the individual programs of restructuring;
- the privatization agenda for Stocznia Gdynia S.A., Stocznia Gdańsk S.A. in Gdańsk and for SSN;
- the process of selling shares of the respective shipyards by the Agency of Industry Development, the Corporation of Polish Shipyards S.A. and the State Treasury;
- all the activities regarding financing ship building and particularly activities connected with gaining guarantees from both the State Treasury and the Export Credit Insurance Corporation.

The privatization process of the Polish shipyards did not proceed according to the government’s strategy for the shipyard industry. The shipyards were not privatized by the Bank Fortis Intertrust (the Netherlands), although the bank made an offer to buy some controlled shares of the companies. The lack of understanding between the parties did not lead to a change in the shipyard’s ownership. The negotiations with the Industrial Union of Donbass, Poland (ISD), in which the majority owner was the Ukrainian Industry Association in Donbass. In the middle of October, 2007, the ISD (Poland) took control over Stocznia Gdańsk, S.A. An Ukrainian investor took over a share packet of Stocznia Gdańska S.A., worth 400 mln PLN, which effectively meant taking over 75% per cent of the companies’ shares.

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22 "Gazeta Wyborcza", 29.11.2007.

The victory of the Civic Platform in the parliamentary elections in 2007 meant that D. Tusk became the new Prime Minister. Privatization of state-owned companies was one of the principles of his economic program. D. Tusk, in his policy statement said that “it is necessary to step up privatization in order to increase the productivity, to strengthen the trend towards investment, and to lower the public debt […] We are not interested in privatization for its own sake, we would rather break the bad impasse of the past two years”24.

One of the first decisions of D. Tusk’s government about the shipyard industry was to make the Ministry of Treasury produce *A White Paper on Sea Shipyard Producing Plants*25. The report came out on 5th Dec, 2007. It dealt with both the shipyards’ privatization activities conducted by the Polish government and the economic situation of these companies. Polish shipyards were not bringing profit since 2002. The financial problems of SSN were connected with signing unprofitable ship-building contracts and with stopping the commercial financing by the Bank Pekao S.A., Bank Handlowy in Warsaw. At the end of 2007 the financial obligations of SSN, due to disadvantageous contracts amounted to approximately 1,491.9 mln PLN26. The economic situation of Stocznia Gdynia S.A. was not very good, either. The ship-building contracts the company signed were not completed in time, which provided a basis for the shipowners to sue the company for compensation. All the wealth of the company was a security for prospective compensation claims. In Dec, 2007, the shipyard’s financial obligations amounted to 1,703.5 mln PLN27.

Between January and June, 2008, representatives of both the Ministry of Treasure and the European Union held talks on how to privatize Polish shipyards. The Commissioner N. Kroes several times postponed the deadline for submitting the shipyards’ restructuring plans by their investors. At the same time the Polish government started talks with Amber Ltd. concern-

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25 Ministerstwo Skarbu Państwa, op.cit., p. 23.
26 Ibidem, p. 23.
27 Ibidem.
ing selling it the shares of Stocznia Gdynia S.A. and SSN. On 12th May, 2008, Amber Ltd. resigned from taking part in the process of privatizing the shipyards. The main reason for the company to pull out from taking over the shipyards was their prospective unprofitability. In this case, the Minister of Treasury promised to find new investors for the shipyards in Gdynia and Szczecin, and to continue the privatization process. The offers to buy the shares of Stocznia Gdynia S.A. were made by Polish Shipbuilding Company Ltd. and by ISD Polska, whereas Mostostal Chojnice S.A. expressed its wish to buy the shares of SSN. On 13th June, 2009, Minister Aleksander Grad signed an agreement about the preparation of restructuring plan for Stocznia Gdynia S.A. and Stocznia Gdańsk S.A.

On 26th June, the Polish Ministry of Treasury handed over to the European Commission a restructuring project developed for:

- Stocznia Gdynia S.A. – by Polish Shipbuilding Company Ltd.;
- Stocznia Gdynia S.A. and Stocznia Gdańsk S.A. – by ISD Polska;
- SSN – by Mostostal Chojnice S.A.

