

Justification for the draft resolutions on amendments to the Articles of Association to be adopted by the Ordinary Shareholder Meeting of PKP CARGO S.A. convened for 29 June 2020

The goal of the proposed amendments to the Articles of Association of PKP CARGO S.A. (hereinafter also referred to as the "Company") (hereinafter also referred to as the "Articles of Association") is to adapt the provisions of the Articles of Association to PKP CARGO S.A.'s current needs and applicable law. The proposed amendments should improve the quality of corporate governance in the Company and give the Company greater flexibility in adapting to the changing external situation and expectations of the Shareholders.

Below is a summary of the proposed amendments to the Articles of Association.

1. Amendment to § 12 of the Articles of Association by giving the following wording to sec. 3 currently marked as "deleted":

"3. Purchase and sale of real estate, perpetual usufruct or interests in real estate does not require a Shareholder Meeting resolution.";

Pursuant to Article 393(4) of the Commercial Company Code: *"Besides other matters enumerated in this section or in the articles of association, a resolution of the shareholder meeting is required for:*

4) purchasing and selling real estate, a perpetual usufruct right or an interest in real estate unless the articles of association provide otherwise;".

The proposed amendment concerns the transfer of powers regarding the consent to purchasing or selling real estate, a perpetual usufruct right or a share in real estate from the Shareholder Meeting to the Management Board. The amendment will not affect the current powers of the Supervisory Board provided for in § 25 sec. 3 item 13 of Articles of Association, according to which, when the market value is equal to or greater than PLN 20,000,000, the Supervisory Board gives its consent for the Company to purchase, sell or encumber with a limited right in rem a piece of real estate, a perpetual usufruct right or an interest in real estate or a perpetual usufruct right.

This proposal is consistent with the commonly applied practice in listed (and other) companies, i.e. the articles of association of listed companies generally provide for the transfer of powers regarding the consent to purchasing and selling real estate, perpetual usufruct rights or interests in real estate from the shareholder meeting to other corporate bodies of the company.

This amendment will not have any unfavorable impact on supervision over the Company and at the same time will contribute to improvement of the applicable procedures.

2. Amendment in § 14 sec. 6 Articles of Association through:

- i. adaptation of the wording of the provision to the applicable provisions of law and reduction of the number of independent Supervisory Board members (from two to one) required to amend the Bylaws for Appointing Management Board Members:

§ 14 sec. 6 item 1 of the PKP CARGO S.A. Articles of Association

“1) Management Board members (including the President of the Management Board and the Management Board member mentioned in sec. 5 above) will be appointed following a recruitment procedure the rules and course of which are set forth in these Articles of Association and the bylaws adopted by the Supervisory Board (“Bylaws for Appointing Management Board Members”) subject to the provisions of the Act on the Rules for Managing State Property; the Bylaws for Appointing Management Board Members define in particular the qualifications that will be evaluated when selecting candidates for respective positions in the Management Board; an amendment to the Bylaws for Appointing Management Board Members requires the consent of at least one Supervisory Board member who meets the independence criteria and has been appointed following the rules set forth in § 20 and 21 below;”;

- ii. limiting the scope of obligations of the of the PKP CARGO S.A. Supervisory Board Nomination Committee and the Company associated with the amendment of the Bylaws for Appointing Management Board Members:

§ 14 sec. 6 item 7 of the PKP CARGO S.A. Articles of Association

“7) after each amendment of the Bylaws for Appointing Management Board Members, the nomination committee will prepare a written report with detailed information on the amendments;”.

The amendments proposed for § 14 sec. 6 of the Articles of Association of PKP CARGO S.A. are aimed at increasing the flexibility of the issues specified in the Articles of Association regarding the process of selection of PKP CARGO S.A. Management Board Members. These amendments concern changes in the Bylaws for Appointing Management Board Members at PKP CARGO S.A. and the Company’s disclosure obligations following this process. The Articles of Association should govern only such issues that are of fundamental significance from the Company’s perspective, and should refrain from specifying simple technical matters.

