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## POLISH-NEW ZEALAND ECONOMIC TIES: LEGAL PERSPECTIVE ON THE CURRENT STATE OF TRADE

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The purpose of this article is an attempt to explain the contemporary Polish-New Zealand economic relations, as well as potential development of the further cooperation. The relatively new diplomatic relations between Warsaw and Wellington are not enough studied and therefore they require more research. Legal framework is an obvious factor, which can be seen both in the methods of soft and hard law. Understanding history and characteristic marks of this relation would allow developing economic cooperation but also establishing it in the branches of national economy where such collaboration does not exist yet. Both countries perceive one another as an important, trust-based representative of appropriately the Central-East Europe and the South Pacific. Cooperating with each other, Poland and New Zealand might not only increase their bilateral trade exchange, but also become a key economic associate within the partner region.

Keywords: Polish-New Zealand relations, Polish economic relations, New Zealand, Wellington.

## ПОЛЬСКО-НОВОЗЕЛАНДСКИЕ ЭКОНОМИЧЕСКИЕ СВЯЗИ: ПРАВОВОЙ ВЗГЛЯД НА СОСТОЯНИЕ ТОРГОВЫХ ОТНОШЕНИЙ

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В настоящей статье предпринята попытка оценить текущее состояние экономических связей между Польшей и Новой Зеландией, а также потенциал их дальнейшего развития. Недавно установленные дипломатические отношения между Варшавой и Веллингтоном исследованы недостаточно и требуют дальнейшего изучения. Важным аспектом являются правовые рамки данных отношений с позиций как «мягкого», так и «жёсткого» права. Понимание исторических предпосылок возникновения и особенностей экономических связей между Польшей и Новой Зеландией будет способствовать развитию сотрудничества, а также его распространению на те области экономики, в которых оно в настоящее время не осуществляется. Каждое из государств воспринимает противоположную сторону как внушающего доверие партнера в Восточно-Центральной Европе и Южно-Тихоокеанском регионе соответственно. Сотрудничество между Польшей и Новой Зеландией позволит данным государствам не только укрепить двусторонние торговые связи, но и стать ключевыми участниками взаимодействия соответствующих регионов.

Ключевые слова: польско-новозеландские экономические отношения, экономические связи, Польша, Новая Зеландия, Веллингтон.

1. INTRODUCTION. Poland and New Zealand possess a stable and trust-based position within their regions. They might be indeed perceived as representatives of appropriately the European and Australia continents accordingly. Therefore, both of these countries can serve as a role model in development of bilateral, and further, multilateral cooperation within the partner region. Ties between Warsaw and Wellington are relatively new and undeniably friendly, with no historic or political aversion. Maintaining economic relations, regardless of the participating subjects, cannot be made without prior official, and consequently binding, legal framework. But as the practise shows, states are in fact driven by their raison d'état and therefore, they arrange economic associations before (or sometimes even instead of) establishing diplomatic relations. In other words, it is not anymore the world based on political allies, but on profitable and effective trade connections, despite of representing different, or very often antagonist values. The common situation of establishing economic relations before diplomatic ones can be observed also in history of the Polish-New Zealand affairs. This article seeks to explore in which sectors of national economy such

cooperation already exists, where and why it is not enough developed, and finally, what are the perspectives coming from this correlation, still underestimated and not enough explored in the European literature.

2. OWN ECONOMY- OPENING TO THE WORLD. Against the common knowledge, Poland and New Zealand share similar modern history due to their long-lasting non-sovereign status, as well as comparable obstacles in forming own internal and external policy. In order to better understand what New Zealand's economy factors were, and are nowadays, Russian (or in the broader sense: European) readers ought to be introduced to the brief facts of Aotearoa1. The autochthonic population inhabited New Zealand since the 13th century2. In the years 1838-1841, country became a part of the British Empire, namely its part in the southern hemisphere called New South Wales in Australia, never being a penal colony, though.

<sup>&</sup>lt;sup>1</sup> Aotearoa is the official name of New Zealand in Maori language, being the second official language of New Zealand. It can be translated as "land of the lona, white cloud".

 $<sup>^{\</sup>rm 2}$  The scientists are not sure when or exactly where indigenous Polynesian people came to New Zealand from.

