

Item 8 of the agenda of the Extraordinary Shareholder Meeting of PKP CARGO S.A.

DRAFT

Resolution No.
of the Extraordinary Shareholder Meeting of PKP CARGO S.A.
of 2020
to amend § 14 section 6 item 1 of the Company's Articles of Association

Acting pursuant to Article 430 § 1 of the Commercial Company Code in conjunction with § 12 Section 1 of the PKP CARGO S.A. Articles of Association, the Extraordinary Shareholder Meeting of PKP CARGO S.A. hereby resolves as follows:

§ 1

§ 14 section 6 item 1 of the PKP CARGO S.A. Articles of Association with the following wording:

“1) Management Board members (including the President of the Management Board and the Management Board member mentioned in section 5 above) will be appointed following a recruitment procedure, whose rules and course is set forth in these Articles of Association and the bylaws adopted by the Supervisory Board (“Bylaws for Appointing Management Board Members”) subject to provisions of 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); 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; amendments to the Bylaws for Appointing Management Board Members require consent of all Supervisory Board members who meet the independence criteria and are appointed following the rules set forth in § 20 and 21 below;”

shall read as follows:

“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;”.

§ 2

This Resolution shall come into force on the day of its adoption.

By Resolution No. 71/VII/2020 of 13 October 2020, the PKP CARGO S.A. Supervisory Board expressed its favorable opinion on this draft resolution. Two dissenting opinions were submitted to this Resolution and are presented by the Company below.

Dissenting opinion of Mr. Dariusz Górski, Member of the PKP CARGO S.A. Supervisory Board, submitted to Resolution No. 71/VII/2020 of the PKP CARGO S.A. Supervisory Board of 13 October 2020 to issue an opinion on the PKP CARGO S.A. Management Board's motion to the Ordinary Shareholder Meeting of PKP CARGO S.A. to amend the Articles of Association of PKP CARGO S.A.:

“Similarly to what I suggested when the vote on an identical proposal for amendments to the Articles of Association was held at the Company's Shareholder Meeting in June of this year, I substantiate my current dissenting opinion by arguing that, in my opinion, the correction of the procedure for amending the Bylaws for Appointing Management Board Members, involving a reduction from two independent Supervisory Board members, as is currently required by the Company's Articles of Association, to one Supervisory Board member will fail to improve, contrary to what the Management Board argues in its justification for the said motion, future recruitment procedures for the Company's Management Board members. Judging from my observation of the work of the Supervisory Board committees and the Supervisory Board itself, I conclude that independent Supervisory Board members attended 100% of the meetings and not in a single instance obstructed the work of these Company bodies or any vote on resolutions proposed at the meetings of these bodies. More importantly though, in my opinion, the proposed amendment increases to an even greater degree the asymmetry of corporate rights of shareholders that already exists in the Company's Articles of Association to the advantage of PKP S.A. Reducing the role of independent Supervisory Board members in the procedure for amending the said Bylaws might, in theory, lead to a further increase in the already significant influence of PKP S.A. on the process of selecting the Company's Management Board members.”

Dissenting opinion of Ms. Zofia Dzik, Member of the PKP CARGO S.A. Supervisory Board, submitted to Resolution No. 71/VII/2020 of the PKP CARGO S.A. Supervisory Board of 13 October 2020 to issue an opinion on the PKP CARGO S.A. Management Board's motion to the Ordinary Shareholder Meeting of PKP CARGO S.A. to amend the Articles of Association of PKP CARGO S.A.:

“I, the undersigned, Zofia Dzik, an independent Member of the PKP CARGO S.A. Supervisory Board, hereby submit my dissenting opinion to Resolution No. 71/VII/2020 of the Supervisory Board of 13 October 2020 to issue an opinion on the amendment, as proposed by the Management Board, to §14 sec. 6 of the Articles of Association of PKP CARGO S.A. by departing from the required consent of all Supervisory Board Members fulfilling the independence criteria in favor of the consent of only one Supervisory Board Member fulfilling the independence criteria when amending the Bylaws for Appointing Management Board Members.

One of the key tasks of the PKP CARGO S.A. Supervisory Board as an entity of public trust is to ensure an appropriately qualified and competent composition of the Company's Management Board, in consideration of the fact that the Company is a public entity with a complex shareholding structure. Pursuant to the Company's Articles

of Association, the Supervisory Board must consist of between 11 and 13 members. Currently, due to the resignation of one Supervisory Board member, the Supervisory Board consists of 10 members, including only two (2) members fulfilling the independence criteria provided for in §20 and §21 of the Articles of Association.

Accordingly, I disagree with the arguments presented by the Management Board according to which the proposed amendment will bring more flexibility to the recruitment procedure for the position of President of the Management Board or Management Board Member. In my opinion, this amendment will not affect the efficiency of such procedures, in particular after the amendments to the Articles of Association made in 2019, and may only additionally enhance the degree of influence of the leading shareholder on appointments to the Management Board, without sufficient consideration of the criteria of appropriate knowledge and experience of a given candidate, which is one of the problems I drew attention to in the dissenting opinions I submitted during the most recent recruitment procedure for the position of Management Board Member in charge of Commerce. The said procedure was summarized in the Company's current reports published on 25 June and 6 October 2020.

I also wish to emphasize that independent Members of the PKP CARGO S.A. Supervisory Board actively participate in all meetings of the Supervisory Board and Supervisory Board Committees, including by chairing the Nomination Committee and the Audit Committee, and are open to all efforts aimed at working out solutions that seek to enhance the interests of the Company and all its stakeholders, as has been proven by a number of mutual, good, constructive discussions and decisions made or reviewed by the Supervisory Board.”.