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# Privatization in the Republics of the Former Soviet Union: Framework and Initial Results

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## **ABSTRACT**

**This paper compares the privatization experiences of the 15 Republics of the Former Soviet Union as of March 1993. Currently, these Republics are at varying stages of completing their legal frameworks for privatization. Salient common features of these experiences include the ambiguous status of basic property rights, the centralized character of institutional structures, the extensive preferences given for employee ownership, and the minor involvement of foreign investors. Program implementation in the region has not taken place as quickly as initially targeted by these countries. Many have adopted a multi-track approach. In a number of Republics, the privatization of small-scale enterprises is under way, and various mass privatization programs have been already launched or are being designed with the aim of accelerating the transfer of state ownership and generating widespread participation. The lack of a supporting legal and financial infrastructure—including mechanisms for enforcing contracts, underdeveloped financial markets, weak administrative capacity and the near absence of expertise in commercial practice—has often emerged as a major obstacle in the implementation process. Despite these obstacles, almost all of the FSU Republics have successfully initiated the process of building basic legal and institutional infrastructure for privatization, and implementation is progressing at an impressive rate in several Republics.**

## **ACKNOWLEDGEMENTS**

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## **FOREWORD**

Privatization in the Republics of the Former Soviet Union: Framework and Initial Results is a special discussion paper produced jointly by the staff of the Legal Department and the Cofinancing and Financial Advisory Services Department. Providing technical advice on privatization and PSD issues is the primary focus of the PSD Groups of both Departments, and disseminating cross country experience on privatization is an important element of this work. Because the assessment of initial results needed to cover both the legal framework and the institutional, technical and operational results, it was agreed to mount a collaborative effort drawing upon the different skills and experience in both Departments.



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**Table: Country Background Data (1990)**

<b>Country</b>	<b>Population</b> (thousands)	<b>Area</b> (thou. sq.km)	<b>GDP</b> (million current rubles)
Armenia	3,325	30	9,692
Azerbaijan	7,149	87	14,697
Belarus	10,278	208	40,100
Estonia	1,583	45	7,977
Georgia	5,462	70	14,915
Kazakhstan	16,746	2,717	46,322
Kyrgyzstan	4,395	199	8,320
Latvia	2,686	65	12,201
Lithuania	3,731	65	13,287
Moldova	4,367	34	12,750
Russia	148,255	17,075	626,300
Tajikistan	5,302	143	7,112
Turkmenistan	3,669	488	7,344
Ukraine	51,860	604	164,761
Uzbekistan	20,532	447	32,430

**Source: The World Bank**

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## Part I

# Introduction

Since the dissolution of the former Soviet Union ("FSU") there has been a great deal of privatization activity in the 15 emerging Republics,<sup>1</sup> which are engaged in transforming their economies from a centrally-planned to a market-based system. Privatization programs with the goal of transferring state-owned enterprises ("SOEs") to the private sector have been designed, adopted, and are in various stages of implementation. Though there has been a great deal of ad-hoc information exchange between country officials and advisors, little systematic comparison has been made between the privatization experiences of the Republics of the FSU. The objective of this paper is to provide a brief, preliminary overview of the region's progress toward privatization as of the end of March 1993 (unless otherwise noted). The paper summarizes and compares privatization policies, their supporting frameworks, and the implementation process in the 15 Republics. It does not attempt an in-depth analysis or assessment of the privatization experiences of each Republic.

The scope of this paper is limited to describing and comparing the approaches taken to transferring state ownership through sale of assets or shares, particularly with regard to commercial and industrial enterprises and the environment in which this takes place. The paper does not discuss related privatization issues such as demonopolization, financial reform, use of proceeds, and conversion of defense/military complexes,<sup>2</sup> and it does not address the problems of governance facing enterprises that are either newly privatized or likely to remain state-owned.

This cross-country comparison is based on country profile material that is presented in Annex A,

which includes additional information on individual Republics. Economic reform programs in each FSU Republic are continuing to evolve, and adjustments are constantly being introduced as institutions and officials change and as the implementation process unfolds. This paper is thus a snapshot of the privatization process as of March 1993.

### *Initial Conditions*

While the overall scale of the privatization programs in all of the FSU Republics is ambitious and unprecedented, initial conditions in the Republics have proved extremely difficult to overcome in achieving rapid and effective privatization. Because of problems in setting precise definitions, there is no agreed-upon estimate of the number of enterprises eligible for privatization. Rough estimates indicate that there are over 470,000 SOEs and facilities of varying sizes. Of these, the approximate

<sup>1</sup> Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

<sup>2</sup> These areas merit further research, as their impact on the privatization experiences in the FSU becomes more obvious. For instance, the issue of how to use proceeds has not yet received much attention. Most FSU Republics provide that privatization proceeds will be kept in special accounts. Exactly how the funds will be spent remains to be determined by the national or local soviet. A few FSU countries (e.g., Armenia, Russia, Ukraine) have announced in advance the general guidelines for the use of proceeds. Typically, they include assistance in the financing of enterprise restructuring and of social safety nets.

number of medium-to-large state-owned enterprises in the FSU exceeds 85,000 (Table 1). Russia and Ukraine alone account for over 80% of this total. The industrial sector consists of approximately 47,000 SOEs employing over 34 million workers (Table 2). The engineering, food and light industry sectors dominate in both the average number of employees and the overall number of enterprises (Table 3, see page 4).

The industrial sector of the FSU was vertically integrated to a high degree, and frequently one or a few enterprises supplied products for the entire country. With the break-up of the Soviet Union and the collapse of inter-Republic trade, this concentrated production structure remains highly vulnerable. Moreover, the structure of the Soviet industrial sector was heavily integrated with military requirements, but with the end of the Cold War demand for industrial goods related to military needs has fallen off precipitously. There is no

functioning bank credit system to provide working and investment capital. Management skills needed for competitive market-oriented enterprises are in short supply, and general macroeconomic conditions have been extreme, characterized by rapid inflation and declining output.

The previous Soviet legal system was entirely inappropriate to a modern market economy, and there is little or no tradition of private property rights in the region, as evidenced by the absence of restitution procedures outside the Baltic states. The legal foundation currently underlying the economic reform process in each Republic continues to be influenced by old Soviet Union legislation and

<sup>3</sup> The definitions of small, medium and large enterprises vary across the region. The criterion generally used is the number of employees. For instance, in Russia, small-scale enterprises include all those employing less than 200, whereas in Georgia, they are defined as those with less than 50 employees.

**Table 1: PROFILE OF STATE OWNED ENTERPRISE IN THE FSU**

Country	SMALL		MEDIUM		LARGE	
	Number	Definition	Number	Definition	Number	Definition
Armenia	10,000	<50 Empl.	N/A	—	700	N/D
Azerbaijan	N/A	—	N/A	—	N/A	—
Belarus	N/A	<200 Empl.	400	200-1,000 Empl.	220	>1,000 Empl.
Estonia	3,500	N/D	N/A	—	256	N/D
Georgia	15,000	<50 Empl.	1,000	50-1000 Empl.	100	>1,000 Empl.
Kazakhstan	27,500	<200 Empl.	8,000	200-5,000 Empl.	200	>5,000 Empl.
Kyrgyzstan	20,000	<200 Empl.	1,200	200-5,000 Empl.	20	>5,000 Empl.
Latvia	5,000	N/D	350	<mostly 500 Empl.	N/A	—
Lithuania	N/A	—	N/A	—	N/A	—
Moldova	7,000	N/D	440	N/D	50	N/D
Russia	190,803[a]	<200 Empl.[b]	18,000	200-5,000 Empl.	6,000	>5,000 Empl.
Tajikistan	N/A	—	N/A	—	N/A	—
Turkmenistan	2,172	N/D	1,381	N/D	N/A	—
Ukraine	60,000	[c]	40,000	N/D	6,000	[d]
Uzbekistan	35,900[e]	N/A	—	—	1,000	>1,000 Empl.

**LEGEND**

N/D: Not defined

N/A: Not available

[a] This figure may vary between 150,000 to 320,000

[b] Small enterprises with an average of up to 200 officially listed workers and a balance sheet value of fixed capital as of January 1, 1992, of less than R 1 million.

[c] Value does not exceed 20 million Rubles.

[d] Value range from 20 to 1,500 million Rubles.

[e] Includes medium and small enterprises.

Sources: The above data are rough approximations based on a wide variety of World Bank reports and official and unofficial sources.

confusing legal concepts dating from the *perestroika* period and earlier.<sup>4</sup> The application and substance of the new legal system must be understood in terms of this heritage.<sup>5</sup> The underlying framework for privatization contains a number of features that complicate the implementation process, including: ambiguous institutional authority over the privatization process, suspended between the executive and legislative branches of government and the central and local administrations; strong employee rights traditions, reflected in various employee ownership preference schemes; and unclear status of land ownership in connection with the privatization of enterprises.

In such difficult circumstances, to be committed to privatization is to accept a remarkable challenge. It is, however, generally recognized in many Republics that privatization is an essential path to economic transformation, though it may be accompanied by social hardship and dislocation. Any assessment of progress and approaches thus needs to take into account the tremendous scale of the problems and the harsh starting conditions faced by privatization programs of the Republics of the FSU.

### Structure of This Study

The balance of this paper is organized into four sections, Parts II through V. Part II presents a

summary of major findings, while Part III discusses overall policies and supporting frameworks for privatization, focusing on issues related to the conditions of state ownership, legal and institutional frameworks, employee ownership, and participation of foreign investors. Part IV reviews accomplishments to date and major implementation issues. Finally, Part V offers some brief concluding observations.

<sup>4</sup> The exact status, in law and practice, of Union legislation in the Republics remains a complex issue that eludes easy characterizations across the region. While some Republics formally announced a "complete and direct prohibition of the operation of Union legislation" upon declaration of independence, others provided for the principle of subsidiary and temporary incorporation. At the same time, the signatories of the *Agreement on the Creation of the Commonwealth of Independent States* may be bound by Article 11 of the Agreement, which appears to preclude the application of the norms of the former Union, *inter alia*. In practice, Union law is still extensively applied where there is a legal vacuum. "Shaping a Market-Economy Legal System," prepared by the EC/IS Joint Task Force on Law Reform in the Independent States, October 1992 (provisional version) at 71-73 [hereinafter the Legal System].

<sup>5</sup> Consider, for instance, the fact that all the Republics have Civil Codes dating from 1963-64 in force, as amended.

**Table 2: INDUSTRIAL SECTOR PROFILE**

Country	Number of Enterprises	Number of Employees	Avg. Number of Employees	Year
Armenia	605	269,466	445	1991
Azerbaijan	3,717	398,498	107	1991
Belarus	1,231	1,453,000	1,180	1991
Estonia	256	202,800	792	1990
Georgia	1,365	505,050	370	1990
Kazakhstan	2,458	1,315,000	535	1991
Kyrgyzstan	250*	N/A	N/A	1992
Latvia	349	285,500	820	1990
Lithuania	584	493,000	843	1990
Moldova	493	347,000	705	1991
Russia	25,240	20,730,000	821	1987
Tajikistan	N/A	N/A	N/A	N/A
Turkmenistan	1,381	139,934	101	1991
Ukraine	6,938	7,100,000	1,023	1990
Uzbekistan	2,006	916,300	457	1991
Total	46,873	34,155,548	630	

\* Medium to large enterprises over 200 people.

Note: The data provided above are rough estimates based on various World Bank reports and may not reflect actual figures. The industrial sector is mainly comprised of the following subsectors: Agro-industry, Forest industries, Chemicals, Fuel, Engineering industries, Metallurgy, Building Materials, Light industries.

Source: The World Bank

**Table 3: INDUSTRIAL SUBSECTOR PROFILE**

Country	Food Industry		Light Industry		Engineering		Forest Industry		Chemicals		Building Materials		Others		Year
	No. of Enterprises	No. of Employees	No. of Enterprises	No. of Employees	No. of Enterprises	No. of Employees	No. of Enterprises	No. of Employees	No. of Enterprises	No. of Employees	No. of Enterprises	No. of Employees	No. of Enterprises	No. of Employees	
Armenia	121	19,514	73	74,704	90	124,710	18	5,565	16	10,618	94	16,483	193	17,872	1991
Azerbaijan	1,187	54,932	251	94,390	1,302	185,687	554	11,567	36	25,816	387	26,106	0	0	1991
Belarus	N/A	109,800	N/A	20,400	N/A	698,300	N/A	97,500	N/A	115,900	N/A	88,500	N/A	90,500	1991
Estonia	51	28,200	45	43,300	46	58,200	48	28,000	17	16,200	21	14,300	28	14,600	1990
Georgia	443	77,700	246	114,000	195	155,400	110	29,900	40	23,200	146	44,500	185	N/A	1990
Kazakhstan	455	N/A	585	N/A	645	N/A	233	N/A	86	N/A	270	N/A	139	N/A	1991
Kyrgyzstan	200	N/A	74	N/A	70	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1990
Latvia	99	23,100	39	70,000	87	92,400	51	33,800	21	23,200	33	18,000	19	25,000	1990
Lithuania	142	66,000	106	97,400	139	193,200	59	41,400	27	23,200	64	38,800	47	33,000	1990
Moldova	N/A		N/A		N/A		N/A		N/A		N/A		N/A		
Russia	5,480	1,380,000	4,034	2,490,000	7,019	10,810,000	3,885	1,810,000	561	1,220,000	2,161	1,040,000	2,100	1,980,000	1987
Tajikistan	N/A		N/A		N/A		N/A		N/A		N/A		N/A		
Turkmenistan	255	17,530	258	68,977	463	38,742	119	4,750	9	8,915	287	19,519	51	5,424	1991
Ukraine	1,582	684,000	1,300	756,000	2,020	3,549,000	0	0	692	623,000	853	695,000	491	793,000	1990
Uzbekistan	405	98,500	708	335,400	364	313,200	96	25,800	49	43,700	231	69,100	153	30,600	1991
Totals	10,420	2,559,276	7,719	4,164,571	12,440	16,218,839	5,173	2,088,282	1,554	2,133,749	4,547	2,070,308	3,406	2,989,996	

Note: The above data are rough estimates based on various Bank reports and may not reflect actual figures.

The totals for No. of enterprises and employees do not equate to the total figures given in Table 2 due to missing subsector data.

Source: The World Bank.



## Part II

# Summary of Major Findings

### *Conditions of State Ownership*

Basic private ownership and enterprise legislation is now in place in all the Republics of the FSU. Nonetheless, the legal attributes of state ownership remain unclear in several areas. While the legislative branch of state is identified as the owner of state property in all the Republics, the issue of how such property is owned and managed at the enterprise level has not been clearly resolved. The boundaries of state ownership remain blurred in a number of Republics. In most FSU Republics, decentralization of state ownership across different levels of government has not yet been completed or contains risks of jurisdictional conflicts between the central and local authorities. Finally, the extensive use of post-privatization conditions in the region creates potential for state encroachment on the basic rights of the new private owners.

### *Legal Framework*

While most FSU Republics have a similar approach to building the legal framework for privatization, they are at varying stages of completing it. Each Republic has a very basic form of enabling legislation in place. Most have adopted overall privatization programs, but a few Republics remain at an early stage of finalizing them. While a majority of the FSU Republics have been contemplating some sort of mass privatization program, in all the Republics except Russia and Lithuania various gaps in subordinate legislation and implementing regulations remain. These gaps must be filled before serious large-scale implementation can get under way.

### *Institutional Framework*

The institutional framework for privatization in the FSU exhibits a general tendency towards consolidating the roles of the policy formulator and the legal seller in one specialized agency. Each Republic, however, differs somewhat in terms of how the official status of a privatization agency is defined, what roles traditional line ministries play, and who can participate in the selection and approval process.

### *Employee Ownership*

Each FSU Republic has provided for an employee preference scheme, creating an opportunity for the employees of a state-owned enterprise to acquire an ownership interest in it on advantageous terms, whether in the form of enterprise shares, purchases of physical assets, or a 100% buy-out. While the exact scope of preferences differs from country to country, the overall financial incentives provided through price discounts or financing arrangements have been much more substantial than those found outside the transition economies.

### *Participation of Foreign Investors*

Most FSU Republics impose certain legal restrictions and requirements on foreign investors when they seek to participate in privatizations. While more and more FSU Republics are lifting such controls in order to encourage foreign participation—particularly with regard to medium-to-large enterprise privatizations—foreign investors have not played a significant role in the privatization pro-

cess so far. In all the Republics, foreign investors face formidable practical impediments in the absence of proper currency regulations. Also, such investors may find the future direction of the privatization process too uncertain in Republics where a limited amount of implementation has taken place so far.

### *Privatization Results*

While national privatization programs are well underway in countries such as Lithuania, Kazakhstan, Kyrgyzstan, and Russia, others are still lagging behind. In addition, the available data on privatization achievements constitutes a very rough approximation, since some Republics fail to distinguish between various sizes of SOEs. Taken together, however, these estimates indicate that about 77,000 enterprises have been privatized. Of these, the vast majority (67,000) have been small business units. The privatization of large SOEs is still very limited in all the Republics, though voucher schemes have already been implemented in Russia and Lithuania.

The privatization process has proven to be intricate and time consuming so far. The task is also made difficult by the near absence of supporting infrastructure. Common characteristics among all of the Republics include a lack of reliable mechanisms for enforcing contracts, underdeveloped financial markets and limited absorptive capacity, weak Government administrative capacity, and the virtual non-existence of financial and technical expertise in the areas of commercial practice and market transactions.

No single approach to privatization can be applied as a general model for the entire FSU. A successful privatization program in one Republic might fail in another. In light of the slow pace of privatization to date, the FSU Republics need to accelerate their preparatory work for privatization and move on a fast track for implementation on all fronts.

### *Targets and Priorities*

Though a majority of the Republics have established privatization targets and have prioritized them to one degree or another (i.e., starting off with small-scale enterprises, corporatizing larger SOEs, etc.) significant differences among these plans have affected the pace of implementation. Some of the

plans are broader in scope than others, but most have been very ambitious and lacked realistic agendas and sequencing. Understandably, these goals may reflect the need to establish political momentum independent of concerns about the administrative capacity required for concrete results. Clearly, a learning process also took place as implementation programs were launched, with many early deadlines pushed back to more realistic dates.

### *Methods and Strategies*

The general trend among the FSU Republics has been to adopt a multi-track approach which applies different methods of privatization to small, medium and large SOEs. Most programs give precedence to small-scale privatizations, specifically targeting small retail, trade and service shops that can be rapidly divested. The objective of this approach is to promote the emergence of an infrastructure for a market economy. Widely-used methods in small-scale privatization include divestment by auctions, competitive bidding, tender offers, and leasing. Privatization of medium and large SOEs has presented a greater challenge, as the decision to dispose of these enterprises case-by-case or *en masse* has dictated the use of different methods. To this end, many Republics have either developed or are contemplating some form of a voucher scheme. Other common methods that have been used include tender offers to strategic investors, and employee-management buy-outs. It would be premature to assess the effectiveness of these methods at this time, however.

### *Valuation*

The absence of accounting principles and capabilities, high levels of inflation and the uncertainty of future cash flows have made the application of traditional western valuation models impossible in the context of the FSU. Consequently, valuation of enterprises has not played a prominent role in the privatization process in the Republics. Furthermore, the Republics have been more concerned with the equitable redistribution of state assets than with raising capital through sales to investors. As foreign participation in the privatization process evolves, however, valuation will become a more critical issue.



## PART III

# Policy and Support Framework

### CONDITIONS OF STATE OWNERSHIP

Basic ownership and enterprise legislation is now in place in all of the FSU Republics. Nonetheless, the legal attributes of state ownership are unclear in several aspects. While the legislative branch of the government is identified as the owner of state property in all the Republics, the issue of how such property is owned and managed at the enterprise level—in particular, how ownership interest in enterprises extends to the assets of enterprises, both in law and practice—has not been resolved. The boundaries of state ownership remain blurred in a number of Republics, due to lingering claims made by non-state bodies. In most FSU Republics, decentralization of state ownership across different levels of government is not yet completed or contains risks of jurisdictional conflicts between the central and local authorities. Finally, the extensive use of post-privatization conditions in the region creates potential for state encroachment on the basic rights of the new private owners.

### *Ownership Legislation*

In order to create effective private ownership through privatization, the legal system must first establish clear property ownership, use, and disposition rights.<sup>6</sup> In most transition economies, the rights and duties traditionally associated with ownership have been assumed by entrenched stakeholders with competing interests—namely, managers, workers, local government authorities, ministries, and industrial associations—none of

which have legal title. The ongoing ambiguity surrounding ownership may be the legacy of the essentially communal (therefore, non-exclusive) nature of property in a planned economy.<sup>7</sup> Consequently, not only the concept of private property but also that of public property (as legally understood in a market economy) had to be introduced. The 1990 USSR *Law on Ownership*, the most important piece of legislation to be issued during the *perestroika* era, was the first step towards establishing the ownership relations that are necessary in a market economy. This law, however, contained a number of limitations on private ownership and failed to clarify the relationship between the private sector and state with respect to title.<sup>8</sup>

While new ownership legislation in the Republics tends to resemble its Soviet predecessors in form,<sup>9</sup> it provides much greater scope for private property and seeks to establish a clearer legal basis

<sup>6</sup> This paper is concerned with domestic property relations and does not address inter-Republic claims related to the division of certain Union property, some of which continues to be subject to the "joint-use" rule. Such property lies outside the scope of typical privatization experiences in the region.

<sup>7</sup> See e.g. R. Koslowski, "Market Institutions, East European Reform, and Economical Theory," 26 *Journal of Economic Issues* 673 (1992).

<sup>8</sup> For instance, the law permitted the labor collective of an SOE to keep and use some of its profits after paying certain taxes, without defining the property rights with regard to the physical investments (e.g., medical and housing facilities) made by the collective with such funds.

<sup>9</sup> The effort to enumerate objects of ownership and different forms of ownership in a single, positive list is one of such legislative traits.



for state property. In connection with state ownership of property, most FSU Republics formally designated their supreme legislative body to represent the state and to dispose of such property on behalf of the state. For instance, Article 32 in the *Law on Property of Ukraine* provides that "The subject of the right to state (Republic) property is the state, in the form of the UkSSR Supreme Soviet." In Russia, on the other hand, Article 20 of the *Law on Property* declares that "State property is the property of the people." Taken alone, this Russian provision does not make it clear whether the legislative branch is authorized to dispose of state property on behalf of "the people." This authorization can only be inferred based on the constitutionality of the later *Law on Privatization of State and Municipal Enterprises*, in which the legislature provides for the goals and methods of transferring assets under state ownership.<sup>10</sup>

### *Enterprise Management System*

The broad declaration of who owns state property, however, does not solve the issue of "how" these assets are managed. The exact definition of the corporate form lays the foundation for creating a formal process through which the state as the owner can delineate its rights and duties against competing stake-holders. Enterprises in planned economies do not operate in forms characteristic of market economies (such as joint stock or limited liability companies).<sup>11</sup> Moreover, the final years of the perestroika system created new forms of operation including cooperatives, spin-off firms, and employee leases, that became increasingly independent from central administration.