The Maori population agreed on signing the Declaration of Independence in 1836 [11, 33]. Nonetheless, that is the Treaty of Waitangi formed four years later3, which made officially New Zealand as the British colony. This documents commonly perceived as the most contested act in the whole history of the New Zealand statehood. New Zealanders made the British monarch as own sovereign4, while the autochthonic people were granted similar civil rights as Europeans. The Treaty is believed to have such fundamental value in creating nation too, as its rank was lifted and has been brought to the constitution law [7, p. 14-18; 9, p. 60; 32 p. 32-39]<sup>5</sup>. The transformation of the international law status of New Zealand from colony into dominion was made upon the king proclamation in 1907 [11, 24, p. 269-270]<sup>6</sup>. Such legal action gave more independence from the British Empire, especially in the sphere of internal policy. New Zealand achieved privilege of possessing its own government and parliament. What is worth mentioning here is that the dominion status has now slightly different meaning. This specific linkage with London is nowadays guaranteed sine qua non by the membership in the Commonwealth (formerly known as the British Commonwealth of Nations). The participating states are fully sovereign, however they do recognize the British Monarch as their head of state [6, p. 9-29].

Independence of New Zealand, formal equalization of metropolis rights with those of dominions, was the consequence of establishing the Statute of Westminster. The act was passed by the British parliament in 1931. New Zealanders made its ratification not until 16 years later. Full sovereignty of New Zealand can be therefore dated to 1947. It comes in both terms: gaining legal control over foreign policy, but also constitutional and plenary powers. Such legal transformation has finally enabled to change the Constitutional Act 1852 into its actualized equivalent from 1987 [7, p. 8-13; 24]<sup>7</sup>.

The relatively long period of lack of international and internal sovereignty, along with the legal and political dependence on other state's parliamentary acts do strongly recall the Polish history. New Zealand and Poland, presenting accordingly postcolonial and post-socialist past, share similar way of regaining independence. The former soviet republics, but also Poland, regardless of their formal sovereignty, were intensely related to the Russian policy. The political transformation in the 80s and 90s of the 20th century led Poland to define its role and position on the international arena. Warsaw, along with the other Eastern European governments, could have finally established their own autonomous political and market systems [23, p. 17-111]. Wellington in turn did not need to change its economy, which already presented

3. POLISH-NEW ZEALAND RELATIONS. Being already aware of political connections and potential threats within those two regions, but also by understanding the historical and political similarities, Polish-New Zealand relations were established on March 1st 1973. The vital interest of the Ministry of Foreign Affairs in Warsaw was to ensure the consular protection over the Polish Diaspora, called "Polonia". The second factor was the will of the economic exchange expansion through facilitation with getting into the South Pacific region. The government in Wellington has seen in turn a unique chance to establish trade cooperation with the Central East Europe, represented by Warsaw. New Zealand politicians were also aware of the British will to become a European Union member state, which would involve establishing stronger economic bind within Europe rather than maintaining postcolonial affiliations. Such new geopolitical situation was in fact unfavourable for the New Zealand market [16].

The number of Poles in New Zealand is approximately 6 thousand inhabitants, while there are 150 New Zealanders in Poland. Additionally, the total number of the Polish tourists to Aotearoa increases every year and now reaches 2.5 thousands [15, 18]. The existence of such relatively numerous Polish diaspora gives many opportunities and chances on better, that is diverse and many-sectored, economic cooperation. Polonia in New Zealand possesses indeed well established and trusted position [15, 25]. Each group of four main waves of the Polish immigration [22, p. 8-16, 50-62, 261-263; 30, p. 410-411; 31, p. 24-37]9 brought its undisputable input into the new homeland. The newcomers from Poland inhabited the Islands since the 19th century. Nevertheless, indeed the most significant role in establishing friendly relations between Warsaw and Wellington played the post-war newcomers, exactly 733 Polish orphans, who were placed in the Pahiatua Camp. They were growing up in the new homeland, studying and working for the prosperity of New Zealand [28, 41]. The best example illustrating this fact is story of the former Polish Honorary Consul, John Roy-Wojciechowski  $^{\!\scriptscriptstyle 10}.$  Up to the present times, New Zealander politicians officially thank Poles for helping in forming newly sovereign nation (New Zealand gained the independence in 1947 - J.S.). Former Prime Minister, Helen Clark recalled the

the free market capitalism<sup>8</sup>. Along with the ability to apply own legislature and to form sovereign internal and external policy, Poland and New Zealand could ultimately start executing their raison d'état. It has been realized by maintaining diplomatic and economic relations, signing partnership agreements and international arrangements concerning certain areas, with the general aim to make those states more developed, richer and respected as the reliable trade partner.