The amendment to § 14 sec. 6 item 1 of the Articles of Association, involving substitution of the reference to the Regulation issued by the Council of Ministers on 18 March 2003 on the Conduct of the Recruitment Procedure for the Position of Management Board Member in Certain Commercial Companies (Journal of Laws of 2003 No. 55, Item 476, as amended) with a reference to the Act on the Rules for Managing State Property (consolidated text: Journal of Laws of 2020, Item 735), is of a technical nature. The Regulation referred to in the preceding sentence has been repealed by the provisions introducing the Act on the Rules for Managing State Property (Journal of Laws of 2016, Item 2260, as amended).

3. Amendment to § 16 sec. 3 item 7 by giving it the following wording:

“7) approving the Company’s organizational bylaws;”.

The proposed amendment consists of the deletion of the expression “and the organizational chart”. In the context of the proposed amendment, it should be pointed out that the Management Board adopts the Company’s Organizational Bylaws by way of a resolution, while the chart is only a reflection of the provisions of the Organizational Bylaws and is not a separate constitutive corporate deed or even an attachment to the Bylaws.

This provision seems to anachronistic and devoid of practical significance while raising certain unnecessary interpretative doubts.

Accordingly, the organizational chart seems to be an instruction of a governance nature intended for implementation (as an output for work on the provisions of the Organizational Bylaws) or an illustration of internal regulations that have already been adopted, as a deed of declaratory significance. Thus, there are no reasons why the Company’s organizational chart should be mentioned in the Articles of Association as a deed that requires the adoption of a resolution by the Management Board.

Moreover, the revised wording of § 16 sec. 3 item 7 of the Articles of Association will be consistent with the provisions of the Management Board Bylaws in this respect, that is with § 10 sec. 1 item 12.

4. Amendment to § 16 sec. 3 of the Articles of Association of PKP CARGO S.A. by replacing the period with a semicolon at the end of item 11 and adding a new item 12 reading as follows:

“12) purchasing and selling real estate, a perpetual usufruct right or an interest in real estate.”.

The purpose of this amendment is to specify unambiguously that it is the Company’s Management Board as a collective body that makes decisions in the form of a resolution regarding the purchase and sale of real estate, perpetual usufruct rights or interests in real estate.

The proposed amendment is related to the amendment proposed in item 1 above regarding the amendment to § 12 sec. 3 of the Articles of Association.

5. Amendment to § 24 of the Articles of Association of PKP CARGO S.A. by deleting sec. 4 in the following wording:

“4. Adoption of resolutions following the procedure specified in sections 2 and 3 does not apply to the election of the Supervisory Board Chairperson and Deputy Chairperson, the appointment of a Management Board member and the dismissal and suspension of such persons.”.

On 31 March 2020, the legislature made changes to the Polish legal order regarding the remote operation of, in particular, supervisory boards and management boards (Act amending the Act on Special Solutions Associated with Preventing, Counteracting and Combating COVID-19, Other Infectious Diseases and Crisis Situations they Precipitate and Certain Other Acts (Journal of Laws of 2020, Item 568, as amended)).

Under the new legal order, adopting resolutions in writing or using means of direct remote communication and voting through another member of the supervisory board is permissible regardless of whether the company's articles of association or deed of formation provide for such an option.

At the same time, the legislature decided to expand the list of decisions that may be made by supervisory boards using such voting techniques. In particular, the chairperson of the supervisory board and members of the management board may be appointed or dismissed in writing or using means of direct remote communication (this possibility was previously prohibited by the provision of Article 388 § 4 of the Commercial Company Code, which was incorporated into the Articles of Association). Accordingly, we propose to add flexibility to the work of the Supervisory Board and to extend the list of decisions that may also be made by voting in writing or using means of direct remote communication by including the option of electing the Chairperson and Deputy Chairperson of the Supervisory Board, appointing a member of the Management Board and dismissing or suspending such persons in the performance of their duties.