In a majority of FSU Republics, the organizational status of a state-owned enterprise remains confusing. It is uncertain, for instance, whether an SOE is a form of joint-stock or limited liability company owned by the state or a distinct category with its own unique characteristics.<sup>12</sup> Although an SOE is typically declared to be a juridical person, often it is not the owner of the assets that it possesses or creates, but is instead given the right of "possession, use and disposal" over them by the state<sup>13</sup>—i.e. the SOE is given so-called "full economic jurisdiction" short of complete title. Such a legally inconsistent posture can create uncertainty about whether new private buyers of the assets of an SOE enjoy full ownership rights in light of possible residual ownership claims by the state.<sup>14</sup>

Many FSU Republics are attempting to transform SOEs into some form of readily recognized company organization.<sup>15</sup> This, of course, requires the creation of company laws that govern the relations between the state as the shareholder, enterprise managements and workers. While nearly all FSU Republics have specific laws regarding joint-stock companies, final legislation on other types of business organizations is lagging behind in many.<sup>16</sup> Some Republics, such as Estonia, do not appear to have sufficient legal mechanisms in place to ensure the accountability of enterprise managers to boards of directors representing the state's shareholder interest. Others may, under the slogan of "denationalization,"<sup>17</sup> risk having corporatization confused for or misinterpreted as sanctioning further self-management.<sup>18</sup> This legal dimension is

<sup>10</sup> Similarly, Kyrgyzstan failed to address explicitly who represents the state with respect to state property in its *Law on Ownership*.

<sup>11</sup> Some of them operated as self-managed, self-financing units, with rights to net income and attenuated ties to the central government. See e.g. Z. Begetic and Michael Conte, World Bank Internal Discussion Paper (Europe and Central Asia Region), December 1992.

<sup>12</sup> See the Legal System, *supra* note 4 at 147.

<sup>13</sup> See, for instance, art. 5 of the Belarus *Law on Enterprises*.

<sup>14</sup> Lingering doubt about the ownership attributes of the new private sector may underlie some of the post-privatization restrictions and conditions discussed below.

<sup>15</sup> In several Republics (e.g., Kyrgyzstan), such transformation often has meant corporatization-cum-privatization, where labor collectives acquire a majority of shares.

<sup>16</sup> In those Republics such as Kazakhstan and Ukraine where such legislation exists, it tends to recognize company and partnership types based on pre-revolutionary Russian and continental models. The Legal System, *supra* note 4 at 120-21.

<sup>17</sup> This is a poorly defined but often used phrase, connoting some transfer of ownership short of title conveyance. It appears in privatization legislation in Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. In Uzbekistan, for instance, many large enterprises have been transformed into closed joint stock companies under the control of the "Associations," which appear to have replaced traditional line ministries in some cases and enjoy a certain autonomy from the central government as quasi-commercial entities. See the Uzbekistan Country Profile.

<sup>18</sup> Even in some Eastern European countries such as Hungary, these sorts of legal reforms have been subject to the criticism that they failed to unambiguously establish the ownership rights of either the state or of natural persons against the existing powers of enterprise councils and rights of self-management. See F. Dhanji and B. Milanovic, *Privatization in Eastern and Central Europe*, World Bank Working Paper Series No. 770, September, 1991.

closely linked to the actual practice of corporate governance in the FSU. Active state monitoring of enterprise assets through improved accounting and auditing mechanisms is crucial in preventing asset-stripping or spin-offs from occurring.<sup>19</sup>

Finally, one of the most interesting attributes of state ownership of enterprises in the FSU is that the value of land (and sometimes buildings<sup>20</sup>) is typically excluded from the sale price of an SOE divested through auction or tender. Unlike market economies, in the FSU the plot of land on which an enterprise is located is not part of that enterprise's fixed assets.<sup>21</sup> Ownership of land either by natural or juridical persons continues to face various restrictions on use and transferability.<sup>22</sup> In connection with enterprise privatization, land is appraised separately. It is leased (or sold in certain cases in Russia) to the owner of a privatized enterprise through a potentially cumbersome and uncertain process of negotiation with or valuation by local government officials who are typically left in charge of administering real property. In the retail or service sector, the location of an enterprise may be the most important asset that the state can offer. The value of the relevant land would be enhanced if it could be treated as a standard enterprise asset in the form of a fixed long-term leasehold or a freehold interest.

### *Boundaries of State Ownership*

Even when *de jure* state ownership is established, the boundaries of state ownership remain blurred unless competing claims of ownership by non-state bodies, such as labor collectives and former owners, are effectively resolved. A number of FSU Republics, such as Armenia, Azerbaijan, Turkmenistan, Ukraine, and Uzbekistan, have not been consistent in resolving ownership-related claims from labor collectives. These Republics recognize explicit or implicit veto-type rights of the labor collective over the proposed privatization plan of their enterprise. This recognition of rights in property disposition undermines the state's legal ability to transfer clear title to buyers other than the labor collective. Such a presumption in favor of workers' ownership of existing SOEs should not be confused with an employee preference policy which seeks to create worker ownership *in the future* by transferring state ownership.

In the Baltic states, the external boundaries of state ownership systematically take into account

the rights of former owners via "restitution" programs, in contrast with the other Republics where such rights are largely unrecognized.<sup>23</sup> As a matter of law, restitution has precedence over privatization in Estonia, Latvia, and Lithuania.<sup>24</sup> The scope of their restitution programs and the pace of implementation have not been uniform. The objects of restitution have ranged from all forms of property (Estonia) to land and buildings only (Lithuania). The process of defining the subjects of restitution—in other words, who is entitled to have their property rights restored—has been plagued by citizenship and residency issues,<sup>25</sup> with Latvia suffering the most controversy due to its demographic composition.<sup>26</sup>

Although most filing deadlines (which varied depending on the nature of property at issue) expired in 1992, claim-processing has been slow due to patchy and unclear legal rules. With regard to real property, in particular, heavy reliance on restitution in-kind has led to confrontations between former owners and current occupiers. Calculations

<sup>19</sup> The Republics are familiar with only the traditional Soviet accounting system, which diverges significantly from accepted international accounting standards. Naturally, this has frequently led to acute valuation problems, often paralyzing the implementation process. In addition, independent auditing as commonly understood in a market economy never existed in the Soviet system, since there were no shareholders and every creditor was an SOE.

<sup>20</sup> See e.g. the Estonia and Lithuania Country Profiles.

<sup>21</sup> Under the Soviet system, an enterprise received its fixed assets free of charge from the state and recorded them as liabilities in the "contributed capital" account.

<sup>22</sup> In some countries such as Kazakhstan, land remains the exclusive property of the state. In others where some private ownership rights are recognized, there are severe restrictions on use and transferability. In Russia, for instance, privately owned land can be sold freely only if it is used for private housing construction or subsidiary farming.

<sup>23</sup> In Georgia, however, some restitution rights may be recognized on a case-by-case basis in connection with land privatization. See the Georgia Country Profile for more detail.

<sup>24</sup> This is based on the Roman law principle of "defective title" (good-faith purchasers do not prevail over the original owners).

<sup>25</sup> In light of the continuing ethnic resettlement in the FSU, these issues are important in the privatization process, since all the Republics regulate the nationality of the buyer of state-owned assets.

<sup>26</sup> A majority of the current population consists of immigrants from other parts of the FSU who arrived in Latvia after the end of World War II.

lating "just compensation" when in-kind restoration of property is not feasible involves similarly complex issues concerning valuation, especially in the event of extensive modifications to the original property. Each country, however, is committed to—and proceeding with—privatization despite lingering uncertainty.<sup>27</sup> Lithuania has been able to make the most rapid progress toward privatization so far by getting a head start on resolving citizenship disputes and by proceeding with the development of the legal infrastructure for privatization.<sup>28</sup>

### *Decentralization of State Ownership*

The internal boundaries of state ownership in connection with distributing state property across different levels of government play an important role in the privatization process. Each FSU Republic has faced the issue of deciding which property is owned by which state authorities (federal, republican or municipal). Depending on the size of the country, there can be as many as 8 different kinds of state-owned property as is the case in Russia.<sup>29</sup> The formal demarcation of state property can be time-consuming, involving such controversial decisions as how to share political influence and privatization proceeds.<sup>30</sup> Several FSU Republics, including Armenia, Azerbaijan and Ukraine, have not yet adequately resolved this issue.

In most Republics, a certain degree of decentralization state ownership seems inevitable, particularly with regard to enterprises that are small in scale and local in nature. The typical pattern for small enterprises has been ownership and privatization by local authorities, as is the case in Estonia, Latvia, Lithuania, Russia, and Uzbekistan. The land and housing sectors have been subject to similar local control. This means that, in theory, cultural and dwelling facilities that were built for employees and that appear on the balance sheets of large SOEs can be privatized on the basis of decision-making by local authorities, even though these SOEs are owned by the central government and themselves not subject to privatization.

Some legislative control by the center is necessary in order to regulate the exercise of ownership rights by the region or municipality and to ensure a unified privatization policy. In a country as large as Russia, complex constitutional and federation norms protect the autonomy of non-federal levels of government with respect to the disposition of their property. Privatization policy coordination has been sought through restrictions set out in the

main Program (in part 2.4) and normative acts by a central government agency, all of which are legally binding on different levels of government. With regard to small-scale privatizations, the relative regulatory void left by the center has allowed local governments wide-ranging discretion. Consequently, the speed of implementation of small privatization has varied greatly across the Russian Federation, depending on local attitudes and capacities.

In much smaller countries, it is easier to provide for organic and functional oversight from the center. In Lithuania, for instance, the local privatization agency is appointed by the national government—through recommendations of the local soviets—and may include a representative of the central privatization agency. While the local agency is expected to comply with the decisions from the center, it is authorized to prepare and implement its own privatization program on the basis of objects selected in coordination with the central agency. The basic privatization law recognizes two distinct spheres of jurisdiction and provides each with certain powers of disposition over individual SOEs.<sup>31</sup>

Several FSU Republics have not yet formally provided for such oversight by the center. Loosely-drafted authorizations for local privatization programs, coupled with declarations that decisions by the center are binding on all levels of government, invite jurisdictional conflicts. In such cases, it is important to specify the scope and process of central supervision with regard to local state property in detail. This obviously is not an easy task. Kazakhstan, for instance, has recently dismantled

<sup>27</sup> For instance, Estonia and Latvia are considering the use of some voucher scheme to satisfy unresolved restitution claims.

<sup>28</sup> The 1989 Lithuanian law on citizenship was one of the first to be passed in the FSU, with the legislative process for privatization beginning a year and half earlier than Latvia and Estonia.

<sup>29</sup> Namely, federal property, republican property, property of a krai, property of an oblast, property of autonomous oblast or okrug, property of the cities of Moscow and St. Petersburg, and other municipal property.

<sup>30</sup> Most FSU countries provide that proceeds from privatization will be allocated to different levels of government. Local governments can keep a substantial portion of the proceeds received from privatizing locally-owned property, ranging from 30% (Lithuania) to 50% (Kazakhstan).

<sup>31</sup> These include the right to permit certain price discounts, to compel SOEs to purchase some state capital, and to sell enterprise shares.

its former dual administrative structure, rather than seeking to strike a precarious balance between national and local authorities. It now has a single system of state agencies controlled by the center with the purpose of privatizing both national and local state property.

### *Post-Privatization Role of the State*

In the process of privatizing SOEs, post-sale conditions of some duration—which are either statutorily imposed at auctions or contractually binding in competitive tenders—can be found in each FSU Republic. These can range from minimum employment rates (e.g., Armenia) and business profile maintenance (e.g., Azerbaijan and Uzbekistan), to more general investment requirements. With regard to housing or land stock, typical conditions take the form of more restrictive limits on use and transferability for an extended period of time, suggesting that something less than full ownership, as it is understood in market economies, was transferred in the first place.

While many of the post-privatization restrictions found in the Republics of the FSU may stem from legitimate interests in regulating and promoting economic activities, they tend to be broader in scope and less clearly defined than those typically found elsewhere. There appears to be little or no elaboration on post-sale provisions such as introducing a regulatory framework that would permit more specificity and flexibility in enforcement. Even for terms that are contractual in nature, it is unclear whether private parties can expect fair interpretation and application of contracts by the state. While most of these conditions may be valid in terms of existing norms of constitutional and property law, they pose the risk of abusive interpretation and application by bureaucrats. In the absence of impartial and experienced judicial systems or effective alternative dispute resolution mechanisms in the FSU Republics, it might be difficult to curb unlawful state encroachment on newly privatized property.

### **LEGAL FRAMEWORK<sup>32</sup>**

While most FSU Republics have a similar approach to building the legal framework for privatization, they are at varying stages of completing it. Each Republic has a very basic form of enabling legislation in place, however. While most have adopted these overall privatization programs, a few

still remain at an early stage of finalizing these programs. In Republics other than Russia and Lithuania, various gaps in subordinate legislation and implementing regulations related to mass privatization remain that they will need to be completed before serious large-scale implementation can get under way.

The legal framework for privatization in each of the Republics of the FSU consists of a complex series of legislative documents adopted by various public institutions. At the top of the legal hierarchy of norms are enactments by the highest law-making authority in each Republic—known as the Congress of People's deputies, Supreme Soviet, or Parliament—in the form of laws (*zakon*). Presidential edicts (*ukaz*) are traditionally accorded a subordinate status, although in some Republics, the principle of separation of powers may have complicated the issue somewhat. Note that in many Republics, such as Russia, the President may exercise certain emergency powers granted by the parliament, particularly in the area of economic reform and privatization. The government (Council or Cabinet of Ministers) may also adopt decrees (*postanovlenie*), usually less normative than the other two in content. Finally, lower agencies of government promulgate normative acts, or regulations, on the basis of and in execution of a superior enactment.<sup>33</sup>

Typically, at the core of such a framework is the basic privatization law (*zakon*) passed by the parliament. In such legislation, the overall objectives and rules of privatization are stated.<sup>34</sup> In the Baltic states, basic laws on property reform list the broad principles of restitution and privatization. Only in Lithuania has the parliament passed a comprehensive privatization law which deals systematically with the enterprise sector, regardless of firm size. In Latvia and Estonia, a complex set of legislation governs disparate privatization programs applying

<sup>32</sup> This sub-section does not include an analysis of the overall legal infrastructure necessary for a market economy to operate, such as laws on contracts, bankruptcy, secured transactions, banking, anti-monopoly/competition as well as the judicial/alternative dispute resolution mechanisms.

<sup>33</sup> In practice, however, these subordinate enactments, which often are not published, can subvert the meaning of the superior legislation which frequently fails to provide sufficient detail. See the *Legal System*, *supra* note 4 at 80-81.

<sup>34</sup> This parliamentary authorization is necessary, given that state ownership is identified with the supreme legislative body of the state, as discussed in the preceding section. It is possible, however, that under a different set of constitutional norms, privatization may occur without recourse to the legislative branch.

to certain small and large enterprises. In all the other Republics, the basic privatization legislation applies to the commercial and industrial sector in general.<sup>35</sup> The privatization of land and housing is typically governed by separate laws.<sup>36</sup> Usually excluded from the objects of basic privatization legislation are enterprises or facilities related to defense/security concerns and cultural/historical heritage.<sup>37</sup> Overall similarities in the basic legal approach suggest that most FSU Republics have been quite susceptible to the transference of privatization norms across national boundaries.

While basic privatization legislation can now be found in each Republic, the timing of enactment varies across the FSU. Except in Azerbaijan and Belarus, where such laws were finally adopted in January 1993, the legislation took place either in 1991 or 1992. Such enactments have established a more permanent basis for a legal framework than is possible under Presidential edicts.<sup>38</sup> However, basic privatization laws have never been sufficient to start the privatization process by themselves.

As the most basic form of enabling legislation, each of these privatization laws authorizes the periodic preparation of the Privatization Programs and the establishment of state agencies responsible for implementing them.<sup>39</sup> Usually short in length and declamatory in style, with many references to other laws that are often still pending, none of these laws is of sufficient detail to be self-implementing. Moreover, depending on the specific method of privatization identified, companion legislation on such important issues as voucher distribution and transformation of SOEs into joint-stock companies may be necessary in order to enable the privatization process to begin. These companion laws frequently take much longer to materialize, thus effectively delaying the operation of the basic privatization law.<sup>40</sup>

The Privatization Programs called for in the basic privatization legislation share the following purposes: to identify the methods of privatization<sup>41</sup> and to produce the list of targets and priorities, as well as the list of excluded categories,<sup>42</sup> during a given period of time, typically one to two years.<sup>43</sup> The Programs serve as the basic blueprint for the course of future implementation,<sup>44</sup> requiring periodic clearance by both the legislative and executive branches of the state before taking effect. This process is inevitably time-consuming, both at the preparatory and approval stages, often aggravated by the lack of political consensus across different branches of government. In a number of FSU

Republics, (such as Armenia, Azerbaijan, Belarus, and Turkmenistan), these Programs are still being prepared or are awaiting final approval. In Moldova, while the basic privatization law was adopted in July 1991, the Privatization Program went into effect only in March 1993. In Kyrgyzstan, the Program for the current period was suspended in late 1992, when the new "Concept Note on Privatization" was adopted to reflect a major policy shift in that Republic.<sup>45</sup>

Pursuant to these Programs or other such policy statements, the subordinate or related legislative documents are required in order to enable the state to launch the implementation process according to

<sup>35</sup> In Ukraine, however, a separate (though substantially similar) law on privatization governs small state-owned enterprises in addition to the basic legislation.

<sup>36</sup> In Kazakhstan and Moldova, however, basic privatization laws also apply to the housing stock.

<sup>37</sup> In the Privatization Programs, as will be discussed below, a more detailed list of excluded activities and different categories thereof can be found.

<sup>38</sup> In Armenia and Belarus, for instance, the basic privatization laws appear to have replaced the earlier provisional Presidential edicts regarding the privatization of certain categories of the enterprise sector. See e.g. the respective Country Profiles.

<sup>39</sup> The Uzbekistan legislation deviates somewhat from this pattern. No such master Privatization Program for the entire enterprise sector is called for, and industry-wide privatization programs have been since developed. As for the main privatization agency, it was established under a subsequent Presidential edict. See the Uzbekistan Country Profile.

<sup>40</sup> In Belarus, for instance, the failure of the legislative branch so far to pass a law on vouchers subsequent to the enactment of the basic privatization law (January 1993) has meant that there is still no legal mechanism which will initiate the implementation of the privatization process.

<sup>41</sup> In the case of Armenia, the Privatization Program must present detailed information; for instance, article 5 of the basic privatization law requires "the preferable forms of privatization and denationalization according to spheres of function and individual enterprises" to be defined in the Program.

<sup>42</sup> In most cases, the Programs differentiate between those enterprises that will not be privatized (usually, natural monopolies) and those that require special government approval or ministerial consent on a case-by-case basis (such as energy and transportation industries).

<sup>43</sup> In Russia, for instance, the 1992 Privatization Program will be replaced with the 1993 Program, a draft of which is currently waiting for parliamentary approval.

<sup>44</sup> They may also contain certain amendments to the basic privatization laws (e.g., Russia) or even in some cases, principles or dividing state property across different levels of government in some cases (e.g., Azerbaijan).

<sup>45</sup> See the Kyrgyzstan Country Profile for more information.

the methods identified — e.g., auction, tender, liquidation, a mass privatization (with related provisions on voucher distribution and exchange mechanisms). Depending on constitutional norms regarding the separation of powers in the FSU Republics, some of these issues may require enactments by the legislative body in the form of laws (*zakon*). A few Republics such as Russia have been able to bypass the lengthy deliberation usually associated with such process by issuing government decrees or presidential edicts. Regulations drafted by privatization agencies have also played a crucial role in the implementation process (e.g., Russia). These regulations are often quite detailed and specific, resembling instructions more than rules, and reflecting the legacy of the old Soviet system.

In each FSU Republic, the overall amount of legislative work required for carrying out the privatization process appears to be overwhelming.<sup>46</sup> Most FSU Republics do not appear to have adequate technical capacity for the task, and external assistance on this front has been available or is currently being designed for many Republics. Those Republics with a higher degree of internal political consensus have been able to introduce necessary legislation more rapidly than others. While a ma-

majority of FSU Republics have been contemplating mass privatization for some time, only in Russia and Lithuania have detailed government decrees or regulations emerged early enough to permit rapid implementation as of March 1993.<sup>47</sup> The Russian experience suggests, however, that it is not necessary to adopt all the necessary details connected with mass privatization in advance, so long as there is a serious commitment to closing the gaps at each stage of the implementation process—including corporatization, voucher distribution, and exchange for shares.<sup>48</sup>

The status of the core legal framework for privatization in each Republic is summarized in Box 3-1. It should be stressed that this summary reflects

<sup>46</sup> In Lithuania, for instance, over 200 pieces of subordinate legislation relate to privatization and restitution.

<sup>47</sup> In Russia, within a few months of the official adoption of the Privatization Program in the summer of 1992, its main privatization agency began introducing numerous regulations to transform SOEs into joint-stock companies and to issue privatization vouchers under the authority of President Yeltsin's decrees.

<sup>48</sup> In other words, in the interest of speed, some uncertainty in the mass privatization program can be tolerated, so long as it does not lead to a loss of overall public support.

<b>Country</b>	<b>Basic Privatization Enactments (Date)</b>	<b>Privatization Programs</b>	<b>Subordinate Legislation</b>
Armenia	Presidential decree on small enterprises. (6.91) Law on Privatization & Denationalization. (7.92)	Privatization Program awaiting parliamentary approval.	No information available.
Azerbaijan	Presidential decree on commercializing retail trade organizations and public kitchens. (8.92) Law on Denationalization and Privatization. (1.93)	Privatization Program under discussion.	No information available.
Belarus	1991 Provisional decree on privatization. (suspended, 10.92) Law on Privatization. (1.93) Companion legislation on vouchers under discussion.	Privatization Program to be prepared in the future.	No information available.
Estonia	Law on Privatization of State-Owned Service, Retail Trade & Public Catering Services. (12.90, amended for broader application 5.92) Law on general principles of property reform, including restitution. (6.91) Supreme Council Resolution on privatization of selected large SOEs. (8.92) Comprehensive privatization enactment for large SOEs pending.	Disparate privatization programs for small SOEs and selected large SOEs.	Various Cabinet Resolutions for implementation.

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<b>Box 3-1 (continued)</b>			
<b>Country</b>	<b>Basic Privatization Enactments (Date)</b>	<b>Privatization Programs</b>	<b>Subordinate Legislation</b>
Georgia	Law on Privatization of State Enterprises. (8.91)	1992-93 State Privatization Program.	Various implementing Government decrees. Details on mass privatization under discussion.
Kazakhstan	Law on Denationalization & Privatization. (6.91) Legislation on investment funds in connection with mass privatization to be prepared.	1991-92 and 1993-95 Privatization Programs.	Various implementing Presidential decrees. Details on privatization investment coupons under discussion.
Kyrgyzstan	Law on the General Principles of Destatization, Privatization & Entrepreneurship. (12.91) Law on the State Property Fund. (7.92) Presidential decree on regional and municipal property. (8.92)	1992-93 State Denationalization and Privatization Program. (suspended, 12.92) Concept of Denationalization & Privatization for 1993. (12.92)	Various implementing Government decrees. Details on the mechanics of voucher distribution and auction under discussion.
Latvia	Law on the basic principles and objectives of restitution and privatization. (3.91) Law on privatizing municipally-owned trade, commerce, restaurants and service. (11.91) Law on the preparation of a program for privatizing medium to large SOEs. (3.92) Law on Certificates. (11.92)	Disparate privatization programs for small and selected large SOEs.	Line ministry regulations on implementation. Details of the mass privatization program to be prepared.
Lithuania	1991 Law on Initial Privatization of State Property, authorizing the sale of small and large SOEs for privatization vouchers. 1992 Law concerning employee priority to acquire shares of entities in privatization. (amended, 2.93) Law on Privatization. (7.91)	General Privatization Program of Lithuania.	Over 200 pieces of subordinate legislation related to restitution and privatization.
Moldova	Law on Privatization. (7.91)	State Privatization Program for 1992-94, adopted in March 1993.	Implementing regulation to be prepared.
Russia	Law on the Privatization of State and Municipal Enterprises. (7.91) Over 40 Presidential decrees, some of which relate to commercialization (7.92), voucher distribution (8.92), and sale of shares. (10.92) Legislation on custodial and transfer arrangements for a national bid center expected soon.	1992 State Privatization Program. 1993 State Privatization Program awaiting parliamentary approval.	Various privatization agency regulations. More complete rules on the transfer of shares currently being drafted.
Tajikistan	Law on Denationalization and Privatization of Property. (2.91) Presidential decree on Organization of Work for Denationalization and Privatization (4.91)	No information available.	No information available.
Turkmenistan	Law on Destatization and Privatization of Property. (2.92)	Privatization Program awaiting parliamentary approval.	No information available.