<sup>&</sup>lt;sup>3</sup> Signing by each tribal chef too long time, therefore it came into force without waiting for the final signatures of every contributors.

 $<sup>^4</sup>$  Art.1 of the Treaty of Waitangi Act 1975 from October 10th 1975 (Public Act 1975 No 114).

<sup>&</sup>lt;sup>5</sup> The New Zealand Constitution is not written in a form of one act. It is compounded by many parliaments bills, historical documents and constitutional conventions. However, it is divided into three segments: statute law, case law and conventions of the constitution.

<sup>&</sup>lt;sup>6</sup> The proclamation was made by the King Edward VII (1901 – 1910). It was followed by the New Zealand House of Representatives' motion.

<sup>&</sup>lt;sup>7</sup> The Constitutional Act 1987 from December 13th 1986 (Public Act 1986 No 114) has not introduced any crucial (merit) changes into the New Zealand political system. However, the Act has arranger the constitutional law of Antegraa.

<sup>&</sup>lt;sup>8</sup> To be more exact, however not to go into more detailed characteristics of the New Zealand economy, there has to be made some clarifications. In the post-war period, New Zealand actually acquired the characteristics of a welfare state. It operated on the basis of strong state interventionism, a comprehensive benefit system and the nationalisation of major branches of the economy. In the 1960s, New Zealand was closed to foreign trade and investment, and became increasingly dependent on the US and the countries of southern Asia. The situation began to change only in the 1980s with the first wave of reforms, the so-called shock therapy, and in the 1990s during the total transformation of the state.

<sup>&</sup>lt;sup>9</sup> Those are accordingly: paid immigrants in the 19th century, interwar and post-war immigrants, Solidarity period immigrants and modern-day (strictly economic) ones. These groups differ from each other by the reason of abandoning Poland, as well as by their attitude to the former and new homeland.

<sup>&</sup>lt;sup>10</sup> The author have been meeting up with John Roy many times during her academic stay in New Zealand in 2015-2016.

close historical linkage during the ceremony of opening the New Zealand Embassy in Warsaw in 2004. Those connections remain still unknown to many Poles, though. The pupils of the Pahiatua Camp did not have any possibility to come back home. Instead, they became a part of New Zealand society and have contributed to develop their second homeland. "It was an experiment, although the Maori Land is very proud of the results", said Mrs Clark [27].

The diplomatic relations between Poland and New Zealand were established in 1973. The Prime Minister John Ross Marshall has approved the idea of recognizing official relations with aim to further development, on both economic and social basis. His successor, Prime Minister Norman Kirk, had signed the diplomatic agreements establishing the bilateral relations. The representative of the Polish Ministry of Foreign Affair, the Minister of Diplomacy in 1926-1932, August Zaleski in turn, was more concerned about ensuring the legal protection over the Polish post-war immigrants11. One has to pay attention to the fact that due to relatively low amount of Poles or accordingly New Zealand citizens in the partner country, as well as to the short period of sovereignty, the political relations were put on the second place, just after economic cooperation. The first agreement between Warsaw and Wellington was in fact a trade contract. Signed on July 7th 1967, the agreement between the People's Republic of Poland and New Zealand regulated bilateral relations by creating the legal framework for such collaboration. This economic agreement was binding until the Polish accession to the European Union (May  $1^{st}$  2004 – J.S.) [3].

New Zealand was the first country, which granted Poland the preferential tariff status on July 1st 1986, within the framework of the Generalized System of Preferences (GSP) [40]12. In 1992, there was introduced the second legal measure of economic cooperation. It concerned exploitation of the fishing resource in the New Zealand's 200-miles exclusive economic zone. Only in 1997, there was joint income amounting to 10 million USD. This form of cooperation declined at the beginning of the 21st century [14]. In present-time, there are only four binding bilateral agreements. Those are: Agreement between New Zealand and the Republic of Poland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income from April 21st 2005 [1]; Agreement between the Republic of Poland and New Zealand for Working Holiday Scheme, signed on May 9th 2008 [2] and Arrangement on performing work by dependent family members of the staff of the diplomatic mission or consular office from June 14th 2007, made by exchange of diplomatic notes [5]; and Air Services Agreement between the Government of New Zealand and the government of the Republic of Poland from August 22<sup>nd</sup> 2018 [3]. This small amount of economic bilateral agreements has to be justified by the fact that Poland, as the European Union member, is functioning in the broader legal order - European one. Thus, most of the economic agreements is regulated by the European norms. Such regional framework is also another incentive of deepening future economic Polish-New Zealand cooperation.