6. Amendment to § 25 sec. 3 item 13 of the Articles of Association of PKP CARGO S.A. by giving it the following wording:

“13) giving consent:

- a) for the Company to purchase or sell or encumber with a limited right in rem a piece of real estate, a perpetual usufruct right or an interest in real property or a perpetual usufruct right,*
- b) for subscribing for or acquiring or selling shares in another company, except for subscribing for shares in an increased share capital of the Company's subsidiaries,*
- c) for the Company to purchase or sell a license or copyright,*
- d) for the Company to incur liabilities and dispose of its rights,*
- d) for the Company to buy and sell fixed assets:*

- with the market value of PLN 20,000,000 (twenty million Polish zloty) or more, provided that, where agreements are concluded for a limited term, it is assumed that the value of the Company's performance is as agreed in the agreement or anticipated in the period of five years, except when the agreements are executed within the scope of the Company's line of business specified in § 5 sec. 1 item 1 of the Articles of Association, including transportation agreements, freight forwarding agreements and agreements on the provision of comprehensive traction and maneuvering services, subject to other provisions of the Articles of Association, including: § 25 sec. 3 items 13a, 13b, 13c, 13d, § 12 sec. 4 and 5, and Article 90i Section 3 of the Act on Public Offering;”.

The proposed amendment consists of adding the words “and Article 90i Section 3 of the Act on Public Offering” at the end of this provision.

The amendment to be made is associated with the entry into force of Chapter 4b of the Act, that is Article 90i in conjunction with Article 90h of the Act, which provisions introduce a statutory obligation to obtain the consent of the Supervisory Board for the execution of a material transaction within the meaning of the Act, which is why the reservation has been added that the exemptions from the need to obtain the consent of the Supervisory Board described in § 25 sec. 3 item 13 of the Articles of Association pertaining to contracts remaining within the scope of the Company's business referred to in § 5 sec. 1 item 1 of the Articles of Association, including transportation contracts, freight forwarding contracts and contracts covering comprehensive traction and shunting services, are not applicable to such contracts if they fulfill the statutory criterion of materiality.

**Justification for the draft resolution on
the adoption of the Compensation Policy for Members of the
PKP CARGO S.A. Management Board and Supervisory Board
to be adopted by the Ordinary Shareholder Meeting of
PKP CARGO S.A. convened for 29 June 2020**

Pursuant to Article 90d(7) of the Act of 29 July 2005 on Public Offering and the Terms and Conditions for Introducing Financial Instruments to an Organized Trading System and on Public Companies (Journal of Laws of 2005 No. 184, Item 1539; consolidated text: Journal of Laws of 2019, Item 623), the Company's Shareholder Meeting hereby adopts, by resolution, the Compensation Policy for Members of the Management Board and Supervisory Board. Members of the Company's Management Board shall be responsible for the contents of the Policy. The purpose of the solutions adopted in the Compensation Policy is to support the pursuit of the Company's business strategy in terms of its long-term objectives and are intended to ensure the Company's stable operation.

The compensation principles laid down in the Policy are in compliance with the generally applicable laws, the provisions of pertinent contracts and internal regulations adopted by the Company, in particular the provisions of the Company's Articles of Association, bylaws of and resolutions adopted by the Company's authorities. The Company may disburse compensation only in compliance with the principles described in the Policy, which is a deed taking precedence over any other compensation principles in force at PKP CARGO S.A. The draft Policy submitted herewith has been recommended by the Nomination Committee of the PKP CARGO S.A. Supervisory Board.

The purpose of adopting the Compensation Policy for Members of the PKP CARGO S.A. Management Board and Supervisory Board is to implement the statutory and internal regulations in force at PKP CARGO S.A.

**Justification for the draft resolution on
covering the net loss and refraining from the distribution of a dividend
to be adopted by the Ordinary Shareholder Meeting of
PKP CARGO S.A. convened for 29 June 2020**

A loss of PLN 8,342,986.75 (eight million three hundred forty two thousand nine hundred eighty-six PLN and seventy-five) is carried in the Standalone Financial Statements of PKP CARGO S.A. for the financial year ended 31 December 2019. By resolution of 23 March 2020, the PKP CARGO S.A. Management Board proposed to cover the loss carried in the Standalone Financial Statements of PKP CARGO S.A. with retained earnings. This proposal has been approved by the PKP CARGO S.A. Supervisory Board.

In consideration of the foregoing and in the light of the Company's financial performance and capital expenditure requirements, the PKP CARGO S.A. Management Board recommends to the PKP CARGO S.A. Shareholder Meeting that no dividend be disbursed for the financial year ended 31 December 2019.