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<b>Box 3-1 (continued)</b>			
<b>Country</b>	<b>Basic Privatization Enactments (Date)</b>	<b>Privatization Programs</b>	<b>Subordinate Legislation</b>
Ukraine	Laws on the privatization of small and other state enterprises. (3.92) Law on Privatization Certificates. (3.92)	1992 State Privatization Program.	Various privatization agency Orders. Mass privatization details and investment funds under discussion.
Uzbekistan	Law on Destatization and Privatization. (11.91)	Industry-wide privatization programs	Various implementing regulations.

only those major pieces of legislation that are publicly available. There is a large set of companion and subordinate legislation and regulation about which little is known on a systematic basis. The consolidation and dissemination of such legislative documents need to receive priority attention in many FSU Republics.

**INSTITUTIONAL FRAMEWORK<sup>49</sup>**

The institutional framework for privatization in the FSU exhibits a general tendency towards consolidating the roles of the policy formulator and the legal seller in one specialized agency. Each Republic, however, differs somewhat in terms of how the official status of a privatization agency is defined, what roles traditional line ministries play, and who can participate in the selection and approval process.

Nearly all the Republics of the FSU have sought to centralize the privatization process by establishing a specialized privatization agency or agencies to provide strategic guidance and carry out privatiza-

tion transactions as a representative of the state.<sup>50</sup> Latvia appears to be exceptional in its heavy reliance on the existing line ministries: they are permitted to participate in the policy formulation process and are entrusted to implement privatization policies in specific sectors of the economy. This structure appears to have led to much confusion and delays in implementation. In the case of Estonia, two special government agencies carry out the privatization programs for small and large enterprises, but overall strategic guidance and policy formulation—distinct from implementation and monitoring functions—occur largely at Cabinet level. Box 3-2 provides a brief outline of the institutional framework in each of the 15 Republics.

<sup>49</sup> This sub-section does not deal with the internal boundaries of national versus local ownership and the related institutional arrangements discussed earlier.

<sup>50</sup> In a small number of cases involving very large or strategically sensitive enterprises, consultation with other special government ministries (e.g., anti-monopoly) on a case-by-case basis is typically required before deciding whether and how to privatize.

<b>Box 3-2</b>		
<b>Country</b>	<b>Major Institutions</b>	<b>Status</b>
Armenia	(1) Special Joint Privatization Commission, responsible for strategic guidance and implementation supervision. (2) State Board for Privatization (a.k.a. Administration for privatization and disposal of state property), representing the state as the legal seller.	(1) Consists of members from both the executive and legislative branches. (2) Part of the executive branch.
Azerbaijan	(1) State Property Committee, authorized to own and manage state property as well as to develop and implement the Privatization Program.	(1) Reports to the President.
Belarus	(1) Committee of State Property, responsible for designing and managing the privatization process.	(1) Part of the executive branch.

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Box 3-2 (continued)		
Country	Major Institutions	Status
Belarus	(1) Committee of State Property, responsible for designing and managing the privatization process.	(1) Part of the executive branch.
Estonia	(1) Department of State Property, primarily for carrying out small privatization. (2) Estonian Privatization Agency, responsible for selling off large SOEs. (3) Minister of Reform, coordinator of different privatization programs.	(1) Reports to the Cabinet. (2) Reports to the Cabinet. (3) Reports to the Cabinet.
Georgia	(1) State Property Management Committee, authorized to draft the Privatization Program and serve as the legal seller of SOEs.	(1) Part of the executive branch.
Kazakhstan	(1) State Property Committee, authorized to act as the main policy-maker and legal seller.	(1) Part of the Council of Ministers, chaired by a Deputy Prime Minister.
Kyrgyzstan	(1) State Property Fund, delegated to assume the ownership interest of state property and responsible for managing the privatization process.	(1) Reports to the Supreme Soviet
Latvia	(1) Line ministries, responsible for selecting and privatizing SOEs under their supervision. (2) Ministry of Economic Reform, intended for policy coordination.	(1) Traditional government arm. (2) Traditional government arm.
Lithuania	(1) Central Privatization Committee, responsible for developing the national privatization program and coordinating the overall privatization process.	(1) Chaired by the Deputy Prime Minister in charge of privatization.
Moldova	(1) State Property Fund, responsible for overseeing the overall privatization process.	(1) Reports to parliament.
Russia	(1) State Committee for the Management of State Property, responsible for conceiving and managing the privatization process. (2) Property Funds, authorized to assume the functions of the owner and seller of state property.	(1) Part of the executive branch, headed by a Deputy Prime Minister. (2) Part of the legislative branch.
Tajikistan	(1) Committee for Administration of State Property, responsible for preparing a program for privatization in cooperation with other ministries.	(1) Part of the executive branch.
Turkmenistan	(1) Ministry of State Property and Business Support, responsible for drafting the Privatization Program and implementation.	(1) Reports to the President.
Ukraine	(1) State Property Fund, authorized to draft the Privatization Program and manage the implementation process.	(1) Accountable to the parliament.
Uzbekistan	(1) Committee for State Property Management and Privatization, responsible for overseeing the	(1) Created by the President, reports to the Cabinet.

Typically, specialized privatization agencies form a part of the executive branch. Relatively few Republics (Kyrgyzstan, Moldova and Ukraine) have chosen to have their privatization agencies report to the legislative branch. Armenia, on the other hand, has struck a compromise by establishing a joint commission representing both branches, while in Russia both branches are represented through two agencies intended for different roles (but overlapping as discussed below). Kazakhstan has recently integrated its formerly independent privatization agency into the Council of Ministers, thus adopting the executive branch approach. It is not easy to weigh the relative advantages and disadvantages of each structure, because both of these branches of the state play an important role in building the legal framework for privatization as discussed above. Neither branch can independently control the privatization process completely by itself.<sup>51</sup> So far, the implementation experiences of the three Republics with parliamentary agencies do not reveal any pattern, suggesting that political landscapes and personalities unique to each Republic may be the dominant factor in building an effective institutional framework.<sup>52</sup>

**Legal Seller:** Small regionally-based enterprises have typically been owned and transferred by local authorities in most Republics as previously discussed. Medium to large SOEs, on the other hand, are privatized by the central privatization agency which is responsible for both conceiving the overall privatization process and representing the state as the legal seller in individual transactions. In Armenia and Russia, however, these two roles are split between the Special Joint Privatization Commission and the State Board for Privatization; and the State Committee (GKI) and the Property Funds, respectively. The basic privatization law in Moldova, on the other hand, authorizes the State Property Fund to assume responsibility for policy formulation and implementation without explicitly designating it or any other agency as the holder and seller of shares in SOEs.

The division of institutional authority has not been accompanied so far by clear rules on the boundaries between multiple agencies with potentially different economic incentives.<sup>53</sup> This can lead to some delay in the implementation process when these agencies belong to different branches of government that have achieved a less-than-solid political consensus.<sup>54</sup> Overall, institutional structure in the FSU seem to be on an evolutionary track towards single agencies acting as both policy executors and legal sellers.<sup>55</sup> Ukraine and Georgia, for

example, have recently consolidated their institutional structures, veering away from the Russian approach.<sup>56</sup> Even in Russia, the local counterparts of the GKI and the regional Property Fund have often operated together as one agency, *de facto*.

**Management Oversight:** Even when policy formulation and privatization authorities are consolidated in one specialized privatization agency, such an agency may have an uneasy relationship with traditional management oversight bodies—such as line ministries—that used to (or still continue to) derive a portion of their budget from enterprises under their supervision. In Ukraine, for instance, the privatization agency is forbidden from interfering in the general business operations of SOEs. It is not specified at what stage of the implementation process that enterprises are bound by the agency's decisions related to or incidental to privatization. Some FSU Republics, by contrast, appear to have conferred exclusive management powers, at least in law, on their privatization agencies (e.g., Azerbaijan, Kyrgyzstan, Uzbekistan).

In light of the enormous size and complexity of the state enterprise sector in the FSU, privatization agencies generally have delegated some management oversight during the privatization process. This delegation can be confusing when traditional line ministries have transformed their legal status to semi-private types of organizations, such as amalgamations or associations.<sup>57</sup> In each FSU Republic,

<sup>51</sup> That is, in the absence of constitutional reform.

<sup>52</sup> However, the institutional capacity of a parliamentary agency to monitor multitudes of transactions scattered all over the country may be questioned.

<sup>53</sup> For instance, the power and prerequisites accruing to the holder/seller of state assets prior to divestiture may be greater than any budgetary rewards expected from privatization proceeds.

<sup>54</sup> In Russia, institutional ambiguity does not appear to have been a significant bottleneck in the ongoing mass privatization program; however, there can be isolated incidents of conflict, as illustrated in the case of Chelyabinsk Oblast, where the local Property Fund attempted to abort a voucher auction by putting up only 4 SOEs for sale, instead of 27 authorized by the MKI, the GKI's local counterpart.

<sup>55</sup> In Uzbekistan, however, a new state entity (outside of the main privatization agency) entrusted with holding government shares in corporatized SOEs appears to have recently emerged. It is too early to tell what kind of change, if at all, this will bring in the institutional framework for privatization. The whole arrangement may well have been aimed at improving technical trust functions without making any impact on the existing structure.

<sup>56</sup> Ukraine has favored the parliamentary branch in the process while Georgia has selected the executive.

<sup>57</sup> See e.g. the Uzbekistan Country Profile.

the decisions reached by the privatization agency to implement specific privatization transactions are declared in law to be binding on ministries and other such management oversight bodies.<sup>58</sup> Whether such declarations are translated into effective cooperation among the different governmental bodies concerned is ultimately a political issue.

**Agency Power:** Generally, the privatization agencies entrusted to supervise the overall privatization process appear to enjoy fairly high political status. In Lithuania and Russia, for instance, the heads of privatization agencies enjoy the rank of Deputy Prime Minister. However, most agencies do not seem to have adequate staffing and financial resources allocated for their task. Needless to say, the mobilization of both political and financial support behind these agencies is important since they typically play a major role in drafting the Privatization Programs. Moreover, they are endowed with substantive role-making authorities on such issues as valuation and sale documentation. Concomitant with the scope of their powers, legislative mechanisms to prevent bureaucratic abuse are also necessary. In most Republics, detailed rules on the composition, operating procedures, conflicts of interest, and dispute resolution mechanisms (including an appeal process) of these privatization agencies have not yet been adequately legislated.

**Selection and Approval:** Individual privatization transactions which take place pursuant to the programs discussed above may be initiated in principle by various government bodies (top-down approach) or enterprise employees and other prospective private buyers, subject to approval by appropriate privatization agencies (bottom-up approach). Typically, privatization agencies publish standard forms of application for interested applicant buyers seeking agency approval, thus enhancing the transparency of the selection process. Most FSU Republics have also legislated basic criteria for application evaluation, seeking to limit discretionary grounds for rejection. The review and decision-making process is further subject to fixed deadlines.

Once approved for privatization, the enterprise needs to be prepared for the transaction. In the case of medium to large enterprises, this often entails corporatization, an important transformation process typically supervised by central privatization authorities when it is carried out *en masse*. Other preparatory measures such as inventory valuation and the drafting of sales documents may be delegated to relevant line ministries (as in Armenia) or specialized governmental bodies (as in the case of

Estonia and Lithuania). In most FSU Republics, however, these measures are undertaken by an enterprise-level, ad-hoc committee representing various parties with widely diverging interests, such as the central and local privatization authorities, enterprise workers, and bankers. In Ukraine, such committees include potential outsider buyers who filed the initial privatization application. In most cases, detailed regulation on how this committee should operate is missing.

### EMPLOYEE OWNERSHIP

Each FSU Republic has provided for an employee preference scheme. These schemes create an opportunity for employees of an enterprise to acquire ownership interests on advantageous terms, whether in the form of enterprise shares, purchases of physical assets, or a 100% buy-out. While the exact scope of employee preferences differs from country to country, the overall financial incentives provided through price discounts or financing arrangements have been much more substantial than those granted outside the transition economies.

An employee preference scheme gives the employees of an enterprise as individuals or a group—including qualified former workers—an opportunity to acquire some ownership interest in their enterprise on terms more favorable than are generally applicable.<sup>59</sup> Box 3-3 summarizes the major employee preference schemes adopted by each Republic. It suggests a strong pro-worker sentiment in the FSU. Management entitlement, on the other hand, appears to be somewhat limited in scope—at least in law. Nonetheless, in cases where managers may purchase shares in corporatized SOEs on a preferential basis, such as in Russia, where they are entitled to purchase up to 5% of the total number of shares at book value, their individual benefits can be quite substantial given their small number. Moreover, they may derive indirect and informal benefits from their close relationship with the labor collective in buy-out transactions where financial incentives are often much greater, as discussed below.

<sup>58</sup> Nevertheless, these entities may have to be consulted prior to selecting certain SOEs for privatization in some cases (e.g., Georgia).

<sup>59</sup> This section doesn't discuss other types of financial rewards for which employees are eligible. In a number of countries (e.g., Armenia and Russia), when an enterprise (or some of its shares) is sold to outside buyers or liquidated, employees may qualify for a portion of proceeds. In Russia, for instance, employees are entitled to 30% of the liquidation proceeds.

**Box 3-3****Country****Employee Preferences**

Armenia	(1) Labor collectives awarded up to 50% discount. (2) Installment payments available for individual workers.
Azerbaijan	(1) Labor collectives permitted free use of certain objects of industrial and social value. (2) Sale of shares and other assets on an installment basis, with concessions worth up to 30% of the value (additional 10% if some post-sale conditions are met), with certain net profits used for financing.
Belarus	(1) Implicit preference to worker buy-outs.
Estonia	(1) Workers as preferred buyers in the first phase of small-scale enterprise asset dispositions (but reduced preference in later auctions in the current phase of the program). (2) No price concessions in the sale of shares of corporatized SOEs.
Georgia	(1) Shares sold to employees at a discount not exceeding 20% of par value within 2 years from the registration of a corporatized SOE (lock-in during this period). (2) An association representing a majority of the workforce eligible to participate in auction or competitive bidding to buy the enterprise on a 2-year installment basis (the first payment must be at least 50% of the total price).
Kazakhstan	(1) Under the current Program, partnerships formed by more than 50% of employees entitled to 10% price discount in auction or tender of small-scale enterprises. (2) For medium to large SOEs that are corporatized, the labor collective entitled to receive, free of charge, 10% of the total authorized capital subject to individual salary caps.
Kyrgyzstan	(1) Under the suspended Program, the labor collective (not individual members) given the right to buy 20% of shares of its enterprise at a 30% discount, in installment payments, plus free transfer of certain social infrastructure facilities. (2) Under the Concept Note on Privatization, the labor collective given an option to choose among 3 different modes of share allocation, with ownership interest ranging from 20% to 51%, with preferential terms limited to the use of privatization vouchers (up to 25%) plus other privileges (up to 10%).
Larvia	(1) Discounts available to workers in asset dispositions.
Lithuania	(1) Employees eligible to buy up to 50% of the total authorized capital of large SOEs (but only 30% may be voting shares) at preferential rates prior to the public subscription of shares.
Moldova	(1) Up to 20% of the shares of an enterprise sold to employees at a nominal value (likely to be much lower than the book value under the unique capitalization plan announced for mass-privatization). (2) Labor collective's buy-out offer preferred to those comparable from outside buyers.
Russia	(1) A menu of options given to employees of a corporatized SOE: a) receipt of gratis 25% of shares, subject to individual salary caps, that are non-voting, plus a right to purchase 10% of voting shares at a 30% discount under a 3-year installment plan (while managers may buy up to 5% at book value); b) purchase of 51% the authorized capital at the price 170% of book value; or c) a work-out contract for 1-year for a right to purchase 20% of shares on favorable terms (applicable only to certain medium-sized SOEs). (2) 30% discount and 1-year installment plan for employee buyers in privatizations of non-corporatized enterprises through competition or at auction.
Tajikistan	(1) Active participation by labor collectives, who have the first priority to select among the possible modes of ownership transfer (ranging from leases to outright sales).
Turkmenistan	The draft Privatization Program contemplates that for (1) small retail units: a) shops with less than 5 workers given freely to employees; b) next class of small shops to be purchased by employees at a residual value; and for (2) larger shops and corporatized medium to large SOEs: employees eligible for up to 25% of the total number of shares at a discount, with the rest divided among managers (5%), suppliers (10%) and the state (60%).

Continued next page

**Box 3-3** (continued)

Country	Employee Preferences
Ukraine	<p>(1) Under the current lease law, the labor collective as the lessee has been given the right to income earned and a 3-year period to decide on a buy-out while excluding any other potential buyers (this is likely to change in the future).</p> <p>(2) Buyers' association formed by not less than 50% of the workers given certain discounts to buy all or a part of their small-scale enterprise (at auctions, this association to be preferred, if all terms are equal).</p> <p>(3) For large corporatized SOEs, employees permitted to use their privatization certificates to buy shares at nominal value and to use cash (up to half of the value of their certificates) to buy additional stock at nominal value.</p>
Uzbekistan	<p>(1) Worker buy-outs financed with bank credit and installment payments.</p> <p>(2) Very small units in catering, trade and services to be given away to employees.</p>

The pervasive nature of employee preferences does not follow any particular sectoral characteristics, such as service-oriented operation or labor-intensive production, that suggest a specific economic design at work. The immediate strategic necessity of drawing employees into the privatization process appears to have prevailed. However, there continues to be some lingering tension in many of the FSU Republics in light of the uneven distributional impact of employee ownership. It discriminates between enterprise employees and the rest of the public and still further between those working for profitable and unprofitable enterprises. Estonia, Kazakhstan, and Kyrgyzstan are moving in the direction of curtailing employee preferences in the future. Lithuania, by contrast, has recently increased the ownership stake employees can acquire from 30% to 50% of the total authorized capital of an enterprise. Most Republics appear to still be heatedly debating the merits of employee ownership.<sup>60</sup>

**Share Allocation:** In cases where shares of an enterprise are on sale—applicable mostly to privatizations of medium and large SOEs—the average stake of employee ownership (ranging from 10% to 51%) is much greater than the corresponding figures (5 to 10%) observed in the past in other types of economies.<sup>61</sup> This means that many medium and large enterprises in the FSU, at least initially following privatization, will have a widely dispersed shareholder base. Typically, in addition to initial free give-aways, which are subject to individual salary caps, as in the case of Kazakhstan and Russia, employees of such enterprises are encouraged to buy and keep their shares in privatized enterprises through a combination of price concessions, financing arrangements, and lock-in mechanisms. Since price concessions usually involve discounts off some nominal value of a share, their

magnitude is closely related to capitalization and valuation norms.

**Employee Buyers:** When an enterprise is sold on an ongoing basis or its assets are disposed of, employee groups, rather than individual employees, tend to enjoy preferred buyer status. In buy-out transactions of going concerns where the state engages in one-on-one negotiations, the labor collective (frequently led by management) plays a dominant role, as in the case of Armenia, Belarus, Kyrgyzstan, Tajikistan, and Uzbekistan. In other types of dispositions, through auctions or competitive tender, preferential treatment is sometimes given to loosely organized associations formed by a majority of the work force (e.g., Georgia and Ukraine). Unlike in Russia, where qualified employees (consisting of at least one-third of the payroll of an SOE) need to establish themselves as a partnership or corporation to bid, these associations do not appear to have a well-defined legal status.

Overall, in addition to the possible use of certain residential enterprise funds (such as in Russia), the financial incentives granted to various groups of employee buyers can be quite generous. There are substantial price discounts reaching as high as 50% in some Republics with installment payments available, along with free transfers of infrastructure facilities in some cases.<sup>62</sup> Particularly in 100% buy-

<sup>60</sup> For instance, in March 1993, some conservative members of the Russian legislature were calling for a systematic buy-out option for management and workers, the so-called "fourth variant," to be included in the 1993 Privatization Program.

<sup>61</sup> See Barbara W. Lee, "Should Employee Participation Be Part of Privatization?" World Bank Working Papers Series No. 664, May 1991.

<sup>62</sup> This is supported by the fact that privatization in most FSU Republics has been implemented primarily through the participation of employees and their labor collectives, as will be discussed later in Part IV.

out transactions, magnitude of financial incentives may be even more substantial due to the internal valuation process which is carried out free of competitive bidding. In negotiating specific terms, the members of a collective can exercise monopolistic bargaining power.<sup>63</sup> In the FSU, the availability of other local potential buyers is limited by the lack of available financial resources. In some cases, the collective may even have an exclusive right to present a privatization plan during a given period of time as in Armenia. Worker buy-outs in connection with leases may provide for still further incentives, such as the use of enterprise income towards the purchase price as is seen in Ukraine.

**Future Employee Ownership Interest:** Employee ownership structures of post-privatized enterprises in the FSU are likely to change over time. As employee shares eventually become freely transferable, based on experiences in other countries, the share of actual employee ownership is likely to decrease. This may take a long time, however, since it will strongly depend on the development of a stock exchange or an over-the-counter market.<sup>64</sup> The way in which the nature of collectively owned enterprises will evolve is less clear, since the legal entitlements of individual members of such enterprises are not well defined, and collective ownership interest is rare in market economies. In the short run, however, employee/management ownership can serve as a valid mode for privatization, to the extent that employees accept the risk of assuming ownership and that financial ties to the state are effectively severed, preventing post-privatization bailouts. Particularly in the cases of weak or non-viable enterprises which are sold intact instead of being liquidated, the system of preferences needs to be carefully designed to reflect such concerns by ensuring that individual employee owners have some of their own capital at stake.

### **PARTICIPATION OF FOREIGN INVESTORS**

Most FSU Republics impose certain legal restrictions and requirements on foreign investors when they seek to participate in privatizations. While more and more FSU Republics are lifting such controls to encourage foreign participation, particularly with regard to medium-to-large privatizations,<sup>65</sup> foreign investors have not actually played a significant role in the privatization process thus far. In the Republics, foreign investors face practical impediments due to the absence of proper currency regulations. Also, such investors are likely

to find the future direction of the privatization process too uncertain in many Republics.

Overall, FSU Republics impose fewer controls on the entry of foreign capital to establish joint ventures—either with SOEs or the emerging private sector—or new enterprises than they do on foreign participation in privatization. This paper is concerned with examining the norms for regulating the latter. It does not discuss how each Republic has addressed standard issues concerning foreign investment, such as expropriation, foreign exchange controls, capital and profit repatriation, and tax relief. As a point of reference, however, it may be said at the outset that most FSU Republics appear to have adopted laws on foreign investment which are liberal in substance, though detailed regulations, particularly in the area of currency control, are still pending in most cases.<sup>66</sup>

Selling state-owned assets to foreign investors is never entirely free of controversy because of concerns that these assets, which represent decades of national savings and investment, will be given away too cheaply to outsiders. Underlying this apprehension may be a general fear of foreign domination. Balancing these risks against the obvious advantages of foreign investment through privatization has not been easy in the FSU.<sup>67</sup> So far, actual participation by foreign investors has not been substantial in the FSU. Yet no FSU Republic has banned foreign participation outright. Rather, foreign investors are subject to certain systematic conditions and rules of privatization that apply exclusively to them, including possible application of different institutional processes. Only a few Republics, such as Moldova and Uzbekistan, have adopted a case-by-case approach to foreign participation.