Double Taxation Relief Order 2006  $^{\scriptscriptstyle 13}$  defines the objective

scope in which agreement shall apply. It would be income tax in New Zealand, while in Poland- both the personal income tax (PIT) and the corporate income tax (CIT)14. Whereas the subjective scope of the document covers any individual, a company and any other body of persons, as well as body corporate or any entity that is treated as a body corporate for tax purposes15. It encounters taxation of different sort of income, methods for elimination of potential double taxation and special clauses, such as non-discrimination. Working Holiday Scheme (WHS) in turn is a special programme by the New Zealand government addressed to young people willing to work and travel in the partner country for maximum 12 months, without the legal obligation of obtaining visa. Poland is one of 36 states, for which Wellington decided to launch such exchange. The main assumption of WHS is above all getting to know the other country's culture and society. Therefore, the paid aim of the participation has the second meaning [13, 21, 36].

Here is worth mentioning the abolition of visa obligation between Poland and New Zealand. It appears to be the first lucrative consequence of opening the Embassy in Warsaw (2005). The central intention of such legal action was to decrease the travelling barriers along with any business difficulties. The Polish government had implemented the abolition on May 1st 2004<sup>16</sup>, which overlapped the accretion to the European Union by Poland, while New Zealand abolished the obligation a year after (April 1<sup>st</sup> 2005) for all the EU Member States. However, there is no remark to the total visa abolition (especially for the free movement of employers). The premises of going to the partner country without visa is the period of maximum 90 days, as well as the purpose of travel: strictly touristic or scientific [39]<sup>17</sup>.

The Polish Ministry of Entrepreneurship and Technology presented the following data for the trade exchange for the year 2018 between Poland and New Zealand: the bilateral trade turnoverincreased to 49% (USD 315 mln), as this amound was unprecedented in the past years. For comparison, 2014 ended with a turnover of over USD 111.2 mln, which was already an increase of 26% compared to 2013 [25]. In addition, exports of Polish goods to New Zealand also maintained the upward trend in relation to 2017, while imports increased too. Polish ministries and governmental agencies recorded a favorable balance of trade at the level of USD 59.4 mln. Ministry of Entrepreneurship and Technology recalls similar calculations made by the equivalent of the Polish Central Statistical Office - Stats NZ. The most frequently exported goods from Poland included: 1) vehicles, turbines and parts of turbojet and turboprop engines, 2) washing and cleaning preparations, medicines, 3) frozen pork. Imports from New Zealand also present comparable items in the years: 1) frozen fish fillets and crustaceans, 2) structures and parts of iron and steel, 3) wine, 4) dairy equipment, including casein [39].

**4. OPPORTUNITIES FOR THE FUTURE COOPERATION.** Besides the Embassy of the Republic of Poland (*opened in 2004 – J.S.*), there are two Honorary Consulates in New

 $<sup>^{11}</sup>$  It has to be added that in 1973 Poland has two ministers of foreign affairs, on on exile in London, Jerzy Gawenda, and Stefan Olszowski being nominated in Warsaw by the government under the influence of Moscow.

This international system provides a formal system of exemption for the least developed countries from the more general rules, within the World Trade Organization, through lowering tariffs.

<sup>&</sup>lt;sup>13</sup> The official name is Agreement for the avoidance of double taxation from April 21st 2005.

<sup>&</sup>lt;sup>14</sup> Art 2, paragraph 3, letters a and be of the Agreement.

 $<sup>^{15}</sup>$  Art 3, paragraph 1, letters a and be of the Agreement.

<sup>&</sup>lt;sup>16</sup> The date of the Polish accession to the European Union, which has affected the national legislature, but also there was opening of the Polish Embassy in Wellington. Formerly, the ambassador of Poland to New Zealand was accredited from Australia.

<sup>&</sup>lt;sup>17</sup> The author herself had to apply for the scientific visa through the New Zealand Embassy in Warsaw.