These plans were not approved by the European Commission. In July, 2008, the Commissioner N. Kroes obliged Poland’s State Treasury Minister A. Grad and the investors to modify the plans. The Commissioner took the decision that the plans did not meet the requirements set by the European Commission; e.g. the companies should be able to finance by themselves their restructuring, they should be profitable in the long run, they should limit their production output to compensate for the help provided for the companies. The Commission decided that Poland has time until 12th Sept, 2008, to submit modified restructuring plans for the shipyards in Gdańsk, Gdynia and Szczecin. The Ministry of Treasury sent the documents to Brussels before the deadline.

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30 http://www.dziennik.pl/gospodarka/hsj/article206122/Prywatyzacja_stoczni_zagrozo...20.05.2009.
On 6th Nov, 2008, the European Commission issued a decision about the legal dispute lasting from 1st June, 2005, whether or not it was legal to provide financial assistance to Stocznia Gdynia and SSN according to the EU rules. The Commission decided that “the public help provided to the shipyards after 1st May, 2004, was illegal and that it should be returned.” At the same time the European Commission gave time to the Polish government until the end of May, 2009, to sell out the shipyards’ possessions, so that future investors could use it to continue the production. Not necessarily in the shipyards. The deadline the Commission set for having to return the public help of several billion zlotys (PLN) was June, 2009. This obligation would be due to shipyard companies, the so-called “egg-shells”, which are without any money and which will declare bankruptcy. According to the European Commission’s decision Stocznia Gdańsk S.A. was supposed to produce a modified plan of restructurization.

In order to implement the European Commission’s resolutions on the Polish shipyards the Polish Parliament passed an act of law about compensation procedures to be used in subjects with a special significance for the Polish shipyard industry (this act is commonly known in Poland as “a special shipyard act”). The act defined the procedure of selling respective elements of the property belonging to Stocznia Gdynia S.A. and to SSN. The act also included a protection programme for the shipyards’ employees, which guaranteed redundancy payments between 20,000 and 60,000 PLN depending on the seniority of shipyard workers. The companies’ property was supposed to be sold by 31st May, 2009. That was supposed to be the deadline before which the shipyard workers in Gdynia (approximately 5,000 people) and in Szczecin (roughly 4,000 employees) should be made redundant.

On 14th May, 2009, the property of Stocznia Gdynia S.A. was sold to United International Trust N.V. for approximately 288 mln PLN. Two days

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later the same investor bought SSN’s assets. The shipyard in Szczecin was bought for 161 mln PLN.36

Privatization of Polish ship-building production plants was an essential principle of the governments of K. Marcinkiewicz, J. Kaczyński and D. Tusk. However, its implementation did not proceed according to the schedule. The difficulties in privatizing the shipyards were due to delays in preparing economic programs and to the governments’ incompetence in finding prospective investors. K. Marcinkiewicz’s cabinet did not keep its promise to prepare a strategy for the ship-building sector. This document was accepted by the government of J. Kaczyński who despite his earlier promises did not privatize the shipyards in Gdynia and Szczecin. His government only managed to find an investor for Stocznia Gdańsk S.A. while at the same time failing to meet the deadline for preparing restructurization plans for the shipyards in Gdynia, Gdańsk and Szczecin. The plans were sent to the European Commission by his successor, D. Tusk and his government.

Delays in privatizing the shipyards and incompetent management of these companies (including signing unprofitable contracts) were the main reasons for the crises in the ship-building sector. The situation of the shipyards between 2005 and 2008 was also affected by Leszek Miller’s government’s actions. While negotiating Poland’s accession to EU treaty, he failed to persuade the Union that his country needed a transitional period for adopting Polish shipyards to the standards of the common market. The public help received by the shipyards was not reflected in the good performance of the process of privatizing the companies. Additionally, the public financial assistance provided for the shipyards did not meet the standards of the EU law as the governments of J. Kaczyński and D. Tusk were informed by the Commissioner N. Kroes. The decision made by the European Commission about the public help received by Stocznia Gdynia S.A. and SSN was a consequence of the decisions made by the respective Councils of Ministers in the investigated period.

36 “Gazeta Wyborcza”, 18.05.2009.