<sup>63</sup> In comparison, those transactions related to corporatized SOEs where employees may opt for 51% buy-out permit less room for such manipulation, as the rules of capitalization and share prescriptions are prescribed in standard terms.

<sup>64</sup> In the absence of an organized secondary market, there is simply too much transaction cost in buying and selling stock.

<sup>65</sup> For instance, in late 1992 Kyrgyzstan adopted a new Concept Note on Privatization, which declared, *inter alia*, that "the attraction of foreign investors to the process of privatization will open wide possibilities for solving the main problems of the reform at the level of enterprises." (Sec. V).

<sup>66</sup> Most Republics provide for, in general terms, a national treatment standard, special incentives for foreign investors, transfers of capital and profits, protection against expropriation, and fair compensation. See e.g., *Foreign Direct Investment in the States of the Former USSR*, the World Bank (Country Department III), 1992 at 22-39.

<sup>67</sup> Even the Treuhandanstalt has been frequently accused of selling out too cheaply in the former East Germany.

**Scope:** In nearly all the FSU Republics, the official list of assets to be privatized that foreign buyers can acquire tends to be narrower than that for domestic buyers. Foreign ownership of land, for instance, remains forbidden in the FSU as of March 1993, even in those Republics where private rights to own land are recognized. Some Republics are likely to lift this restriction in the future in order to spur higher interest among foreign investors.<sup>68</sup> In addition, in most cases there is a separate list of restricted sectors (such as defense, energy, etc.) in which foreign buyers have to obtain additional case-by-case approval from some governmental body external to the main privatization agency, as in the case in Azerbaijan and Russia. Further, in nearly all the FSU Republics, foreign investors cannot participate in small-scale enterprises sold through auction or tender.<sup>69</sup> Finally, in connection with mass privatization, the amount of ownership interest that foreign investors can acquire in individual enterprises will be determined in part by the scope of employee and management preferences, which, as discussed above, can be quite significant.

**Selection:** Even with regard to those categories of enterprises with no *a priori* restrictions, foreign investors may not be able to freely select the enterprises for acquisition. In Estonia and Latvia, for instance, the selection process so far has been dominated by the state in an attempt to anticipate which enterprises would appeal to foreign buyers. In Lithuania, the list of enterprises selected for hard-currency privatization transactions by the main privatization agency used to require further parliamentary endorsements. Foreign investors' participation outside the list prepared by the government would not be possible in any event, since in the Lithuanian mass privatization program the primary means of payment is in the form of vouchers which are held by domestic citizens and cannot be sold for cash.<sup>70</sup> In Russia, by contrast, foreign investors can participate in the mass privatization program of medium to large SOEs by buying vouchers from others—except from employees with preferential rights as described above—with payment made in rubles.<sup>71</sup> In the new mass privatization program of Kazakhstan, foreign investors may participate by buying enterprise shares from investment funds, which are the exclusive intermediaries for exchanging all privatization vouchers distributed to Kazakh citizens.<sup>72</sup>

**Requirements:** In some countries, institutional arrangement for meeting the special approval requirements for investing in the restricted sectors

discussed above can be quite complex, especially if there is no centralized privatization agency to begin with, as in Latvia, or if the screening of foreign investment in general is within the purview of multiple ministries, as in Moldova. In other cases, however, once foreign investors select certain SOEs for acquisition, with or without pre-screening by the state, they tend to follow typical application and approval procedures like domestic buyers of state assets. This is true even in countries like Azerbaijan or Kazakhstan, where there is a separate “one-stop” agency for admitting and monitoring all foreign investment.

The most complex and confusing set of requirements concerning foreign investors arises out of the currency transfer issue. Resulting legal uncertainties and fear of unpredictable enforcement may well be the most practical obstacle facing foreign investors. In each FSU Republic, a coherent and detailed set of rules permitting offshore and, to a lesser degree, onshore foreign investors to legally transfer their hard currency in and out of the country has not yet been finalized.<sup>73</sup> Furthermore, while nearly all the FSU Republics impose a special privatization exchange rate<sup>74</sup>—usually set lower than the market rate—most have not yet determined on how such a rate will be set.<sup>75</sup> Finally, special bank accounts may be required in many cases to deposit local currency to be used in privatization.<sup>76</sup>

<sup>68</sup> Beginning in mid-April 1993, the Estonian government may permit prospective buyers of a selected group of large SOEs to buy the land on which they stand.

<sup>69</sup> In Russia, for instance, the local privatization agency needs to initially approve the participation of foreign investors in these transactions under the State Program of Privatization (part 8.1). In practice, small privatization has been open to Russians only, either completely or during the first round of bidding. It is possible, however, that some foreign investors may enter the competition by using Russian “fronts.”

<sup>70</sup> This restriction may have been recently lifted in Lithuania. See the Country Profile for more information.

<sup>71</sup> A French company, for example, has recently bought a 20% stake in a cement plant in Perm, Russia using vouchers.

<sup>72</sup> See the Kazakhstan Country Profile for more information.  
<sup>73</sup> In Russia, for instance, due to the absence of proper Central Bank regulation, some basic provisions of the USSR *GOSBANK* issued in May 1991 were still applied as of March, 1993.

<sup>74</sup> Armenia, however, will lift this requirement for established investors in pre-existing joint ventures or enterprises.

<sup>75</sup> It appears to be difficult to eliminate this notion of a double-exchange rate in the FSU. Even in Russia, for instance, where a single exchange rate regime was adopted in 1992, some investors feared that the Central Bank might seek to revive a double exchange rate as of March 1993.

<sup>76</sup> In the case of Russia, however, this requirement has so far been rarely (if at all) enforced in practice.



## PART IV

# Implementation Issues

### PRIVATIZATION RESULTS

The Republics of the FSU have been struggling to privatize their economies for nearly two years. Their accomplishments in introducing the basic legal and institutional framework for privatization have been substantial. Understandably, the privatization results thus far have been less than the initial

ambitious targets. Significant progress has been achieved in small-scale privatization, however, where over 67,000 enterprises or approximately 15-20% of the total have moved to the private sector (Table 4).<sup>77</sup> The results to date of the privatization programs for more complex medium and large SOEs

<sup>77</sup>This figure includes leases to labor collectives.

**Table 4: PRIVATIZATION TO DATE**

As of March 1993, Except where noted otherwise

	Small Enterprises	Medium Enterprises	Large Enterprises
Armenia	—	—	—
Azerbaijan	—	—	—
Belarus [a]	—	←-----44 medium to large-----→	
Estonia	875	—	7
Georgia [b]	—	—	—
Kazakhstan	←-----6,000 small to large-----→		
Kyrgyzstan [c]	←-----1,866 small to large-----→		
Latvia	1,500	—	—
Lithuania [d]	1,864	←-----1,284 medium to large-----→	
Moldova	—	—	—
Russia [e]	60,000	220	600
Tajikistan	Total of 390 (Size not defined)		
Turkmenistan	—	—	—
Ukraine [f]	1,000	—	—
Uzbekistan [g]	2,000	35	—

[a] Employee-Management Buy-Outs ("EMBOs")

[b] April 93

[c] December 92

[d] February 93

[e] Figures on privatization of small enterprises vary between 50 and 60,000 from one source to another

[f] Leases/EMBOs

[g] Leases/EMBOs

Source: The above data are very rough estimates based on figures reported by each Republic, both official and unofficial. It should be emphasized that the definition of small, medium and large enterprises varies from Republic to Republic and each Republic uses different definitions of the term privatization. These definitions include: (1) sale of all the assets of an SOE; (2) sale of all or part of the shares of a corporatized SOE; (3) majority employee ownership; and (4) leases.



have been less dramatic, though. While some Republics have made progress in implementing their privatization programs, such as Lithuania, Kazakhstan, Kyrgyzstan and Russia, others are still in the process of drafting and developing a general program, as is the case in Armenia, Azerbaijan, Belarus, Moldova and Ukraine. So far, over 77,000 entities of all sizes have been privatized or leased. In addition, voucher schemes have already been implemented in Russia and Lithuania, though it is too early to assess their success. The Country Profile Annex A provides a detailed summary of scope and privatization implementation in each Republic.

All the Republics of the FSU have been influenced by the success or failure of privatization programs in Central and Eastern Europe—more specifically in Poland, Hungary, Germany and the Czech Republic—as well as by the design and implementation of the privatization program in Russia. Speed of implementation in the Republics appears to be closely linked to the following functional factors:

- The government's commitment and willingness to initiate a comprehensive and transparent privatization program and to set up the legal and regulatory frameworks and mechanisms for enforcing contracts;
- The type of approach that is taken, either single or multi-track;
- The methods and techniques that are used in each sector; and
- The availability of expertise and financial support.

Each country possesses a unique microeconomic environment that requires individual attention, and there is no single ideal approach that can be applied as a general model to the entire FSU. A successful privatization program in one Republic might fail in another. In almost all of these countries, a significant number of SOEs have been decapitalized through the build up of non-liquid accounts receivable from other public sector companies and by high leverage. Some of these enterprises might become viable and salable as a result of a financial restructuring of the public enterprise sector.

In general, it is worth noting that the privatization process to date has proven to be intricate and has taken more time than anticipated. The process is made difficult by the near absence of supporting infrastructure for privatization, whether financial, managerial or accounting. In countries such as Russia, Turkmenistan, Armenia and Georgia, a few wealthy domestic individuals have provided equity

capital for particularly attractive enterprises. Other countries have developed financing schemes which provide buyers with the option to pay on an installment plan basis: extending up to 3 years in Kyrgyzstan and 4 years in Armenia. In general, a number of emerging obstacles are undoubtedly contributing to the slow pace of privatization in the Republics including, *inter alia*:

- Underdeveloped financial markets and institutions which are not organized to provide debt financing on a commercial basis;
- Inflation which has eroded the value of domestic savings;
- Short supplies of capital to finance both privatization and private sector development;
- Weak institutional capacity of the governments;
- The virtual non-existence of financial and technical expertise in the areas of commercial practice and market transactions;
- Liability issues (ranging from inter-enterprise arrears to environmental liabilities);
- The absence of a social safety net and labor mobility system; and
- The demonopolization process;

Also, it was indicated that a significant share of credit expansion has been directed towards selected sectors and enterprises. Most of this credit is concentrated on larger enterprises and carries extremely negative interest rates. It is recognized that, to some degree, a certain level of subsidies and credit expansion will have to be offered to the SOE sector in order to make systemic reforms more socially feasible. However, such subsidies must be designed to bolster, not delay the privatization process.

### *Regional Overview*

In the Baltics, the issue of restoring private property rights—restitution—has delayed the overall pace of implementation of the privatization program. Initially, restitution claim deadlines were set in all three Baltic Republics. Estonia and Latvia have, however, both extended their deadlines several times. Most people have been hesitant to purchase or lease a property that may be restored to someone else later. On the other hand, Lithuania has enjoyed the most success in implementing their program because they have kept firmly to their original claim deadline of January 31, 1992. As a result, Lithuania has advanced further in implementing other privatization programs than its two Baltic neighbors. On the other hand, in Lithuania

a temporary moratorium was placed on privatization at the end of 1992 in order to allow authorities to modify auction procedures to address allegations of a lack of transparency. After new regulations were introduced that required closed and registered bids for all auctions, the moratorium was lifted in February 1993.

In Transcaucasia, the implementation phase has started. Real advances have taken place in the housing sector, where apartments have been divested to tenants either through sales or free transfers. In Turkmenistan, lack of interest from either the government or potential participants has prevented the commencement of privatization of state-owned enterprises. In Uzbekistan, in addition to the privatization of urban housing, some land has been leased to farmers and about 2,000 retail and service units were leased out or sold to labor collectives. Kazakhstan, Kyrgyzstan, and Uzbekistan are the only Central Asian Republics that have made progress towards enterprise reform and privatization. Kazakhstan had privatized more than 6000 entities, and Kyrgyzstan more than 1800 entities.

Privatization in Russia has also reached the implementation phase, and the achievements of less than a year are already noteworthy. In view of the decentralized approach to small scale privatization in Russia and the vast territory involved, obtaining reliable and accurate data has proven difficult. However, the data that are available suggest that about 50 - 60,000 small entities have been privatized, representing over 30% of the estimated total number of small entities, and the number is growing rapidly. The GKI has reported that, as of April 1993, in the retailing, catering and services sectors only, over 50% of small entities were privatized (46,000) out of an estimated 90,000 entities. The pace of implementation of small-privatization in Russia varied greatly from region to region, however. While some cities have auctioned off more than 60% of their small enterprise sector, other regions have barely begun the process. Nizhni Novgorod, Russia's third largest city, began auctioning shops as early as April 1992.

By mid-March 1993, voucher distribution throughout Russia was completed and 150 million people had received their 10,000 Ruble privatization vouchers. Consequently, some 220 voucher auctions have been held, thereby accelerating Russia's mass-privatization program. In addition, 2,500 of the largest SOEs—50% of the total—have been corporatized into joint-stock companies and approximately 600 of them are essentially

privatized, with 51% of their shares transferred to employees and managers.

### **TARGETS AND PRIORITIES**

The privatization programs adopted across the FSU broadly define the process and methods of privatization, the list of targets and priorities, and the list of excluded categories. In most cases, enterprises or facilities related to defense/security concerns, water and forestry resources, cultural and historical heritage, certain public utilities, and hospital and education institutions are excluded. Nearly everything else is eligible to be privatized.

There are significant differences among these plans and their actual stages of implementation. Some of the plans are broader in scope than others, but most have been ambitious, ranging from the objective of privatizing 35-40% of all fixed assets by the end of 1992 in Kyrgyzstan, to 40% of SOEs by 1994 in Moldova and 750 SOEs by 1993 in Georgia, to the corporatization of over 6,000 large enterprises by November 1, 1992 in Russia. In most cases, officials were aware that these targets would be difficult to achieve but felt that they needed ambitious targets to build momentum and to render the reform process irreversible.

As implementation programs were launched, many deadlines had to be revised to more realistic dates. Kyrgyzstan, for instance, moved its deadline for privatizing 35% of the state's property to the end of 1993. In Russia, only 25% of the target number of large SOEs had been transformed into joint-stock companies by the original November deadline. These experiences reaffirm the assertion that some initial experience with privatization is needed in order to fix achievable targets and to define attainable priorities.

As indicated in Chapter III, during 1992 the priority for most Republics of the FSU was to develop a comprehensive legal and institutional framework to oversee the privatization process. This was to be followed by corporatization of the SOEs. Turkmenistan and Ukraine have yet to complete suitable frameworks. Their priority is therefore to finalize this primary stage before beginning the implementation phase. The other Republics have advanced to the stage of setting implementation priorities and targets, selecting sectors and enterprises to be privatized, and—in some Republics—transactions have even taken place.

In terms of adopting an overall approach, the Republics appear to prefer a multi-track strategy

that gives precedence to the small-scale privatization program, targeting small retail, trade and service shops that can be rapidly privatized. The main objective of these privatizations is to promote the emergence of the infrastructure for a market economy. The divestment of small organizations is also simpler and does not require the same degree of centralized regulation as does the privatization of larger SOEs. This fact provides a partial explanation for the rapid privatization of over 65,000 small enterprises in Russia, Estonia, Lithuania, Latvia, and Ukraine.

The paths chosen by the Republics tend to diverge after small-scale privatization has taken place. Armenia, Azerbaijan, and Turkmenistan plan to extend privatization in phases to medium and eventually to large SOEs. Russia, Georgia, Kazakhstan and Lithuania are opting for more rapid mass-privatization schemes. One reason for choosing a more rapid approach is to curtail the wild privatization<sup>78</sup> that often occurs when the privatization program is viewed as moving too slowly and when the state is unable to exercise its ownership rights.

In countries such as Estonia, the privatization program was developed over time in a piece-meal fashion. First, a restitution process was launched, and then legislation was passed in December 1990 that permitted privatization of small enterprises. This was followed by a pilot program that extended to the sale of seven larger enterprises. Recently, legislation was drafted which would enable the privatization of housing stock and some shares of larger enterprises through vouchers. The Baltic states, in general, have aimed at minimizing the number of SOEs through restitution, thereby facilitating privatization.

Another objective set by some of the Republics is to amass public support during the early stages of privatization. Considering the social hardships that accompany privatization, including unemployment, inflation, drops in subsidies, etc., popular support is an essential ingredient for a successful program. To this end, Russia, has initiated several pilot demonstration auctions of more prosperous SOEs.<sup>79</sup> Similarly, Latvia has identified 25 SOEs for its demonstration privatization agenda.

A final target for privatization that is common to all the Republics of the FSU is land and housing. While every Republic, with the exception of Azerbaijan and Belarus, has targeted residential dwellings for transfer to the private sector, land privatization does not seem to enjoy an equally high priority. In fact, Kazakhstan and Belarus have no

short term plan to privatize even state land. The Baltic Republics have adopted land use rights, where land is inheritable but not tradable. Georgia however, has taken the initiative in land reforms and plans to privatize 70-75% of its land by the end of 1993. So far over 55% has been privatized. Moldova, however, has agreed to privatize land but over a number of years, a process scheduled to be completed in 2001. In Russia, the Constitution does not permit private land ownership. The most common form of disposing of land in the other Republics is through negotiated leases.

### METHODS AND STRATEGIES

The privatization programs that have been developed across the FSU Republics incorporate all the traditional methods of privatization. The principal privatization approach to emerge so far in most of the FSU countries relies on a balanced use of "top down" and "bottom up" approaches.

In general, most Republics have adopted a "top down" approach to setting rules and establishing an approval process, while adopting a "bottom up" approach that allows the enterprises themselves to put together their privatization plans and to implement the transactions. With regard to medium and large scale enterprises, Russia has opted for the "bottom up" approach for enterprise proposals while setting the rules of the game at the central authority, or from the top down. In small scale privatizations, both rules and program initiatives have largely been delegated to local authorities, leaving the enterprises and central authorities with a notably passive role. Exceptions to this balance of "top down" and "bottom up" approaches have occurred in Kazakhstan, where a predominantly "top down" approach seems to have prevailed. In Lithuania, the "top down" approach appears to have been successful in promoting rapid implementation in cases of small privatization.

As for larger enterprises, the "top-down" approach has been, so far, limited to a few transactions

<sup>78</sup> Wild privatization refers here to the early stages of spontaneous privatization which are commonly regarded as detrimental to the enterprises that are affected. It indicates that various actions have been taken by vested interest groups, especially managers, to either strip the assets or otherwise obtain ownership through non-legal means.

<sup>79</sup> The Bolshevik Biscuit Factory was privatized through the voucher/auction scheme on December 9, 1992. It was the first large SOE to test popular share holding in Russia. It was chosen due to its profitability and brand recognition.

where either hard currency earnings or demonstration effects have been sought. In light of the relatively slow progress achieved in large privatizations relying on initiatives from outside buyers—or, more typically, enterprise employees—some FSU Republics, such as Kazakhstan and Kyrgyzstan, are considering more centralized state initiatives in the future. It is clear that, regardless of the approach, there is a need for transparent rules and regulations governing the process.

In countries where a mass privatization strategy has been implemented or is contemplated for medium to large SOEs, a combination of “top-down” and “bottom-up” approaches appears to be preferred. As is the case in Russia, individual privatization plans can then be prepared by the enterprises themselves under close state guidance within a limited time frame. Moldova appears to be the only FSU Republic that is considering a pure “top-down” mass privatization scheme with virtually no participation from non-state bodies. In designing a successful mass privatization program, both the number of enterprises subject to it and the desired speed of implementation should be considered in order to strike a necessary balance between enterprise initiatives and state control.

**Small-scale privatization:** The most common method for privatizing small SOEs is through sale at auctions. Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Estonia, Georgia and Russia have chosen some type of organized bidding process as the primary method of divesting the small enterprise sector. The majority have opted for cash auctions, but some allow the use of other instruments as well.<sup>80</sup> This decentralized method is highly efficient and provides capital for the local selling governmental agency. Some other widely-used methods for privatizing small enterprises among the FSU Republics include divestment by competitive bidding, tender offers, or leasing.

Although most of the FSU Republics have leased a portion of state property to the private sector—some with option to buy—the use of leases predominates in the Republics with the more conservative privatization programs. Nearly all of the leases have been made to employees and labor collectives. The process of tender offers or competitive bidding is more cumbersome and time consuming than other methods, particularly when based on the most attractive social and economic offer,<sup>81</sup> as well as on price. In addition, potential investors may become discouraged when the restrictions imposed are not compatible with profit

maximization. For example, new owners may be required to continue existing operations for a number of years as opposed to immediately converting to a more profitable business. In Kyrgyzstan, for example, the evaluation of tender offers that are based on restrictive social and economic plans has slowed the pace of privatization.

**Large-scale privatization:** The privatization of medium and large SOEs has presented a greater challenge to the FSU Republics. The common approach has been to corporatize the large enterprises into joint stock companies. Thereafter, the decision remains as to whether to dispose of these enterprises case-by-case (commercial privatization) or *en masse* (voucher privatization) to the general public. The commercial privatization approach can consist of competitive sales of shares, either by auction or by tender, to strategic investors or employee-management buy-outs. The traditional advantage of commercial privatization is that it provides better corporate governance through ownership concentration and that it raises capital for the government. Its drawbacks are that: 1) it can be a slow process, since firms are sold on a case-by-case basis; and 2) it targets a limited number of investors and excludes the general population. Russia has adopted an innovative blend of mass privatization with case-by-case auctions that are organized rapidly with minimal enterprise preparation. In most Republics, larger SOEs are generally privatized case-by-case due to the extensive pre-sale preparation that they require.

**Mass Privatization:** Mass-privatization schemes are also being widely adopted in order to speed up the process of divestment and to promote widespread participation through distribution of vouchers to the population. Russia, Ukraine, Latvia, Lithuania and Georgia have all devised some form of voucher scheme<sup>82</sup> in their mass-privatization programs. To date, Russia and Lithuania are the only Republics to have made real advances in implementing their voucher programs. There are certain important distinctions between the two strategies, however. First, the Russian vouchers all have identical face values of 10,000 rubles while

<sup>80</sup> In Kazakhstan, unused housing vouchers can also be employed at auctions. In Lithuania enterprises are auctioned off for vouchers plus a cash quota.

<sup>81</sup> These include provisions such as maintaining the same business for a given number of years or limiting the number of layoffs.

<sup>82</sup> Different Republics may call them privatization accounts, certificates, points, or vouchers.

Lithuanian vouchers have face values based on citizens' age brackets. Secondly, Russian vouchers are fully tradable for cash or other assets while Lithuanian vouchers are not.<sup>83</sup> Finally, Russia has gone through the lengthy and expensive process of printing and distributing its vouchers in a physical format while Lithuania simply credits the individual's savings account with the value of the voucher.

In addition, Russia and Lithuania have different auction mechanisms for acquiring shares in large SOEs. In Russia, all bids are made through the use of vouchers (Box 3-2 above), while in Lithuanian auctions, bidders must use a combination of vouchers *and* a cash quota to bid for shares. Kazakhstan is opting for a slightly different method of mass-privatization: shares of medium and large SOEs will be given to investment funds and the public will be given certain Privatization Investment Coupons to invest in them.