Zealand. Both of the Polish Consuls are owners of private enterprises too. The Consulate in Auckland exists since 1999. It was previously held by John Roy-Wojciechowski, one of the orphan-settlers in the war immigration. His activities were mainly focused of cultural cooperation and cultivating of the Polish heritage in Aotearoa [29, p. 117-126]. Bogusław Nowak was nominated on the Honorary Consul in December 2013. The director and founder of a travel agency has promoted the Polish culture in the New Zealand press and radio since the beginning. He was given this office in appreciation of his services to motherland. The other reason was the big potential in tightening the Polish-New Zealand relations, underlining the economic ties [15, 16]. The second Polish Honorary Consulate was opened in Christchurch on the Southern Island. The position of Consul was taken on by Winsome Dormer. She was nominated in February 2011 [10]. Previously, Honorary Consul was the chairman of the naval enterprise, actively involved into the Polish fishing fleet business. Therefore, the main concern of the Consulate in Christchurch is to assist the vehicles under the Polish flag and their crew during the stay in New Zealand, but also to reinforce the Warsaw-Wellington trade exchange [20].

The possibilities of the further intensification of the Polish-New Zealand economic cooperation are indeed grand. Obviously, the long distance between two continents is a huge obstacle in frequent governmental visits. But there is seen an enormous will of strengthening the economic relations, by both sides. New Zealand perceives Poland as the stable and reliable representative of the Central Europe, as well as the important member of the European Union. Poland in turn, sees in Wellington the strategic partner in increasing the international position of Warsaw [10, 17]18. The huge opportunity lays also in private meetings, especially those of the representatives of the national businessmen. The Polish Chamber of Commerce made a visit to New Zealand in 2009 with aim to look for the further cooperation and seek for development in other sectors of economy. The revisit of the New Zealand International Business Forum was made a year after. The representatives of the New Zealand's Special Agricultural Trade Envoy came to speak with the Minister of Agriculture also the same year. In the first months of 2015, there was established the newest initiative connecting Polish and New Zealand entrepreneurs. POLANZ (Polish-New Zealand Business Association Inc.) is based in Auckland and has in its statute the mission of assisting business partners from two states, as well as finding their equivalents in the other country, in order to increase

bartering and trade index [35]. In 18-19 April 2015 there was organized the GoGreen Expo Fair in Auckland. Polish ministerial team, called "Greenevo", was given own national stand (the only national stand in those famous fairs) and conducted workshops for private and public partners<sup>19</sup>. It gave a good opportunity to present Poland to New Zealanders as the country of green technologies, modern and creative European state [34]. Those initiatives might indeed prove progress of bilateral economic relations. The New Zealand Embassy in Warsaw, in collaboration with New Zealand Trade and Enterprise, held successful New Zealand Business Days in Warsaw in March 2015, October 2016 and April 2018. These open for public representatives and private investors have already helped to educate Polish and New Zealand businesses about trade and economic opportunities between those countries [39].

The president of Poland, Andrzej Duda in August 2018, held the latest visit to New Zealand. This historical visit resulted in signing previously mentioned Air Services Agreement, as well as other bilateral non-parliamentary arrangements: Academic Cooperation Agreement between the University of Warsaw and the Victoria University of Wellington; Memorandum of Understanding between Jagiellonian University of Krakow and the Massey University; and Partnership Agreement between towns Kazimierz Dolny and Pahiatua [13].

**5. CONCLUSION.** The 45<sup>th</sup> anniversary of establishing the Polish-New Zealand diplomatic relations was celebrated in 2018. During those years, there were made many legal and extrajudicial activities, enabling development of bilateral cooperation [10, 15, 17]. Opening the diplomatic and consular missions, abolition of dual taxation and visa obligation for tourist and students seem to be the most important consequences of the formal connections between Warsaw and Wellington. The trade exchange is relatively low, but has increased almost a half last year and is still growing. Additionally, there is visible good will from both sides, presented in the new initiatives and exchange programmes. The governmental and private partners seek for deepening collaboration in the unexplored sectors of national economy too, mainly in the green technologies. What is more, reinforcement of the bilateral economic relations between Poland and New Zealand will allow establishing trade linkage within the partner region in further perspective. Wellington perceives Warsaw as the great representative of the Central Europe and the key member of the European Union. Poland in turn wishes to profit from the future relations with the South Pacific states, having untouched market areas and enormous natural resourses. Looking for the strategic partner on the other part of the globe will eventually help to gain the strong international position by both Poland and New Zealand in political and economic affairs.

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<sup>&</sup>lt;sup>18</sup> Here author means the attempts of the Polish government to look for the strategic partners in both economic and diplomatic basis. Poland was looking for the support votes for its candidature as non-permanent members of the United Nation Security Council in years 2018-2019.

<sup>&</sup>lt;sup>19</sup> The author was also participating in them.

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