In designing a method to incorporate vouchers in a mass-privatization scheme, a number of factors were considered, including: the number of SOEs to be privatized using vouchers; the percentage of total shares to be offered through vouchers; the strength of the banking system; the rate of inflation; and especially the level of public support. These and other factors were used to determine: 1) whether to have vouchers with or without face value; 2) whether or not to make vouchers tradable; and 3) how to distribute the vouchers, whether in a physical form or through savings accounts. The designers were also concerned that vouchers would be part of a broader program of creating effective and

equitable ownership, and therefore gave priority to the following criteria:

- Administrative simplicity
- Speed and security of distribution
- Making shares of enterprises available for bidding as soon as distribution of vouchers is complete
- Widespread public acceptance

Russia has also emphasized the use of investment funds to act as financial intermediaries, but has chosen a *laissez-faire* approach to their development. By March 1993, 300 funds have emerged and registered with the state. Investment funds can be an effective way to concentrate ownership and provide effective governance of enterprises. These funds also reduce the risk exposure of individual investors through diversification.

**Spontaneous Privatization:** Wide-spread spontaneous privatization was encouraged in a number of countries by continued ambiguity of ownership—resulting in multiple claimants of SOEs—and a lack of effective control over the SOEs. Spontaneous privatization, the illegal transferring of SOEs to the private sector, is often initiated by employees. In Ukraine, due to the lack of control exerted on SOEs by the line ministries, spontaneous privatization developed quickly and was concentrated primarily in the small and medium sized SOEs. In Russia, spontaneous privatization ini-

<sup>83</sup> The only exception to this rule is that when people have outstanding housing loans, they can sell their vouchers at government-run auctions and use the proceeds to pay off their debt.

#### Box 4-1: The Russian Voucher Scheme

The Russian voucher scheme has certain unique characteristics that make it distinctive from the Czechoslovakian or Lithuanian models. Russian vouchers take the form of actual paper certificates and are uniformly issued in 10,000 ruble denominations. They are made in bearer form, thereby making them transferable. Unlike other voucher schemes, every Russian citizen, regardless of age or years in employment, is to receive one voucher with the *same* nominal value. Citizens pay a 25 ruble fee which reflects administration and distribution costs. The tradable nature of these vouchers has resulted in the formation of secondary markets where vouchers are actively traded for cash.

The main function of vouchers, as intended by the government, is to bid for shares of medium to large SOEs in the auction process. All bidders must specify the number of vouchers they plan to invest. Thereafter, they have a choice whether to: 1) limit their bids by stating a maximum price or the minimum number of shares they are willing to accept per voucher; or 2) leave an open bid based simply on the number of vouchers submitted. The privatization agency will then establish a floor price by dividing the face value of the vouchers tendered by open bids by the total number of shares available. All bids which fall below this floor are discarded. The final price per share is calculated by taking a weighted average of the number of bids at the floor price and those specified bids that fell above the floor price.

tially took the form of managers or workers simply diverting the profits from the enterprises. In 1991-92, spontaneous privatization has resulted in the transfer of state assets to new private firms and cooperatives in the form of leasing or buying state assets at negligible prices. To stem this widespread stripping of state assets, many Republics adopted the ambitious and aggressive privatization programs noted above.

### **VALUATION**

Valuation of enterprises and assets has not played a critical role so far in the privatization process of the Republics of the FSU. This reflects a lack of accounting rules and capability, high levels of inflation, and the inability to forecast future cash flows with any degree of accuracy. In addition, most privatizations that have taken place so far have transferred ownership primarily to citizens. Therefore, the Republics have been more concerned with equitable redistribution of state assets to the public, rather than raising capital through sales to investors. In the future, it is expected that valuation will become a more important issue as the involvement of foreign investors grows.

Thus far, the trend seems to indicate that historical book value is the main tool used to establish a minimum floor price, and the final valuation is market based to the extent that it is based on a competitive bidding process. The Russian auction program is an example of this approach to the valuation and pricing of enterprises and assets. Russia has been using the SOEs' book value to establish initial values for both asset prices of small enterprises and share prices for joint-stock companies. The book value of assets is calculated by

subtracting accumulated depreciation from the initial balance sheet value of the asset. This "residual value" is then used as a minimum bid price in the auction process.<sup>84</sup> In view of rapid inflation, this residual value is very low and has not been an impediment to sales. Often, the final value has been several times higher than the starting price. In the small privatization programs of cities such as Nizhni Novgorod, the right to lease a business is auctioned and the winning bidder is then able to purchase the assets and inventories at book value. With regard to large corporatized enterprises, the book value of capital is calculated by subtracting liabilities from assets, and a nominal share price is established. The final share price however, is demand-dependent, reflected by the number of vouchers remitted at voucher auctions (see Box 4-1, above: Russian Voucher Scheme).

Similarly, in Kazakhstan, the small scale program calls for open auctions where the public can bid for the right to lease the business. The winner then is able to purchase the assets of the business at book value. Therefore, even though the physical business may be sold for a nominal price, the premium received for the leasing rights will reflect the total market value. A few other republics, such as Georgia, Kyrgyzstan and Moldova, have developed laws and regulations covering valuation principles. Turkmenistan has applied a version of the Russian asset valuation model. In Uzbekistan, there are six different governmental departments and employee groups involved in the valuation process that contribute to the slow pace of privatization in the country.

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<sup>84</sup> In cases where the residual value equals zero, a practical opening bid price is determined.



## PART V

# Concluding Observations

Privatization has never been easy to implement, even in developed market economies such as those of Great Britain and Canada. The total number of SOEs that were privatized worldwide between 1980 and 1991 amounted to 6,832 enterprises,<sup>85</sup> and the Republics of the FSU seek to privatize over 85,000 medium to large SOEs within a relatively short period of time. An ambitious and unprecedented process in scale, the long-term sustainability of privatization plays a vital role in the economic transformation of the FSU. Maintaining high and growing levels of public support over an extended period of time is thus a key to the success of the privatization programs. It is also important to continue to promote foreign participation in light of the lack of domestic capital and market know-how. The examination of the overall policy and supporting framework for privatization in the FSU suggests that there may be a number of important issues in this regard that merit priority attention in the future.

First of all, most FSU Republics can diminish the ambiguity surrounding the exact legal parameters of ownership by clarifying the juridical nature of state-owned enterprises and the status of property interests in enterprise assets. Corporatization steps prior to or in connection with privatization need to be taken with legal mechanisms necessary to ensure the accountability of enterprise managers in place. This might then be followed by proper enforcement of accounting and auditing rules in practice in order to prevent any devolution of state ownership interest. Also, decentralization of state ownership does not appear to be accompanied by adequate functional and organic oversight by the center over local authorities in many Republics. The issue of building a sound judicial system to prevent abusive post-privatization state interference needs to be examined in more detail.

In the process of building a sound legal and institutional framework, there is a need to follow up on the basic enabling privatization legislation in a majority of the FSU Republics through appropriate companion or subordinate legislation. In particular, the implementation of mass privatization programs is likely to require a substantial amount of legislative work, even though all the detailed regulations related to the program do not need to be announced in advance and at once. A centralized institutional structure may be important to prevent confusion and delays associated with participation by multiple state authorities in the implementation process, but sufficient political and financial support may then need to be mobilized behind such institutions.

In light of the extent of share allocation to employees, the development of an organized secondary market where these share can eventually be transferred is important in order to facilitate ownership concentration in the future. More immediately, a number of Republics may need to ensure that employee benefits that are granted do not exceed what is intended by law. Also, the legal relationships between the collective ownership interest and that of the individual member need to be clarified.

Finally, if foreign investors are to play a more active role in the future, the FSU Republics need to promulgate clear regulations related to hard currency transactions and any special exchange rate rules in connection with privatization. Additionally, basic legal protections of foreign investors' property interests could be further strengthened by introducing credible dispute resolution mechanisms and fair compensation rules.

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<sup>85</sup> See Kikeri, Nellis, Shirley, *Privatization: the Lessons of Experience*, 1992, p.22.



*Annex A*  
**Country Profiles**



# ARMENIA

## *Legal and Institutional Overview*

In July 1992, the Law on Privatization and Denationalization was adopted by the Armenian Supreme Soviet, laying down the legal and institutional foundations for privatization. This law applies to all SOEs, including those small enterprises not yet sold under the Presidential decree of June 1991, state property in cooperatives and joint enterprises, and unfinished construction objects (Art. 1). "Objects of national wealth and of cultural and historical value" remain outside its scope. Relations concerning the privatization of land are governed by the Land Reform Law enacted in February 1991. Housing resources are also to be addressed later in a separate legislative act.

The 1992 law on privatization calls for the establishment of a Special Joint Privatization Commission of parliament and government to provide strategic guidance and to oversee the implementation process (Art. 23). A detailed outline of the specific tasks to be accomplished during a given period is to be presented in the annual Program. This Program, prepared first by the government under Art. 22 and then endorsed by the joint Commission under Art. 23, must be approved by the Supreme Soviet before taking effect under Art. 5. Local authorities adopt their own programs on the basis of the above Program for local property.

It is important to note, however, that the division of property between the central and local authorities has not yet been resolved. The actual task of selling SOEs, including the valuation process, is to be carried out by the State Board for Privatization, also known as the Administration for Privatization and Disposal of State Property, which is to enter into privatization transactions as the legal seller (Art. 25). The distribution of functions and the relationship between the Commission and the Board has not yet been articulated. Armenia's relatively complex arrangement for policy formulation and implementation poses the risk of potential bureaucratic bottlenecks. With the current draft Program for 1992-93 still awaiting the Commission's clearance, it is hard to predict when the implementation process will begin in earnest.

The right to initiate privatization is given to governmental bodies, employees—individually or

collectively—and any potential buyers (Art. 29). Eligible buyers are broadly defined to include individual citizens and groups thereof, foreign investors, and "existing enterprises without state participation" with no exact definition given. Applications related to the small privatization program, as discussed below, are to be processed separately by the Board. The others are to be submitted to the appropriate national or a local government. Enterprises which are approved for privatization will be "prepared" by the relevant Ministries and Departments as prescribed in the Program (Art. 30).

## *Major Privatization Schemes*

### *Commercial and Industrial Enterprises*

- A. The 1992 Law on Privatization supports various methods of privatization, ranging from outright sales, such as worker buy-outs or auctions, to such "denationalization" techniques as management contracts. It also stipulates that certain enterprises should be identified in the Program as: 1) subject to compulsory privatization; 2) privatized through an agreement with workers only; 3) amenable for partial or full sales of shares; or 4) requiring international bidding (Art. 5).
- B. **Small Privatization:** The draft Program calls for privatizing some 350 small units (up to 25 employees) in the catering and retail services. Under Article 33 of the 1992 Law on Privatization, the labor collective of such an enterprise will have the exclusive right to submit a proposal to buy the enterprise within 20 days after the public announcement of sale. If the enterprise is not to be sold to them, an open auction and contest will be carried out.
- C. **Mass Privatization:** The draft Program contemplates transforming large SOEs into joint stock companies and partially privatizing them—tentatively up to 30% of the total asset value—through a voucher system. Detailed eligibility criteria and distribution mechanisms have not been issued yet. Similarly, policy decisions regarding the face value of vouchers, their usage, trading rules, and the role of investment funds are still pending.

*Housing/Land*

- A. **Housing:** A law on privatization of state housing was passed in 1989, but a new privatization program to rapidly transfer housing to the current occupants is underway.
- B. **Land:** Agricultural land is to be granted for free. However, these grants are for limited purposes only—either for operating peasant and collective farms or for constructing residential buildings. The current Land Law also restricts ownership of other buyers of land: 1) conversion of agricultural land to other uses is strictly controlled; and 2) the owner must wait 3 years after paying off the total cost of the land before he or she can sell it.

*Scope and Implementation*

Armenia is about to launch a program to privatize the Republic's 10,000 small and 700 large state owned enterprises. Over 600 of the large firms belong to the industrial sector, which employed about 20% of the work force as of 1991.

Although no time table has been fixed, the government priority is to start off with small-scale privatization. Specifically, the short-term target is to privatize about 350 small firms in the retail and catering business. This is to be followed by privatizing unfinished construction sites, transport enterprises, and small to medium sized firms in the agro- and light industry. Large SOEs will be more difficult to privatize since they employ an average of about 445 employees. The proposed plan is to introduce a voucher scheme, though details remain to be worked out. The first step would be to corporatize the large enterprises into joint-stock companies.

So far, implementation has been impeded by the delayed approval of the draft program. Since the privatization program has not yet been approved by the parliament, the government has devised other ways to withdraw progressively from economic activity and is using leasing extensively.

The only area of major progress has been land reform, where Armenia claims to have privatized approximately 90% of its agricultural land to date.

# AZERBAIJAN

## *Legal and Institutional Overview*

In January 1993, the Law on Destatization and Privatization was adopted by the parliament. This legislation calls for the corporatization, commercialization, and privatization of all enterprises except defense/security complexes, health services, cultural monuments, and the state monopoly sectors. Housing and agricultural privatization are to be addressed in separate laws, while new land reform legislation is under preparation. Additionally, a Presidential decree on commercializing retail trade organizations and public kitchens through segmentation exists, dating from August 1, 1992. Breaking up these service units and establishing them as separate juridical persons with a charter that specifies state ownership rights will prepare them for future privatization transactions.

Under Article 3 of the law on privatization, the State Property Committee ("SPC"), which reports to the President, is authorized to own and manage state property as well as to develop and implement the annually-set State Privatization Program. Subject to parliamentary approval, the Program will contain, *inter alia*, principles of property division into national and regional objects and specific lists of SOEs that are subject to or outside of the Program. Given Azerbaijan's relatively slow start so far, it is hard to predict when this Program will be enacted or when all the regulatory gaps will be filled. Similarly, it remains to be seen how the authority of the SPC will be exercised in the future, particularly over regional property or "objects" in existing free economic zones.

The initiative for individual privatization transactions may belong to labor collectives, governmental bodies (including the SPC itself), or private buyers, whether foreign or domestic (Art. 7). Eligible buyers include citizens, domestic juridical persons of which state ownership does not exceed 25%, and foreign investors, either juridical or physical (Art. 5). The SPC will act on national property and its local counterpart will act on regional property, but "in consideration of" the labor collective. Upon the SPC's approval of the privatization of a particular SOE, an enterprise-level committee will then be formed—consisting of representatives from the SPC, labor collective, trade unions, financial institutions and local government—to undertake

valuation and to recommend detailed terms of ownership transfer to the SPC for final approval.

## *Major Privatization Schemes*

### *Commercial/Industrial Enterprises*

- A. The basic privatization law broadly outlines a case-by-case approach. The annual Program will contain a multi-track approach, taking into account the different sizes of SOEs. In particular, the details of small scale privatization will soon be finalized. Among the possible methods of privatization are leasing; sale to the labor collective with a provision for dividing the property into shares held by the individual workers; transfer of assets into a joint stock company enabling the SPC to distribute its shares to the collective and other citizens; and sales by tender or auction.
- B. There is likely to be no mass privatization in the near future, as the Azeri voucher system, initially known as the "Special Means of Payment," has recently been rejected by the parliament and alternative proposals are at still an early stage.

## *Scope and Implementation*

The Azeri industrial sector accounted for 54% of net material product and about one fifth of total employment in 1991. There are a total of 3,717 SOEs in this sector, with an average of about 107 employees per enterprise. There is no data available on the number of small firms in Azerbaijan. Due to the adverse impact of the regional conflict on Azerbaijan's economy, the pace of privatization has been very slow. The law on privatization was not adopted until January 1993, for example. As a result, the government has yet to formulate a suitable general strategy for enterprise reform, but small privatization is now receiving serious government attention.

The case-by-case method of privatization has proven to be painfully slow. Therefore it will be some time before government control is lifted from the SOEs. In the interim, emphasis will be given to restructuring and improving operations. Privatization programs for the land and housing sectors are pending appropriate legislation, expected sometime in 1993.

# BELARUS

## *Legal and Institutional Overview*

In early 1993, the basic law on privatization was passed by parliament. The companion law on privatization vouchers, however, is still being debated. Similarly, a land reform law is under consideration. Privatization that began under the authority of a temporary decree issued in 1991 has been suspended since October 1992. Gaps in the legal framework pose a major obstacle to progress.

Thus far, the Committee of State Property ("CSP"), part of the executive branch, has had central responsibility for designing and managing the privatization program for national property, while local Soviets have been left in charge of communal property. In practice, the CSP has relied on local authorities to carry out the privatization of national property on location. This institutional arrangement is largely preserved in the new law.

Those eligible to participate in privatization include citizens, juridical persons with more than 75% of authorized capital formed from the deposits of natural persons, and foreign investors (Art. 4). However, nearly all the privatization applications that have been processed have been submitted by worker collectives for buy-outs. In the past, an application of this type would be submitted to the CSP. In the event of approval, a privatization commission consisting of seven to nine representatives from ministries and state banks, as well as an accountant or economist working for the enterprise, would be appointed to value the enterprise. If agreement was reached with the collective, a contract stipulating the terms of payment and any obligations of the new owners would be prepared and signed. By the terms of the privatization law, the SPC itself initiates privatization transactions, though an implicit preference for worker buy-outs appears to remain in place.

## *Major Privatization Schemes*

### *Commercial and Industrial Enterprises*

A. While the new law includes methods of valuation and other procedures that are appropriate for medium to large SOEs, no separate strategy for rapid small scale privatization—such as sale by auctions—is discussed. However, the government is hoping that a fast-track small

privatization program can be launched by June, 1993, either under the CSP's authority or through separate legislation in the near future.

- B. **Privatization of Medium-Sized SOEs:** Identified as enterprises with between 200 and 1,000 employees, these mid-size SOEs are to be privatized principally on a case-by-case basis. About half of them have been already identified and approved for leasing and buy-outs.
- C. **Large-Scale Privatization:** So far, the government has opted for a case-by-case approach that is considered to be appropriate in light of the large size of Belarussian enterprises. The average number of employees per enterprise in Belarus is about 1,017—compared to the 592 employee average in the FSU as a whole.
- D. **Mass Privatization:** In the future, the government is hoping to introduce a voucher scheme which will include the housing and land stock in addition to enterprises. However, it is now facing serious parliamentary opposition.

### *Housing/Land*

- A. **Housing:** There is no specific program for the privatization of housing. However, if the voucher program is established, citizens will be allowed to purchase their dwellings through the use of vouchers.
- B. **Land:** So far, land and real estate cannot be purchased but have been leased to the new owners. The draft mass privatization program, if enacted, could change this situation. In rural areas, the collective land ownership of the Soviet era remains the dominant form of ownership, applying to 90% of the land, though the government hopes to lift restrictions on private farm holdings. Recently, however, parliament has rejected legislation on private land ownership.

### *Scope and Implementation*

Belarus contains 220 large (1,000 or more workers) and 400 medium (200-1,000 workers) SOEs. The government initially aimed at: 1) restructuring 139 of the large entities and corporatizing them into joint-stock companies; and 2) privatizing 157

of the medium-sized enterprises in 1993. Although there is no accurate figure available on the number of small SOEs, 889 municipal enterprises were also targeted for priority privatization. It is doubtful whether these targets will be met this year, given the slow pace of completing the legal and institutional framework and the government's cautious approach.

Prior to the suspension of privatization activi-

ties, 44 medium and large industrial SOEs were privatized through employee-management buy-outs ("EMBOs"). This method underscores the preference given to labor collectives, who have purchased their enterprises at low prices. EMBOs, along with leases, will probably continue to be dominant techniques of privatization unless a voucher system is adopted.

# ESTONIA

## *Legal and Institutional Overview*

The privatization framework in Estonia has been built over time through a combination of various laws, starting with the Property Law in June 1990. In December 1990, small-scale privatization was introduced with the Law on Privatization of State-Owned Service, Retail Trade and Public Catering Services, subsequently amended in May 1992. In June of 1991, the Law on Property Reform was enacted, listing the most comprehensive principles of ownership reform in Estonia, including restitution rights in all forms of property, such as housing, enterprises, and land. Privatization of large SOEs began on an experimental basis under the Implementing Resolution of the 1990 law on small privatization. The August 1992 Supreme Council Resolution "On Enacting Conditions and Procedures for the Privatization of State and Municipal Property" permitted further sales of 30 large enterprises, which are defined as exceeding 600,000 *kroon* in value. A more comprehensive Privatization Act is currently being drafted, with the aim of tying existing legislation together and of presenting a systematic program for all large enterprises, including a voucher scheme. Privatization of land and housing resources are addressed separately, through the 1991 Land Law and the 1992 Law "On the Privatization of State and Municipal Housing."

The institutional structure appears to be in a transitional stage. In the past, the Ministry of Economy ("MOE"), which included a deputy ministry of ownership reform, played a key role along with the Department of State Property ("DSP"). The DSP has been serving as the primary implementation and monitoring agency, particularly with regard to small privatization. Recently, under the rubric of the new 1992 Resolution, the Estonian Privatization Agency ("EPA") was also established to manage assets and negotiate transactions for large SOEs. A Minister of Reform has been established to coordinate all aspects of the privatization process—land, housing, and enterprises. In the near future, the DSP and EPA may be merged, though their specialized functions may survive in substance. The DSP, EPA, and the Minister of Reform report to the Cabinet, which makes overall policy decisions.

The selection process for small privatization begins with proposals submitted to the DSP by the municipality where the property is located or by ministries or departments. The list of enterprises to be privatized must be approved by the Estonian government, but municipalities are in charge of conducting actual sales. The eligible buyers in the transactions are limited to the residents of Estonia who are over 18 years old and meet the 10-year residency requirement and other juridical specifications. For large SOEs covered under the 1992 Resolution, the DSP selects individual enterprises for privatization at the suggestion of either local governmental bodies "of property location" or the ministry in charge of the SOE (Art. 9). Once a particular enterprise is selected, the EPA prepares it for the transaction and looks for potential buyers, which may include foreign investors.

## *Major Privatization Schemes*

### *Commercial and Industrial Enterprises*

- A. **Small Privatization:** The first phase of this program began in 1990 with the trade and services sector. The selected enterprises were sold by municipalities to residents only, through a variety of methods, including auction, share sales, and business plan competitions. About 80% of these transactions went to workers and managers who were given certain preferential rights. Since the May 1992 amendment, small privatization now encompasses all other SOEs valued at less than 600,000 *kroon* that are not subject to restitution claims. The second phase of the program imposes no residency requirement and takes place only through a public bidding process for physical assets or shares in ongoing SOEs. Employees will be preferred only if they offer the highest auction price.
- B. **Large Privatization:** The pilot program conducted under the authority of the 1990 law required a case-by-case analysis subject to parliamentary approval. Under the 1992 Resolution, the EPA plans to sell a selected group of SOEs through competition, where offers would include price plus other employment and investment plans.

**C. Mass Privatization:** A voucher scheme has been under serious discussion for some time, but the specifics are still being resolved. In addition to privatizing medium-to-large SOEs through exchanges of vouchers for shares, the program may also include compensation vouchers for restitution claims. Certain regions have already begun distribution of vouchers, which will initially be used to privatize the housing sector. The percentage of enterprises shares subject to sale through vouchers has not yet been determined. In the case of large SOEs that have already been privatized, 20% of total shares are reserved for the general public.

### *Housing/Land*

**A. Housing:** Vouchers will be used to privatize public housing stocks, as mentioned above. Residents receive housing vouchers that reflect the value of certain housing space based on their employment record. Local authorities are in charge of establishing the *kroon* value of the vouchers and distributing them in their districts. Some regions have already initiated this process. There are many issues left unresolved, however, such as whether to include unused housing vouchers in the enterprise privatization program. Also, it is estimated that about one-fifth of the total housing sector may be subject to restitution claims.

**B. Land:** In both small and large privatization transactions as of March, 1993, land has not been for sale, though this is likely to change in the near future. Instead, long-term leases have been arranged with buyers. In the agricultural sector as early as 1989, reforms to re-establish private ownership were initiated by granting permanent use rights for farming. The new

Land Law expanded ownership rights for individuals but not groups, though some restrictions on resales remain. Over 10% of arable land has been transformed to private hands in this manner. Note that restitution claims have been mired in complex administrative procedures.

### *Scope and Implementation*

There are approximately 3,500 small and 256 large industrial SOEs in Estonia. The privatization program in Estonia adopts a multi-track strategy, where different methods of privatization will be applied to small and large enterprises. The institutional framework is in the final stages of completion and implementation has already begun. To date, about 25% of the small businesses—mainly in trade, catering and the service sector—have been privatized, 80% of which have been sold to employees and management. Seven large SOEs have also been sold to joint stock companies formed by employees and managers (see Box 6-1 for a list of these companies). The slow case-by-case process coupled with the issue of restitution have been major impediments to the privatization process. To date, over 200,000 restitution claims for property have been received but only 0.5% of these claims have been resolved.

The government, with assistance from the Treuhandanstalt, is planning to stage demonstration privatizations, consisting of 38 large SOEs employing some 26,000 persons. The method to be used will be international competitive bidding on the basis of the criteria described above. Tender offers were solicited in major international newspapers in mid-November. Presently, the 103 bids that were received are being evaluated and selection should be completed by March 1993.

#### **Box 6-1**

<b>Name of Company</b>	<b>Type of Business</b>
1. Baltika	clothing
2. Talleks	excavators, machinery
3. Sami	construction
4. Voit	clothing, underwear
5. Tallin	taxi company
6. Valga ATB	transport
7. Mareta	textiles

# GEORGIA

## *Legal and Institutional Overview*

The August 9, 1991 Law on Privatization of State Enterprises establishes basic principles and conditions for privatization in Georgia. The primary subordinate legislation includes various decrees promulgated by the government on auctions, competition, and corporatization. The lists of those sectors either prohibited from privatization or subject to privatization, as well as the priorities and targets, are to be published annually in the State Program of Privatization. Separate legislative acts govern housing and land privatization programs.

Under Article 4 of the 1991 privatization law, the leading institution in charge of policy formulation and implementation is the State Property Management Committee ("SPM"), a part of the executive branch. It carries out a unified policy of privatization throughout the Republic through its local branches and the corresponding management bodies of the two autonomous territories. The SPM prepares the State Privatization Program, which is first submitted to the government and then certified by the Supreme Council. Under the 1992-93 Privatization Program, it is now also the official seller of SOEs, replacing the State Property Fund in this role. Prior to actual privatization, SOEs remain under the supervision of respective sectoral Ministries.

In organizing and controlling the implementation process, SPM considers proposals initiated by the ministries, local/municipal authorities, public organizations, employee associations that represent a majority of enterprises' workforces, and other possible buyers—the list of which includes citizens, foreign investors, juridical or natural, and domestic juridical persons with a state-owned share of capital not exceeding 25%. On September 21, 1992 the government issued a decree that transfers ownership of a number of large enterprises to be privatized to the line ministries. As a result, the SPM must now obtain relevant ministerial approval to privatize those enterprises. Privatization commissions will be set up to review individual privatizations. The commissions will be headed by a member of the SPM and will also be comprised of representatives from line ministries, enterprise management, the workers collective, a local bank, local authorities, and local trade unions.

## *Major Privatization Schemes*

### *Commercial and Industrial Enterprises*

- A. Under the current Privatization Program, the following methods of privatization are permitted: sale of SOEs through auction or competitive bidding, sale of shares of open joint-stock companies, and buy-out of leased assets (Part III).
- B. **Small Privatization:** Small enterprises in Georgia are to be sold at auction as a rule (State Program, Part III). The first auctions will include retail shops, catering services, and unfinished local construction projects. The Decree of May 28, 1992, "About the State-Owned Property Sale by Auction," provides for procedural rules, such as advance notice, as well as rights and duties of the seller, purchaser, and other participants.
- C. **Large Privatization:** Large enterprises are to be subject to privatization either by transforming them into open joint-stock companies subject to mass privatization or through trade sales with competitive bidding involving a certain amount of direct negotiations. Although the final plan has not yet emerged on how these sales would take place, it is likely that the highest bid, based on price, will be awarded as the winner.
- D. **Mass Privatization:** A voucher scheme outlined in the current Privatization Program contemplates transforming a group of large enterprises into joint-stock companies by December 1, 1992, pursuant to privatization plans submitted by management, followed by the distribution of vouchers in 1993. Despite this ambitious schedule, a legislative gap persists with regard to detailed information on such issues as face value of vouchers or rules of trading.

### *Housing/Land*

- A. **Housing:** Private ownership of rural housing has never ceased to exist in Georgia. Apartment housing, on the other hand, is now subject to rapid transfer of ownership to the present tenants upon payment of the costs of the transfer and titling. The new owners also have to contribute in advance a sum equiva-



lent to a two-year lease for building maintenance purposes. Once they receive title, they are free to sell or otherwise transfer their ownership rights. Most urban housing has been already transferred to the private sector (see Box 6-2 for details).

**B. Land:** No decision has yet been made regarding whether land will be sold along with enterprises, but leases of 10 to 15 years are more likely. As for agricultural land, about 50% of which is already transferred to the private sector, 70-75% will have been distributed by the end of 1993 to farmers and urban dwellers with rural families for free, up to a prescribed size. This land can be freely traded two years after the receipt of title (see Box 6-3 for details).

### *Scope and Implementation*

The state owned enterprise sector in Georgia is comprised of some 15,000 small and 1365 state-owned industrial enterprises. Overall implementation has been largely been limited to long-term leases of small enterprises with an option to buy. Granting such leases, however, was recently suspended, as the rents

and the future purchase price were superficially low.

The SPM has adopted a flexible multi-track strategy for transferring these enterprises to the private sector. The priority is to privatize small firms in the trade, catering and consumer services sectors in order to aid in the emergence of a market infrastructure. The first auction of trucks was held last March. Concurrently with the privatization of small enterprises, large SOEs will be corporatized into joint-stock companies in preparation for full-scale privatization. The government has identified 752 enterprises and assets to be sold, and a list naming 200 of these targets has been published. The long term plan is to privatize all of the 1,100 large SOEs within 4 to 5 years.

In 1993 every citizen will receive vouchers called "Privatization Cards," with the amount to be determined one month prior to distribution. In addition to this mass privatization program, which is characterized by a government-led top-down approach, Georgia also emphasizes a bottom-up approach for some large SOEs, where privatization can be initiated by employees or other outside investors through a competitive bidding process, as described above.

#### **Box 6-2**

##### **Privatization of Housing**

Georgia leads the other FSU republics in privatizing urban housing. Some 28% of housing has been privatized since the program began in March 1992, and all houses were expected to be privately owned by the end of the year. Every day some 300 apartments are transferred, free of charge, to the tenants. Transfer of housing is free to the present tenants, who have to pay only the costs of the transfer/titling and the equivalent of a two-year lease as an advance to ensure that funds are available for major restorations or innovations. Once title is given, the new owner is free to sell or otherwise transfer the housing. There is some possibility of restitution of land to former owners, especially to victims of the 1937 nationalizations. This is being considered on a case-by-case basis and has not occurred. Georgia has long experience with private housing, with 95% of rural housing previously and currently private, and with a population that is nearly half rural. This may make it easier to establish a genuine housing market. Right now, however, the market is thin and the prices high.

While the free transfer of housing helps speed privatization and the emergence of a housing market, it raises some concerns that need to be addressed. First, since rents in the past did not cover the costs of maintenance, the new owners are facing the real costs of maintenance for the first time. There is a risk that people will be less willing to spend to maintain an asset they received for free since there is no way for them to weigh the cost against the value of a free good. The rapid emergence of an active housing market is crucial if people are to understand the value of housing and maintenance.

#### **Box 6-3**

##### **Privatization of Land**

Georgia has also made rapid strides in privatizing agricultural land. There are 1,150,000 hectares of cultivated land in the country, and until 1991, only 6% of this land was privately owned. By the spring of 1992, 50% was distributed free of charge to citizens and farmers according to well-defined policies. By the end of 1993, the government intends to privatize 70-75% of the land. The other 20-25% will remain state property to be used mainly for the production of seeds.

The land is distributed by a village commission which is elected in a village meeting and has full authority to decide who is eligible for which land. All village residents, and urban dwellers with family in the village, have a right to apply. The land can be traded two years after title is received.

# KAZAKHSTAN

## *Legal and Institutional Overview*

The legal foundation of privatization was established in the Law on Denationalization and Privatization of June 22, 1991, which comprehensively lists the basic principles for transforming state-owned property in all branches of production and cultural/social services, including the housing and agricultural sectors, other than what is considered the exclusive property of the state (Art. 9). Annual Programs for Denationalization and Privatization, prepared by the Cabinet and confirmed by the President after they are approved by the Supreme Soviet, provide further guidance on implementation. Recently, the new Program for 1993-95 has been adopted in March 1993, containing a different strategy from that of the previous Program, which was found to be unsatisfactory.

The 1991 law establishes the State Property Committee ("SPC") as the main policy-maker and legal seller. Recently, the SPC ceased to operate as an independent agency after being integrated into the Council of Ministers, with its Chairman upgraded to the rank of Deputy Prime Minister. The process of transferring local communal property was initially supervised by the corresponding representatives of local soviets. In March 1993, under a presidential resolution, this parallel structure was abolished in favor of establishing a single system for transferring all state property under the authority of the SPC.

The SPC periodically approves lists of enterprises not subject to privatization. SOEs specifically designated for privatization in the annual Program will be automatically subject to the SPC's jurisdiction. In other cases, any eligible buyer—the list of which includes employee groups as the collective buyer, citizens (those with 5-year residency on a priority basis), foreign investors, and other juridical persons whose "property does not belong to the state" (Art. 10)—may also initiate the process by filing an application. When the application for a particular SOE is approved, a Privatization Commission is formed from representatives of the SPC, managers and workers of the enterprise, financial institutions, trade unions, and other specialists and prepare a detailed sales plan for the SPC.<sup>86</sup> Under the old 1991-92 Program, the first and foremost right to choose a particular form of privatization transaction belonged to the labor collective (Part II).

## *Major Privatization Schemes*

### *Commercial and Industrial Enterprises*

- A. Small Privatization:** Under the 1991-92 Program, retail shops of all sizes and small public catering services were to be privatized by auction or competition, except for buy-outs by leaseholders. In particular, all food-stuff shops under 100 square meters and other shops under 16 square meters were subject to mandatory privatization. For small enterprises in other productive sectors, corporatization as well as leasing for those with physical production places were available as additional "denationalization" techniques. Under the new Program for the current period, small privatization will be carried out through auction or tender, where the purchase price will be paid in the form of 50% cash and 50% housing vouchers described below. Systematic pre-sale liquidation will be also considered. The concurrent privatization of wholesale and trucking concerns through segmentation and auctioning of individual trucks and warehouses is expected to generate competition in these areas for newly privatized retail units.
- B. Large Privatization:** Under the new current Program, very large and "special" SOEs will be privatized on a case-by-case basis under the leadership of the SPC, in accordance with any specific legislative acts pertaining to these enterprises and in consultation with the Committee on Anti-Monopoly Policy. The list of permissible methods includes sale to a certain number of investors on stipulated terms, sale through auction or tender, management contracts, and open sale of shares. In 1991-92, the medium to large enterprises identified by the SPC and local soviets were to be transformed into joint stock corporations, where the ministries determined the order and conditions of distributing their shares.
- C. Mass Privatization:** Under the new current Program, a new type of voucher called the Privatization Investment Coupons is to be introduced in order to privatize medium to

<sup>86</sup> Under the new Program, the role of these Privatization Commissions is likely to be drastically reduced (with the possible exception for very large SOEs), as the overall privatization process is subject to increasing state control.

large SOEs. These vouchers are points-denominated and non-material. Following rapid corporatization—with 100% state ownership—they will be used to purchase at least 51% of the shares of enterprises, exclusively through investment funds,<sup>87</sup> in waves of central auctions organized by the newly established State Privatization Fund under SPC's control. Foreign investors may participate by purchasing enterprise shares directly from investment funds. Note that some enterprises may be required to keep a certain state share package in the care of specialized holding companies or in the form of a "golden share" which confers on the state certain veto rights over major business decisions. In all other cases, however, all the shares of corporatized SOEs will be subject to mass privatization auctions, with the exception of the shares reserved for the labor collective for free.

#### *Housing/Land*

**A. Housing:** Under the previous 1991-92 Program, and now extending into the current period, each adult citizen who meets the residence requirement is to receive a fixed amount of free coupons based on a complex set of rules related to work record and family status. Initially, once distributed, they could not be traded, but in order to facilitate the new small privatization program mentioned above, they may be now freely purchased and sold.<sup>88</sup> With dwellings offered at a fixed price, cash installment payments were also accepted if the number of coupons was insufficient. Dwellings thus purchased may not be exchanged or sold. In a number of cases, residents were able to obtain their housing for free without surrendering their coupons, creating much confusion in implementing the program.

**B. Land:** As the exclusive property of the state, land is not to be privatized, but may be leased on a long-term basis up to 99 years (1993-95 Privatization Program, Part II).

#### *Scope and Implementation*

By early 1992 there were approximately 35,700 wholly state-owned commercial enterprises in Kazakhstan. Of these, 27,500 or 77% are small (less

than 200 employees), 8,000 or 22.4% are medium-large (200-5,000 employees) and 200 or 0.6% are very large (more than 5,000 employees). In total, these SOEs employ about 5.5 million workers.

Kazakhstan, the largest of the Central Asian republics, is also leading the pace of privatization in the region. A comprehensive legal and institutional framework has been established, and a detailed plan proposed by the World Bank, EBRD and USAID formed a basis for the development of the new current Program. Implementation has also started at several levels.

By March 1993, some 6000 small to large entities have been privatized and over 205 larger enterprises were transformed into joint-stock companies. The initial phase of privatization under the old Program was strongly biased towards employee preferences, as the majority of these firms were privatized by worker collectives whose proposals often received automatic state approval. Moreover, a cumbersome case-by-case method was used, slowing down the process.

The government has recently adopted a multi-track strategy that will speed up the pace of implementation. The priority is to continue small-scale privatization, targeting the retail, trade and service firms. A systematic and organized auction process should accelerate the pace while maintaining transparency. The formidable number of medium to large enterprises in Kazakhstan has led to the development of a mass-privatization technique. To this end, Privatization Investment Coupons are being distributed to citizens, which in turn will enable them to invest in shares of privatization investment funds. With regards to very large enterprises, it is expected that the case-by-case approach will require a much longer period of implementation.

Despite the fact that the government does not intend to privatize arable land, some progress has been made in transferring housing to private hands. By mid-1992, 300,000 units or 10% of the housing sector was privatized. Once the distribution of housing coupons is completed, the pace of privatization should accelerate.

<sup>87</sup> The reasons for restricting voucher use to the investment funds include (1) the simplification of share auctions due to a limited number of bidders; and (2) corporate governance enhancement through the oversight by institutional investors.

<sup>88</sup> They will not be securitized, however.

# KYRGHYZSTAN

## *Legal and Institutional Overview*

The legal foundation for privatization in Kyrgyzstan is comprised of a complex package of legislative acts adopted by the Kyrgyzstan Supreme Soviet, the government, the President, and various state agencies, especially the State Property Fund. The principal enactment is the Law on the General Principles of Destatization, Privatization and Entrepreneurship of December 20, 1991, the Law on the Privatization of the Housing Fund of December 20, 1991, and the Law on the State Property Fund of July 1, 1992. Major subordinate legislation includes various decrees issued by the government related to organizing auctions or competitions, conducting valuations, and listing the peculiarities of privatizing state or municipal agricultural enterprises. The above framework relates to national property only, but under a Presidential edict of August 3, 1992 the destatization and privatization program is now extended to regional and municipal property.

Under the 1991 basic privatization law, all state and municipal enterprises, associations and organizations which are legal entities can be objects of "destatization" and privatization. Land and other mineral or natural resources, as well as cultural and historic sites, remain under exclusive state ownership. A January 1992 decree set forth a program which listed the specific categories of enterprises subject to corporatization and privatization to be carried out by the SPF. Implementation was initially planned to take place in three phases lasting until 1996. In December, 1992, the Supreme Soviet approved the Concept Note on Privatization, and the above program has since been suspended.<sup>89</sup>

Under the 1991 privatization law, the State Property Fund ("SPF"), which reports to the Supreme Soviet, is delegated by the latter to exercise the ownership interest of state property. The SPF assumes all the responsibilities associated with privatization at national and local levels. In theory, it possesses both executive powers and property-owning functions of the privatization process, but in practice supervision of large enterprises has been delegated to the relevant ministry or "concern," an administrative body under the council of ministers resembling a ministry in duties and budget.

Under the now suspended program, either the SPF or any other eligible buyer—which includes

employees as a labor collective, individual citizens and their groups, foreign investors, and legal entities with state participation of less than 50%—could initiate the privatization process, but thus far, it has invariably been initiated by labor collectives. At virtually any time, a labor collective or another controlling group could submit a plan for privatization to the SPF. Upon receipt of the plan, the SPF would organize and chair a Privatization Commission, composed of representatives of workers and the local soviet, a banker, an auditor and any other individual chosen by the SPF. The Commission was authorized to determine the new capital structure, the value of the enterprise and a time table for transforming the enterprise.

## *Major Privatization Schemes*

### *Commercial and Industrial Enterprises*

- A. With the old Program in force, privatization was largely carried out on a case-by-case basis. If a labor collective did not have a plan for a buy-out and if such an enterprise was within the categories authorized for privatization, the SPF could initiate the process by authorizing an auction or tender to sell the enterprise.
- B. **Small Privatization:** The Concept Note broadly lists leasing and asset dispositions as the primary methods for privatizing small SOEs.
- C. **Mass Privatization:** "The most acceptable" method of privatization for medium to large SOEs, according to the Concept Note, is transformation into joint-stock companies along the three share allocation options recommended: 1) 35% sold to the labor collective, with the state disposing the remaining 25% to the general public in exchange for their "special means of payment," such as privatization vouchers, and 40% through open sale; 2) 51% sold to the labor collective, 25% to the public for vouchers, 20% through open sale, and 4% remaining as a state-owned "special share;" and 3) 20% sold to the labor collective, with the state distributing the rest,

<sup>89</sup> A new Program of Further Development and Support of Entrepreneurship, as well as a long list of new or amended regulation, is expected to take effect sometime in 1993, representing a major change in the country's approach to privatization.

35% of which is targeted for foreign investors. Note that each option permits the labor collective of an enterprise to use the vouchers of its members to buy up to 25% of the total number of shares. Details on the mechanics of voucher distribution and exchange into shares will be worked out in the future.

### *Housing/Land*

- A. **Housing:** Under the 1991 Law on the Privatization of the Housing Fund, apartments and dwelling houses are to be transferred through the use of the special means of payment. The target is to privatize 80% of all housing by the end of 1993.
- B. **Land:** In general, ownership and leasing rights to land on which property is being privatized are not yet clarified. The plots of land on which housing is built remain under state ownership, but are managed by local authorities. As for arable land, ownership reform began in 1991 to permit private farming, and after a brief suspension it has resumed again. Some farm land has been also leased in order

to promote agricultural production. The government proposes to review land privatization.

### *Scope and Implementation*

There are no accurate figures on the number of SOEs in Kyrgyzstan, since larger industrial enterprises are organized in conglomerates and each contains from 1 to 10 units. A rough estimate (>1,000 employees) includes about 37,000 SOEs, 1,000 of which are large business units.

The pace of implementation has been uneven, with detailed rules for privatization being formulated on the basis of the new Concept Note. By December 1992, 1,866 small enterprises were privatized, some 53% through auction or tender and 18% through purchase by labor collectives. Priority is given to the privatization of small shops, trade and service establishments. The corporatization of large SOEs has begun, and some 140 firms have been transformed into joint-stock companies. In about half of them, the labor collectives own a majority of shares.

# LATVIA

## *Legal and Institutional Overview*

On March 20, 1991, the Law on the Basic Principles of State Property and its Conversion was enacted, listing the general objectives of restitution and privatization. A small enterprise privatization program commenced in November with the Law on Privatization of Municipally Owned Objects of Trade and Commerce, Restaurants, and the Service Sector. In March 1992, the Law on the Concept and Preparation of a Program of Privatizing State and Municipal Property called for preparing a systematic privatization plan for large SOEs. After introducing the Latvian ruble this past summer, some efforts to start privatization of larger SOEs were made with the Law on the Order of Privatizing Objects of State and Municipal Property. To that end, the Law on Certificates was passed near the end of 1992. The foundation for privatization of land is set in the 1992 Law on the Privatization of Land in Rural Areas.

While policy formulation activities are to be coordinated by the Ministry of Economic Reform ("MER"), different line ministries have established their own sub-divisions on privatization, decentralizing the decision-making process. At the implementation stage, the institutional arrangement becomes more diffused, as line Ministries select candidates for privatization under their purview and review specific privatization plans prepared at the enterprise level. The MER is to be kept informed of such decisions and may intervene to offer its own alternatives. It is not clear which entity has final say in such cases.

Pursuant to the 1992 law on the order of privatization, a list of enterprises which are to be privatized in the current and coming years will be prepared, based on the recommendations by sector ministries. Any eligible buyer—the list of which includes citizens or permanent residents of Latvia with a minimum of 16 years of residency, domestic legal persons excluding SOEs, employees with 5 years of work record either individually or as a group, and foreign investors—may submit a proposal for an SOE on the list to the responsible ministry, which decides whether to approve the proposal. If not, it then sets a deadline for a new submission. Once approved, the proposal is submitted to the MER for a final check. If the MER decides to estop the approval of the ministry, it

must submit an alternative plan to the Council of Ministers within a limited period of time. A privatization commission at the enterprise level will then be formed to carry out the mechanics of the transaction, including the management of experts for valuation. As for small enterprises subject to the 1991 law, municipalities appoint a privatization commission to carry out auctions and tender offers.

## *Major Privatization Schemes*

### *Commercial and Industrial Enterprises*

- A. **Small Privatization:** Pursuant to the 1991 law, once "*municipalized*," (i.e., registered as municipal property) the assets and inventory of retail shops, restaurants and service outlets are subject to cash tender or auction conducted by municipal authorities. The purchaser may be either a natural person who meets a residency requirement or a registered legal person. Any employee or group of employees may also participate. In deciding on a particular offer, future business plans (such as a minimum operation requirement) are considered.
- B. **Large Privatization:** In July 1992, a list of 25 enterprises was approved by parliament to be sold for hard currency, and also for Latvian rubles since November 1992. A part of the demonstration privatization program, they will be sold as going concerns. The following month another list of over 500 SOEs subject to various modes of transactions, such as open auction or tender, corporatization and sale of shares, leases with a buy-out option, and post-liquidation asset disposition, was prepared. As of November 18, 1992, privatization plans for these SOEs should have been submitted to the appropriate line ministries. Failure to comply with the above requirement may result in involuntary corporatization.
- C. **Mass Privatization:** The Law on Certificates suggests that privatization vouchers will be issued for purchasing state and municipal property. Corporatized enterprises will be required to reserve 25% of their stock for this purpose. Note, however, that there is a special list of enterprises that the ministries have exempted from this program. The vouchers will be in the form of accounts opened at the Sav-

ings Banks and Land Banks for all Latvian residents in an amount based on their residency status. The recipients are entitled to sell or gift their vouchers to other account holders after paying a certain fee. Although details of the program are far from being finalized, it appears that the certificates may be also used to compensate restitution claims. Detailed regulations were pending as of March, 1993.

### *Housing/Land*

- A. **Housing:** Another contemplated use for the vouchers lies in privatizing housing stock. After restitution to former owners is completed, in the public rental sector the government is expected to introduce a system to permit tenants to buy their housing by using some combination of vouchers and cash.
- B. **Land:** Urban real estate is to be leased for 5 years in connection with small privatization as discussed above.<sup>90</sup> If the new owner complies with all lease conditions, the question of purchase may be reviewed at the expiration of the contract. As early as 1988 in rural areas, however, reforms to re-establish private farming

began with granting land use rights—inheritable but not tradable—to certain individuals. Under the 1992 land law, all present users may apply for land allotment, but former owners have a preferential right.

### *Scope and Implementation*

There is no accurate count of the number of small enterprises, as their ownership and the responsibility for their privatization has been transferred to municipalities. However, it is estimated that over 5,000 SOEs are in this category. The Latvian privatization program has been hindered by two main elements: 1) the introduction of the Latvian currency; and 2) the process of restitution. The latter has been a major impediment since a definite plan to compensate previous owners for seized property remains to be drafted.

By March 1993, about 50% of the small trade, catering and service entities were estimated to have been privatized. The methods used consisted mainly of sales to employees with a few cash auctions.

<sup>90</sup> In many cases, this lease may be as valuable as, if not more than, other assets on sale.

# LITHUANIA

## *Legal and Institutional Overview*

The 1990 Law on Fundamentals of Ownership laid the foundation for restoring certain state-owned immovable property to former owners through a restitution process. The framework for transferring various state-owned assets through privatization was established in 1991 through a package of laws passed by the parliament—on Initial Privatization of State Property, on Land Reform, on Privatization of Agricultural Entities, and on Privatization of Apartments. There is also a separate enactment on the priority of employee ownership dating from 1992 (amended in February 1993). The total number of subordinate legislation pieces adopted to implement the privatization and restitution process exceeds 200.

Privatization is implemented by the Central Privatization Commission (“CPC”) and by the privatization commissions of towns and districts subordinate to it. The CPC is appointed by the parliament on the recommendation of the Prime Minister and chaired by the Deputy Prime Minister in charge of privatization. Local commissions are appointed by the national government on the recommendation of regional soviets. In addition, a CPC representative may be appointed to these commissions. Together, they develop and coordinate privatization programs and strategies for enterprises within their respective jurisdictions in consultation with the relevant ministries or local soviets. As for the mechanics of privatization, privatization agencies are established under local governments to collect enterprise information, organize auctions and public subscriptions of shares, and to prepare privatization documents.

Most small enterprises which are subject to the regulation by local governments are prepared for privatization by local privatization commissions in coordination with the CPC. After an auction is carried out, a privatization agency furnishes the relevant documents to the local government and to the enterprise at issue, as well as to the local commission, which affirms the results. For larger SOEs, draft privatization plans are prepared by the relevant ministries or local governments after any necessary industrial restructuring or segmentation is carried out. The Ministry of Economy consolidates these separate privatization programs into

the General Privatization Program of Lithuania and submits it to the CPC for final approval. Subsequently, privatization agencies carry out the public subscription process for shares in these large enterprises after they are valued in accordance with procedures set by the Ministry of Finance. In both auctions and subscriptions of shares, only Lithuanian citizens with vouchers, or investment funds acting as their intermediaries, can participate. Other types of private investors—domestic or foreign—are permitted in a separate hard-currency privatization program.

## *Major Privatization Schemes*

### *Commercial and Industrial Enterprises*

- A. Lithuania’s enterprise privatization program has two basic approaches—one based on “vouchers” and the other involving hard currency. Under the latter approach, a selected group of SOEs is subject to hard currency privatization through auction or tender offers. So far, progress has been limited to the preparation of some 60 large SOEs for tender, with a few sales finalized. The “voucher” approach, on the other hand, has achieved impressive results, particularly in small privatization.
- B. **Mass Privatization:** By early 1991, eligible citizens received vouchers which were recorded in their investment accounts at the Savings Bank for use in both small and large privatization programs. Though not in the form of physical certificates, the vouchers have varying face values reflecting the age brackets of recipients. Although they cannot be exchanged for directly for cash,<sup>91</sup> they may be exchanged for freely transferable shares in investment funds, many of which have emerged spontaneously since early 1992. Cash is an additional means of payment, but only up to a strictly limited amount. The quota is set usually equal to the face value of the individual voucher entitlement plus some minor adjustments. Note that the purchaser of state property or shares thereof through small or large privatization programs must make 5% cash payment.

<sup>91</sup> Though not yet officially confirmed, this prohibition may be no longer enforced.



**C. Small Mass Privatization:** Defined as those with a book value of less than 1 million *talonas*, small SOEs are sold through weekly auctions held by local privatization agencies. Ownership is awarded to the highest bidder with certain conditions: 1) the existing business activity must continue for at least one more year; and 2) layoffs are restricted to 30% during that period. Note that the cash quota does not apply in the case of bidding for SOEs that are not sold in a first auction. Recently changes have been introduced to the process requiring closed, registered bids to avoid coercion.

**D. Large Mass Privatization:** Larger SOEs exceeding 3 million *talonas* are privatized through public subscription in varying amounts according to individual privatization plans approved by the CPC.<sup>92</sup> Note that this process involves neither top-down corporatization nor "bundling" of enterprises in a wave of auctions. Shares of an enterprise are first offered at a fixed price related to its book value. If they are over/under subscribed, they will be offered in a second round at higher/lower prices until the number of shares subscribed comes within 10% of the total offered. There are no resale restrictions attached to these shares. Shares can be exchanged as long as the exchange is registered with the company. A stock market is scheduled to open this summer—though this is likely to be delayed. Because of limited demand for shares in some very large SOEs, new initiatives are being explored, such as systematic segmentation or lifting restrictions on foreign investors.

### *Housing/Land*

**A. Housing:** Along with restitution, privatization of state-owned housing stock is taking place through the above program, combining vouchers and cash. All households have a legal right to buy their rental apartment unless it is subject to restitution or special exemption. The price of the dwelling is set by the government on the basis of the construction cost, building type, size, location, and amenities. The buyer must make a cash down-payment not less than 20% of the purchase price. Note that there is no cash quota, as described above, in housing purchases by existing tenants. Presently, 92% of the applications to buy housing have been processed.

**B. Land:** In enterprise privatization, land cannot be acquired with vouchers, but leasing rights for buildings and land accompanying enterprise privatization are permitted. Certain plots of land in urban areas are, however, sold for vouchers as household land while land for new construction is sold by way of auction for cash only. Since 1989 in rural areas, limited land use rights—inheritable but not tradable—were granted to certain former collective farmers. Under the new 1991 law, land free of restitution claims or the above use rights can be purchased, up to 80 hectares, with cash and vouchers. A five year waiting period requirement before the sale or lease of land by new private owners has been recently lifted.

### *Scope and Implementation*

There are 7,844 medium-large commercial SOEs. As of February 1993, the number of enterprises that have been included in the Privatization Program total 4,482, comprised of 2,038 medium/large and 2,444 small SOEs. Of these, the 3,184 have been sold, including 1,864 small and 1,284, medium/large SOEs.

Lithuania has made significant progress in implementing its privatization program, which follows a unique multi-track strategy. A temporary moratorium on enterprise privatization was imposed at the end of 1992 due to allegations that coercion was used in auctions of small enterprises, however. This moratorium was lifted last February after changes were made in auction procedures and regulations. It is hoped that the stock market and voucher tradability will enable consortium of ownership to occur. Although plagued by restitution problems similar to its Baltic neighbors, the government has not allowed the privatization process to slow down.

Under this approach, implementation is proceeding at a satisfactory pace. Medium and large enterprises have been divested by public share offering, with 68% of shares on average transferred to private ownership. Investment funds have emerged as intermediaries for pooling voucher credits and purchasing shares in joint-stock companies. Under the **commercial privatization** approach, where SOEs are sold for hard currency, 8 entities have been sold, raising proceeds totaling \$800,000. In addition, Philip Morris bought Klaipeda To-

<sup>92</sup> The medium-sized SOEs can be sold either at auctions or by public subscription.

bacco for US\$12.5 million in March 1993. The government is encouraging more foreign participation in hard currency privatization.

Land privatization has made relatively little progress. Only 246,000 hectares have been restored to their former owners and an additional 340,000 have been parceled out for private farm-

ing. The remaining 82% of agricultural land has not yet been privatized, and this process is estimated to require five more years for completion. The primary reason for the delay has been the land survey requirement prior to restitution. An additional problem is the excess of claims over the available supply of land.

# MOLDOVA

## *Legal and Institutional Overview*

The 1991 Law on Privatization presents a general framework for transferring state-owned assets. Article 3 excludes those assets related to the defense capability and security of the state, national cultural property, social services to the public, or state monopolies from the process of privatization. This legislation also governs the privatization of the housing stock. The primary means of realizing the citizens' right to own assets targeted for privatization is to take the form of vouchers (Art. 5).

Under Article 7, the responsibility for policy formulation and implementation is placed on a parliamentary agency, the State Property Fund ("SPF"). Its authority, however, may overlap somewhat with that of the Ministry of Economy, an executive organ responsible for overall economic reform including privatization. Thus far, no explicit delegation of authority is provided in regard to which state agency may carry out the necessary measures for transforming SOEs prior to divestiture, and to hold their assets with vested rights of ownership.

Following the guidelines established by the SPF, the enterprise subject to privatization will make an inventory of its fixed and operating capital. The result will be sent to the SPF for review and approval. The SPF will then request the appropriate financial bodies to issue stock reflecting the approved ledger value of the assets targeted for privatization. The SPF will inform the public of the inventory results and the stock issuance as well as the rules, place, and time of voucher distribution. Subsequently, the local bodies of the SPF will organize the exchange of vouchers for shares of enterprises located in their district through auctions. At this stage of Moldova's privatization process, only those citizens with vouchers and their intermediaries can participate in such auctions.

## *Major Privatization Schemes*

### *Commercial and Industrial Enterprises*

**A. Mass Privatization:** The Privatization Program for 1992-94—approved by the parliament in March, 1993—envisions privatization primarily through a system of auctions, where prospective buyers will bid for shares of SOEs with vouchers only. The list of enterprises

which can be privatized for cash is limited to less attractive objects such as unfinished building sites and bankrupt SOEs. Each Moldovan citizen will receive a fixed number of vouchers based on the duration of meaningful employment—including military service, but everyone, including infants, is automatically credited with a minimum of five years. With a face value denominated in rubles, they are in bearer form but cannot be sold or exchanged except with immediate relatives. The issue of investment funds has not yet been decided on. Some 300 SOEs have been selected for the current period, and it is contemplated that they will be divided into a pre-determined number of shares. There is yet no precise regulation regarding how the process of issuing shares is to be systematically accomplished—in other words, how to transform these SOEs into joint-stock companies and establish state ownership prior to transferring title to the new buyers. Note that the shares purchased with these vouchers must be held for a minimum of two years.

**B. Small Mass Privatization:** As the Moldovan program makes no distinctions based on the size of enterprises, small enterprises will be subject to the same process as large SOEs, except for the fact that they may be auctioned off as going concerns in single units rather than in bundles of shares. Under the government decree on Certain Measures in Preparation for Privatization, demonopolization and segmentation will precede privatization in the trade, catering, and consumer service sectors.

### *Housing/Land*

**A. Housing:** With the vouchers described above, Moldovan citizens are eligible to buy their rental apartments. Those who purchased and paid for their dwelling space from housing construction or equivalent cooperatives will be issued proper legal deeds on their private property. Approximately 70% of housing has been transferred to the private sector.

**B. Land:** Industrial sites may not be subject to privatization until the year 2001. For arable land, the first phase of land reform has resulted in distribution of 100,000 hectares to private farmers. Their interest has been thus

far limited to certain land use rights, and they cannot sell their land until the year 2001.

*Scope and Implementation*

Crude estimates of the number of enterprises in Moldova result in a total of about 7,490 SOEs. Of these, 7,000 are considered small, 440 medium and 50 large enterprises. A total of 493 industrial sector enterprises employing some 350,000 employees

are included. Due to the very recent adoption of the privatization program, no implementation has yet occurred. Current targets aim to privatize about 40% of state-owned assets during the next two-year period and to begin the distribution process for vouchers. However, given the slow pace of overall progress, this goal may be overly ambitious. Moldova's approach seems to be single-track in nature, where small enterprises and shares of larger enterprises will be divested by similar methods.

# RUSSIAN FEDERATION

## *Legal and Institutional Overview*

The basic framework for privatization in the Russia Federation ("RF") is presented in a law enacted by the Supreme Soviet in 1991 on the Privatization of State and Municipal Enterprises. It applies to all forms of state-owned property in the RF, other than land, housing and social/cultural institutions, which are governed by separate legislative acts. The State Privatization Program, prepared by the Council of Ministers and approved by the Supreme Soviet, provides further guidance and instructions. It also contains a list of enterprise categories subject to privatization during a given period. While the Program applies to the entire RF, local programs are to be developed in accordance with its provisions to implement privatization of various types of property found in the Federation—namely, federal property, republican property, property of a *krai*, property of an oblast, property of autonomous oblast or *okrug*, property of the cities of Moscow and St. Petersburg, and other municipal property.

The 1991 RF law on privatization established 2 major implementing agencies. The State Committee for the Management of State Property ("GKI"), a part of the executive branch, is responsible for conceiving and managing the overall privatization process. It enjoys the exclusive right to issue subordinate normative acts related to privatization. With respect to each type of property listed above, the GKI's local counterpart, the MKI, will implement the relevant local programs. While the MKI is responsible to the executive organ at the corresponding level of government, in most cases its chairman will also be the chairman of the GKI's territorial branch. The task of selling enterprises and distributing proceeds is assigned to the Property Funds, a part of the legislative branch, responsible for ownership and control in its role as the shareholder and seller of such property. The operational boundaries between the two are not clearly drawn in some aspects. For instance, the issue of how far GKI's involvement extends beyond corporatization of SOEs remains unresolved, though this apparently has not led to any serious delay in the implementation process of the Russian mass privatization program.

Pursuant to the 1992 Program, SOEs subject to or opting for corporatization are required to estab-

lish enterprise-level Privatization Commissions consisting of 3 to 5 representatives of the management and workers. Each Commission prepares the Privatization Plan which identifies the particular stock allocation scheme selected and submits it to the GKI for approval. In subsequent auctions for enterprise shares, Russian citizens or any other person (including foreign investors) in lawful possession of privatization vouchers and their intermediaries may participate. Under no circumstances, however, may a legal person whose capital includes state contribution in excess of 25% act as a buyer or participate in auctions. As for other non-corporatized enterprises subject to privatization through auction, tender, or buy-outs led by partnerships or corporations formed by employees, Privatization Commissions consisting of representatives of the GKI/MKI, local soviets, enterprise management and workers, and relevant financial bodies will determine the terms and conditions of sale. Note that foreign investors are not allowed to participate in the first round of small-scale privatization without the permission of the MKI.

## *Major Privatization Schemes*

### *Commercial and Industrial Enterprises*

- A. **Small Privatization:** The 1992 Program divides SOEs that are subject to privatization into small, medium, and large enterprises on the basis of the book value of fixed capital or the size of the workforce. All small SOEs, numbering around 200,000, are to be privatized through competitive auctions and tenders carried out by the MKI's and regional Property Funds. As the usual owners of these enterprises, municipal and regional governments bear the ultimate responsibility for their privatization.
- B. **Mass Privatization:** Beginning on October 1, 1992, each Russian citizen was entitled to receive one voucher with a face value of 10,000 rubles and an expiration date of December 31, 1993. These vouchers are immediately tradable, and they may be used to purchase up to 80% of the total number of shares of a joint stock company formed out of federal or oblast property under a Presidential Edict dating from October, 1992. The sales ceilings may be set significantly lower for

other types of local property. Under a very recent Presidential decree, however, at least 29% of shares in all SOEs transformed into joint-stock companies are to be made available for vouchers. Naturally, the actual amount of shares on sale for the general public will vary depending on the size of employee shareholding. The responsibility to conduct voucher auctions lies with the Property Funds, which will conclude the contract for organizing the sales with the GKI. Investment funds will be allowed to serve as financial intermediaries to facilitate trading and to diversify risk. They are required to exchange no less than 50% of their stock for vouchers and to spend at least 50% of their total funds in buying shares of SOEs being privatized while not owning more than 10% of an enterprise individually.

Some 6,000 large enterprises were instructed to transform themselves into joint-stock companies by November 1, 1992. Employees were expected to choose between two basic corporatization-cum-privatization plans: 1) *gratis* receipt of 25% of shares subject to certain individual salary caps that are non-voting, plus a right to purchase 10% of voting shares at a 30% discount from book value under a 3-year installment plan; or 2) purchase of 51% of the authorized capital in the form of common shares by closed subscription at a price set at 170% of book value, where payment in full is required within 90 days. Unless a 2/3 majority of the labor collective approves the second plan, benefits will be granted under the first plan. The remaining shares held by the government in about 5,200 of these corporatized SOEs will be subject to the above mass privatization, while those of the largest/strategic SOEs—numbering 1,000—will be sold on a case-by-case basis under supervision by the GKI and ministries.

Though medium-sized enterprises are not subject to the mandatory corporatization rule, they may elect to be part of the mass privatization program under the same conditions as large SOEs. Others will be either sold to external purchasers or divested through internal buy-outs. Note that in addition to the two options previously described, employees of certain medium-sized SOEs may enter into a contract with the government to maintain the solvency of their SOEs during a bone-year work-out period in return for a right to purchase 20% of the shares on favorable terms.

### *Housing/Land Privatization:*

- A. **Housing:** Tenants can receive a certain portion of their dwelling space free of charge, with the purchase price of the remaining space prescribed by the state. Recently, vouchers have become an accepted means of payment.
- B. **Land:** Under a Presidential edict of March, 1992, natural and legal persons may be given the right to acquire land or enter into a lease in connection with enterprise privatization. Vouchers may be used as a means of payment for individual buyers of land in some of these cases. In general, however, private ownership of land is subject to various legal restrictions and uncertainties. Privately owned land can be sold freely as long as it is used only for private housing construction or subsidiary farming. In all other cases, land can be sold after 10 years if it was acquired without payment, and after 5 years if it was paid for. In rural areas, land reform is taking place through a complete break-up of state or collective farms into smaller individual/cooperative units or creation of a joint stock company.

### *Scope and Implementation*

The Russian Federation, by far the largest FSU Republic, contained some 214,803 state owned enterprises as of October 1992.<sup>93</sup> Of the total, approximately 18,000 are medium sized, 6,000 are large, and the remainder are small—less than 200 employees—enterprises. In 1987, the industrial sector alone consisted of more than 25,000 firms, employing more than 20 million workers. From the outset, the Russian privatization program had the objective of rapidly transferring ownership of industrial assets from the state to the country's 153 million citizens. Given the immense size of the Russian state-owned sector, enterprise reform has progressed miraculously.

As for small-scale privatization, the first wave of auctions took place in April 1992, in Nizhni Novgorod, Russia's third largest city. In view of the decentralized approach to small scale privatization in Russia and the vast territory involved, obtaining reliable and accurate data has proven difficult.

<sup>93</sup> The total number of SOEs is expected to increase as larger associations and trusts are partitioned into smaller units prior to privatization. In January 1993, one estimate put the number of small enterprises (less than 200 employees) between 150,000 to 320,000 separate entities.

However, the data that are available suggest that about 50 - 60,000 small entities have been privatized, representing over 30% of the estimated total number of small entities, and the number is growing rapidly. The GKI has reported that, as of April 1993, in the retailing, catering and services sectors only, over 50% of small entities were privatized (46,000) out of an estimated 90,000 entities. However, there have been regional disparities.

Out of some 6,000 large SOEs subject to mandatory corporatization by November 1, 1992, 5,600 complied as of March 1993. At this time, 96% of Russian citizens received their 10,000 ruble vouchers, using them to bid for shares of medium to large

SOEs in vouchers auctions that began in December 1992. Since then, close to 300 voucher auctions have taken place locally, and many more are scheduled to occur over the rest of 1993. In the future, the GKI is planning to introduce a national bid center to remove the need for physical participation in locally held auctions. Note that shares may be also sold through tender offers.

The short-term goal for Russia is to expand the auction process, and hundreds of voucher auctions are taking place every month. The overall goal of its ambitious program is to privatize 1/3 of all state owned assets by the end of 1993, 1/2 by the end of 1994 and 2/3 by the end of 1995.

# TAJIKISTAN

## *Legal and Institutional Overview*

Dating from early 1991, the Law on Denationalization and Privatization lists broad objectives for economic reform. However, its substantive provisions make various references to subsidiary laws that have yet to materialize. In its most skeletal form, this law provides for active participation by labor collectives by giving them priority in selecting possible modes for ownership transfer, ranging from leases to outright sales. It also authorizes the Committee for Administration of State Property to prepare concrete privatization programs for Republic property after cooperating with other min-

istries, and to carry out transactions in coordination with local soviets.

## *Scope and Implementation*

Adverse political conditions in Tajikistan have halted the privatization program which was emerging in early 1991. The Republic's non-membership in the Bank has limited the amount of information available on the progress of privatization. Prior to current civil unrest, the government had identified 1,270 SOEs for privatization. Although 390 enterprises were reportedly sold, there are no details available on the sizes of the enterprises or the methods used.



# TURKMENISTAN

## *Legal and Institutional Overview*

In early 1992, Turkmenistan enacted a basic privatization law that outlines broad concepts and objectives for economic reform. It specifically excludes assets related to defense, state security, and protection of the environment. As this legislation lacks sufficient detail to permit actual transactions, a set of follow-up laws on agriculture, retail sales, housing, and enterprise privatization is currently under preparation.

The 1992 law authorizes the Ministry of State Property (now renamed the Ministry of State Property and Business Support), reporting to the President, to implement privatization of republic property. Local soviets supervise the transfer of communal property. The decisions of the MSP, however, appear to be binding on all state and local government bodies for state property under its jurisdiction, posing the risk of conflicts of authority. At this stage, with minimal implementation achieved, no such conflict is yet apparent.

Under Section 10 of the 1992 law, the destatization and privatization of property may be initiated by the labor collective of an enterprise—opposed to individual employees—the enterprise council, the MSP and local soviets, and other eligible buyers, the list of which includes citizens and legal entities of Turkmenistan as well as foreign investors in some cases. Note that those enterprises with some state ownership stake are not explicitly prohibited from acting as buyers. The members of a labor collective are given priority to select among the possible modes of reforming their enterprise, however, ranging from leases to outright sales. An application regarding national property must be submitted to the MSP for approval, while one for local property is reviewed by the local soviet.

## *Major Privatization Schemes*

### *Commercial and Industrial Enterprises*

A. The MSP, with assistance from the Economic Research Institute and key ministries, drafted a comprehensive Privatization Program for consideration by the Cabinet in 1992, but no final program is in force yet. The draft proposes a phased approach, starting with small scale privatization to be completed by 1995, followed by sale of a larger number of retail

units and of medium-sized enterprises, and finally privatization of large-scale enterprises.

B. **Small Privatization:** The first phase of the draft program is to conduct sales of retail units through Privatization Committees composed mainly of representatives from the local authorities and possibly the Ministry of Trade and MSP. Retail units would be divided into 3 categories, depending on the number of employees. They would be given free of charge to the employees or sold to them at some residual value—original cost minus depreciation—or corporatized with shares distributed between employees, managers, suppliers and the Committees. All shops would be required to keep the same product line for 1-2 years.

C. **Medium to Large Privatization:** In the subsequent stages of privatization, these enterprises would be privatized on a case-by-case approach, with corporatization occurring only when the individual enterprise is ready. The shares of a corporatized enterprise would be allocated along the same lines as in large retail privatization listed above, with 60% of the shares reserved for an eventual sale by the MSP. Those enterprises that are insolvent or otherwise non-viable would remain with the line ministries. Note that Turkmenistan has only a few very large SOEs.

D. **Mass Privatization:** Schemes using vouchers have not yet received serious consideration from the government.

### *Housing/Land*

A. **Housing:** Sales throughout Turkmenistan began in 1988 under a special law which targeted war veterans. A new law for the city of Ashkabad was passed on January 1, 1992, permitting residents who had lived or worked in the city for more than 15 years to obtain free ownership. Others who wanted to buy their apartments were required to pay a price based on initial cost minus depreciation with no allowance for inflation. The current tenants, however, would not be ejected even if they did not apply to buy their housing. Variants of this program began elsewhere. Under the Presidential decree of March 12, 1992, existing and future new owners were prohib-

ited from selling their housing except to a special government committee for 10 years after purchase. Since early 1993, the entire housing privatization program has been suspended.

- B. **Land:** Long-term leases for industrial sites would be considered under the draft program in connection with enterprise privatization. Recently, a limited plan to foster private ownership of land in the agricultural sector has been announced, designed to allocate up to 50 hectares of hitherto unirrigated land to eligible applicants who, once selected by the government, are required to farm the land and are prevented from selling or renting it for 10 years.

### *Scope and Implementation*

Turkmenistan's retail sector is comprised of about 2,172 state owned shops, while the industrial sector consists of 1,381 SOEs employing about

140,000 workers. While the final outlines of the draft Privatization Program are still being debated as of March 1993, the legal and institutional framework remains incomplete. Turkmenistan has chosen to undertake economic reform with great caution, and in the industrial sector no productive assets have yet been privatized.

The government's tentative objective is to initiate privatization of the small business units, followed by transforming the larger enterprises into joint-stock companies on a case-by-case basis. Transformation will occur individually as enterprises are deemed ready. Shares of those corporatized enterprises would be divided among employees (25%), management (5%) and suppliers (10%), with the remaining 60% equity retained by the government for eventual sale once a buyer is found. Under this strategy, the MSP could end up with a large portfolio of enterprises with a controlling interest for an extended period of time.

# UKRAINE

## *Legal and Institutional Overview*

The legal foundation for privatization was established through the enactment of the Law on the Privatization of State Enterprises, dated March 4, 1992, and its somewhat simplified derivative on small enterprises, dated March 6, 1992. These two laws apply to enterprises owned by the state, the Crimean Republic, and local communities. They does not extend to housing, state land, socio-cultural facilities, collective farms and consumer cooperatives. Privatization in the first two categories are governed by separate legislative acts.

The State Property Fund ("SPF") and its regional offices are in charge of managing the privatization process for national property, while property belonging to the Crimean Republic or municipalities will be privatized by appropriate local authorities. The Chairman of the SPF sits on the Cabinet, but without a ministerial title, and the SPF is accountable only to the parliament. It has promulgated a number of implementing regulations subordinate to the basic privatization laws on issues such as filing a privatization application. It also bears the responsibility for preparing annual Privatization Programs that list the goals, priorities, and methods of privatization. The Programs are reviewed first by the Cabinet before approval by Parliament is sought. Under the SPF's authority to manage the implementation process, it approves enterprise-specific privatization applications, undertakes transformation of SOEs, and acts as the lessor or seller of state property. However, it may not interfere in the operation of enterprises in general (sec. 7). The legislation does not make it clear at what stage of the privatization process the SPF may issue decisions that might interfere with the functions of line ministries or enterprise managers.

The individual privatization transaction may be initiated by the SPF itself, other local authorities, employees, or any other eligible buyer by filing an application with the SPF or the appropriate Crimean Republic or local privatization agency. Note that the buyers' association formed by enterprise employees participates in the process as a single buyer with due benefits. Other permissible buyers include domestic citizens, excluding government personnel involved in implementation, foreign investors—juridical or physical, and legal entities in

which the state-owned share of property does not exceed 25%. Once an application is approved, a Privatization Commission composed of representatives of the applicant buyers, state/local authorities, and financial agencies is formed to prepare the detailed terms of the sale and conditions.

## *Major Privatization Schemes*

### *Commercial and Industrial Enterprises:*

- A. The current Program identifies categories of enterprises that are either subject to privatization or exempted from privatization in 1992, as well as those that require prior coordination with the Cabinet. The first category of enterprises are further broken down into 6 Groups (A through F) based on their estimated book value and operation characteristics. Each group has its own set of applicable privatization methods.
- B. **Small Privatization:** For the Group A enterprises valued under 20 million rubles, the available methods of privatization include purchase by "buyers' associations," which are formed by not less than 50% of the workers, buy-outs by leaseholders, auction, and competition—with or without deferred payment. Multiple means of payment may be accepted, including privatization certificates. The buyers' association is given certain discounts to buy all or part of an enterprise. When other bidders are interested, resulting in an auction, the buyers' association is the preferred buyer if all the terms are equal. The same generic application procedure and valuation guidelines, rather than a distinct fast-track method, appear to apply to Group A.
- C. **Large Privatization** For the Group B and C enterprises whose values range from 20 to 1,500 million rubles, privatization through sales of shares by auction upon transformation into joint stock companies is also permitted. In practice, a large number of these larger enterprises have been leased to labor collectives. As the lessee, these cooperatives have enjoyed significant advantages under the Law on Leasing, such as the exclusive right to decide whether or not to enter into a buy-out provision during the first three years of the lease. Recent legislative amendments may

include the SPF's authority to override this provision in the future.

**D. Mass Privatization:** Under the Law on Privatization Certificates, each Ukrainian citizen is entitled to receive in the amount of 30,000 rubles—to be revalued in the upcoming new national currency—and certain credits in his or her privatization account at the Savings Bank. The total nominal value of these certificates is set to equal the book value of all assets subject to privatization, currently fixed at 1,520 billion rubles. In addition to acquiring shares in SOEs directly, the recipients have the right to place or invest the certificates in various investment funds, trust companies, or other intermediaries which will be established under new legislation. The law leaves many details for future implementing regulations open. Among them are such important questions as who will decide when to apply this method of privatization to a particular enterprise and how to capitalize the SOE initially and set the relative values of shares in different enterprises.

#### *Housing/Land*

- A. Housing:** Under the 1992 law on "Privatization of State Housing," all residents are entitled to receive, free of charge, a certain amount of floor space. Where the size of the existing housing is less than their entitlement, they will be issued housing checks totaling the replacement cost of the shortage. These housing certificates may be converted for use in acquiring SOEs. In the reverse situation, the residents pay for the surplus space in cash or regular privatization certificates.
- B. Land:** The buyer in a privatization transaction

may purchase the buildings housing the enterprise, but not the land on which it is located. Instead, a right to enter into a long-term lease for the land with the local government authorities is provided. Ukrainian legislation on land reform and independent family farming allows private ownership of land subject to certain restrictions on size, resale, and employment of hired labor. Under recent decrees, it is now possible for a member of a state or collective farm to receive title as well.

#### *Scope and Implementation*

The state enterprise sector in Ukraine consists of 60,000 small, 40,000 or more medium and 6,000 large enterprises. The privatization program is still in the development stage, and the only implementation to date has taken the form of leases, numbering about 1,000, and corporatization of 60 enterprises. The slow pace of transition, coupled with the minimal amount of governance exerted by the state, has promoted a large amount of spontaneous privatization. The vast number of SOEs in Ukraine has also not been consistent with the proposed methods of privatization. Another impediment to the implementation process is the mass-privatization plan, which has yet to be formulated in detail. The decision to introduce an independent Ukrainian currency has also slowed the pace of the program.

L'viv authorities, however, began small scale privatization by holding an auction of 17 small state businesses, mainly retail and service outlets. The prices ranged from US\$1,200 equivalent for a vacant and run-down restaurant on the outskirts of the city to US\$55,000 equivalent for a shop in the city center. All payments were in cash.

# UZBEKISTAN

## *Legal and Institutional Overview*

The legal basis of privatization in Uzbekistan is laid out in the Law on Destatization and Privatization dated November 19, 1991, and further implementing regulations issued in October 1992. Under this law, state property is to be divided between the Republic and the provinces, with large local enterprises that are not geared to "national needs" allocated to provincial authorities. Various subordinate resolutions of the Cabinet have since been adopted on privatization issues ranging from housing to implementing institutions.

All SOEs subject to privatization are supervised by the Committee for State Property Management and Privatization ("CSPMP") and its local branches under a Presidential decree dating from February 1992. Its Chairman is appointed by the President and confirmed by the Supreme Soviet, and the CSPMP reports directly to the Cabinet. The CSPMP participates in policy formulation, sets procedures, prepares and implements privatization programs. Local approval is still necessary for privatizing non-Republic enterprises. Under Article 9 of the regulations confirmed by the August 3, 1992 Cabinet resolution, the CSPMP's decisions are binding in principle on ministries, departments, concerns, associations, enterprises, organizations, local administration bodies and citizens. However, the CSPMP's authority appears to suffer from the enormous complexity of the structure of Uzbekistan's industrial sector, which consists of large "associations." These associations, some examples of which include the Light Industry Association or the Food and Beverage Association, have assumed all the activities of individual sub-sectors, which used to be under various ministries of the former Union, through controlling various concerns, which in turn control several enterprises each.

Under the 1992 regulation, privatization may be initiated by the labor collective as a group, citizens, and "nonstate" legal entities through filing an application with the CSPMP for an enterprise on the list of categories subject to privatization (Art. 4). Foreign investors (juridical or physical) can acquire state property subject to *a priori* approval and quotas. With CSPMP's approval, an enterprise-level commission will be set up to conduct valuation. Note that the labor collective is given

right of first refusal to choose among different forms of privatization under Article 6 of the basic privatization law.

## *Major Privatization Schemes*

### *Commercial and Industrial Enterprises*

- A. There are 35,900 medium and small enterprises and 1,000 large enterprises (more than 1,000 employees) in Uzbekistan. The 1991 privatization law lists 3 methods of enterprise reform: leases with buy-out option, outright sales, and transformation into joint stock companies or collective property. Uzbekistan espouses sectorally-differentiated programs developed through a complex package of subordinate legislation.
- B. **Small Privatization:** Some 4,500 entities in catering, trade and services have been slated for privatization during a two-year period starting from October 1992. Various small-sized local industry firms are also targeted for privatization. While a few very small service entities are to be given away to employees, the rest will be privatized by a case-by-case method; the labor collective will be consulted, and the buyer may be required to enter into agreements that preserve various aspects of the enterprise, such as output or employment.
- C. **Large Privatization:** As for major industrial "Union-wide" SOEs, the associations have transformed them into state-owned, closed joint stock companies under the slogan of "denationalization." There not yet a final plan for government share distribution.

### *Housing/Land Privatization*

- A. **Housing:** After the experimental sale of housing in the city of Tashkent in 1992 pursuant to a Resolution of the Cabinet, the CSPMP is planning to replicate such programs elsewhere to allow tenants to acquire their dwellings at nominal cost. Note that once purchased, such dwellings will be subject to temporary restrictions on selling and buying.
- B. **Land:** Pursuant to the decrees of the President on distribution of land, a substantial portion of arable land has been distributed to individual farmers in the form of lifetime leases, similar to arrangements in the People's Re-

public of China. These plots of land are inheritable, but not transferable, and subject to certain use restrictions.

*Scope and Implementation*

Uzbekistan has adopted a cautious, gradual approach to privatization. There are over 35,900

enterprises of varying sizes, and 1,000 very large SOEs with more than 1,000 employees. As of March, it is estimated that 2,000 small enterprises and facilities and some 30 medium size enterprises were leased or sold to labor collectives. Thus far, the number of individual proprietorships has been very limited.



**ANNEX B**

***List of Country Privatization  
Legislation Available in English***

**ARMENIA**

1. Law on Ownership, dated 31 October 1990.
2. Resolution of the Armenian Republic Council of Ministers on the Creation and Development of Small Enterprises, dated 22 January 1991.
3. Decree of the Supreme Soviet of the Republic of Armenia on the Principles of Privatization, dated 13 February 1991.
4. Draft (latest available, 1992): The Law of the Republic of Armenia on Privatization and Denationalization of State Enterprises.

**AZERBAIJAN**

1. Law of the Republic of Azerbaijan: "Property in the Republic of Azerbaijan," (with decree on implementation) dated 9 November 1991.
2. Ukase of the President of the Republic of Azerbaijan "On Commercialization of the Activity of Trade Enterprise," dated 1 August 1992.
3. The Law of the Republic of Azerbaijan on Destatization and Privatization, 1993.

**BELARUS**

1. Law of the Belarussian Soviet Socialist Republic "On Property in the Belarussian SSR," (with decree on implementation) dated 11 December 1990.
2. Law of the Republic Belarus on Foreign Investment on the Territory of the Republic of Belarus, dated 14 November 1991.
3. Decree of the Supreme Council "On Implementation of the Law of the Republic of Belarus on Demonopolization and Privatization of the State Property," dated 19 January 1993.
4. Draft (1992): The Act of the Republic of Belarus "On the Destatation and the Privatization of the State Property in the Republic of Belarus."
5. Draft (1992): The Act of the Republic of Belarus "On the Registered Privatization Vouchers in the Republic of Belarus."

**ESTONIA**

1. Conception of the Estonian Government of General Principles of Privatization, undated.
2. Law of the Estonian Republic "On Privatization of State-Owned Services, Trade and Food Service Enterprises," dated 13 December 1990.
3. Tallinn City Soviet Decision on "Procedures for Preparations for and Conducting Privatization of State-Owned Services, Trade and Food Service Enterprises in Tallin," dated 9 May 1991.
4. Normative Concepts I and II of the Estonian Republic Law "On the Fundamentals of Property Reform," dated May, 1991.
5. Law of the Estonian Republic on the Foundations of Property Reform (with implementing decree), dated 13 June 1991.
6. Decree of the Estonian Republic Supreme Council "On Enacting the Law of the Estonian Republic on the Privatization of State and Municipal Housing," dated 4 May 1992.
7. Resolution signed by chairman of Supreme Council "On Enacting Conditions and Procedures for the Privatization of State and Municipal Property," (with addendum) dated 13 August 1992.
8. Resolution by chairman of Supreme Council "On forming an Enterprise for Privatization," dated 13 August 1992.
9. Resolution by chairman of Supreme Council "On Starting the Sale of Shares of State-Owned Enterprises," dated 13 August 1992.
10. Draft (dated 10 September 1991): Law on Foreign Investment.



**GEORGIA**

1. Law of the Republic of Georgia "On the Basis of Entrepreneurship Activities" (with implementing decree), dated 25 June 1991.
2. Law of the Republic of Georgia "About the Privatization of State Enterprises in the Republic of Georgia" (with implementing decree), dated 9 August 1991.
3. Law of the Republic of Georgia "On Investment Activities," dated 10 August 1991.
4. Law of the Republic of Georgia on Privatization of Housing, dated 1 November 1991.
5. A Decree No. 48 by the Government of the Republic of Georgia "About Arable Land Reform in the Republic of Georgia," dated 18 January 1992.
6. Council of Ministers of the Republic of Georgia, Act. No. 107, "About the Privatization (free transition) of Dwelling in the Republic of Georgia," dated 1 February 1992.
7. Cabinet of Ministers of the Republic of Georgia, Resolution No. 259, "On the First Stage of Liberalization of Foreign Economic Activity of the Republic of Georgia," dated 5 March 1992.
8. The Decree of the Government of the Republic of Georgia "About the State-Owned Property Sale by Auction," dated 28 May 1992.
9. The Decree of the Government of the Republic of Georgia "About the Competitive Sale of State-Owned Property," dated 28 May 1992.
10. An Act by the Government of the Republic of Georgia "To Define the Procedure How State Enterprises May Be Transformed into Public Joint Stock Companies," dated 28 May 1992.
11. Decision No. 829 of the Government of the Republic of Georgia on "State Program of Privatization of State-Owned Enterprises of the Republic of Georgia" (with approval on 18 August 1992), dated 11 August 1992.
12. Law of the Republic of Georgia "On the Foreign Investments," undated.

**KAZAKHSTAN**

1. Law Governing Ownership, dated 1 January 1991.
2. Ukase of the President of the Kazakh Soviet Socialist Republic on "Questions Related to the Kazakh SSR State Committee for Management of State Property," dated 22 April 1991.
3. The Kazakh SSR Act (Law) on "Denationalization and Privatization" (with implementing resolution) dated 22 June 1991.
4. Resolution No. 101 by the State Committee of Kazakh SSR on State Property, dated 1 August 1991.
5. Decision of the President of the Kazakh SSR "On the Program of Destatization and Privatization of State Property in Kazakh in 1991-92 (first stage) and on the State of Coupon Mechanism of Privatization of State Property in the Kazakh SSR," dated September 1991.
6. Edict of the President No. 732 on "Measures Aimed at Intensification of Work in the Field of Denationalization and Privatization of Property in Branches of the Material Sector," dated 28 April 1992.
7. The State Program for Denationalization and Privatization for 1993-95.

**KYRGHYZSTAN**

1. Statute on "Sale by Competitive Bidding," as approved by a Ukase of the President of the Republic of Kyrgyzstan, dated 7 August 1991.
2. Law of the Republic of Kyrgyzstan on "General Principles of Destatization, Privatization, and Entrepreneurship in the Republic of Kyrgyzstan" (with Decree on Implementation), dated 20 December 1991.
3. Law of the Republic of Kyrgyzstan on the "Privatization of the Housing Fund in the Republic of Kyrgyzstan" (with Decree on Implementation), dated 20 December 1991.
4. Law on the "State Property Fund" of the Republic of Kyrgyzstan, dated 1 July 1992.

5. Denationalization and Privatization Program for State-Owned and Communal Property in the Republic of Kyrgyzstan in 1992 and 1993.
6. Concept of Denationalization and Privatization of State and Communal Assets in the Republic of Kyrgyzstan for 1993, approved by the Resolution of the Supreme Soviet, dated 16 December 1992.

### **LATVIA**

1. Council of Ministers, Republic of Latvia, Resolution No. 107 "On the Creation and Operation of Foreign Business Offices in the Republic of Latvia," dated 19 April 1991.
2. Latvian Republic Law on Privatization of Agricultural Enterprises and Collective Fisheries (with implementing decree), dated 21 June 1991.
3. The Republic of Latvia Law on the Return of Buildings to Their Legal Owners (with implementing decree), dated 30 October 1991.
4. Law of the Latvian Republic on the Management of State and Municipal Property in Companies" (with implementing decree), dated 10 June 1992.
5. Law of the Latvian Republic on the Order of Evaluation of Objects of State and Municipal Property to Be Privatized (with implementing decree), dated 10 June 1992.
6. Law of the Latvian Republic on the Order of Privatization of Objects of State and Municipal Property (with implementing decree), dated 16 June 1992.
7. Draft (dated 3 July 1991): Law on Foreign Investment

### **LITHUANIA**

1. Enterprise Law of the Republic of Lithuania (with implementing decree), dated 8 May 1990.
2. Law on Foreign Investment in the Republic of Lithuania (amended as of March, 1992), dated 29 December 1990.
3. The Law of the Republic of Lithuania "On the Initial Privatization of State Property," (amended as of 18 December 1991), dated 28 February 1991.
4. Law on Spheres of Business Activity Where Foreign Investment is Prohibited or Limited, dated 2 May 1991.
5. The Law of the Republic of Lithuania "On Privatization of Apartments," (amended as of 20 December 1991), dated 28 May 1991.
6. The Government of the Republic of Lithuania, Decree No. 238 on "Reorganization into Smaller Units of State Enterprises and State Stock Corporations Which Are Being Privatized," dated 19 June 1991.
7. The Law of the Republic of Lithuania on "Privatization of Unprofitable State Enterprises," dated 23 July 1991.
8. The Law of the Republic of Lithuania on "Privatization of the Property of Agricultural Enterprises," dated 30 July 1991.

### **MOLDOVA**

1. Law of the Moldovan SSR "On Privatization," dated 4 July 1991.

### **RUSSIAN FEDERATION**

#### **Part 1 (1990-91)**

1. Law on Ownership and Property, dated 24 December 1990.
2. Law on Enterprise and Entrepreneurship, dated 24 December 1990.

3. Law on Privatization of State and Municipal Enterprises, with Decree on Implementation, dated 3 July 1991.
4. Statute of the RSFSR Supreme Soviet "On the Russian Federal Property Fund," approved by Decree No. 1533-1 of the Supreme Soviet, dated 3 July 1991.
5. Law on Registered Privatization Accounts and Deposits, with Resolution on Implementation, dated 3 July 1991.
6. Decree on the Delimitation of State Ownership, dated 27 December 1991.
7. Guidelines on Privatization of Enterprise, dated 29 December 1991.
8. Fundamental Provisions of the Program for Privatization of State-Owned and Municipal Enterprises, dated 29 December 1991.
9. Edit No. 334 on Additional Powers of Administrative Authorities of the City of Moscow for the Period of Implementation of Radical Reform, dated 29 December 1991.
10. Decree of the President of the Russian Federation on Accelerating Privatization of State-Owned and Municipal Enterprises, No. 341, dated 29 December 1991.
11. Regulations on Use of Economic-Stimulation Funds of State and Municipal Enterprises, dated 1991.
12. Regulation on Buy-Out of Property of Leased Enterprises, dated 1991.
13. Draft: Decree on Administrative Responsibility of Officials in Privatization, undated.

### *Part 2 (1992)*

1. Edict No. 16 on "Ensuring Accelerated Privatization of Municipal Ownership in the City of Moscow," dated 12 January 1992.

#### *Appendices*

- i. Regulations on the Privatization of the Housing Stock of the City of Moscow
  - ii. Regulations on the Procedure for Privatization of Enterprises Engaged in Trade, Public Catering or Household Services in the City of Moscow
  - iii. Regulations on the Acceleration of the Privatization of Municipal Enterprises and Organizations in the City of Moscow
2. Resolution No. 52 of the Government of the Russian Federation on "Acceleration of the Implementation of the 1992 Privatization Program," dated 29 January 1992.
  3. Edict No. 66 "On Acceleration of Privatization of State and Municipal Enterprises," dated 29 January 1992.

#### *Appendices*

- i. Temporary Regulations on the Procedure for Submitting, Filing Out, and Accepting for Consideration Applications for Privatization of State and Municipal Enterprises in the Russian Federation
- #### *Sub-appendices*
- Standard Forms of Documents to Be Used in Processing Applications for Privatization of State and Municipal Enterprises,
  - ii. Temporary Methodological Instructions for Assessing the Value of Objects of Privatization
  - iii. Temporary Regulations on the Transformation of State and Municipal Enterprise into Open Joint-Stock Companies
  - iv. Temporary Regulations on Privatization of State and Municipal Enterprises in the Russian Federation at Auctions
  - v. Temporary Regulations on Privatization of State and Municipal Enterprises in the Russian Federation through Competition
  - vi. Temporary Regulations on the Procedure for the Use in 1992 in the Privatization of Means of the Economic Incentive Funds and Profit from State and Municipal Enterprises
  - vii. Temporary Regulations on the Work of Commissions for Privatization
4. Law of the Russian Federation "On Revisions and Addenda to the RSFSR Law On Privatization of State Owned and Municipal Enterprises in the RSFSR," dated 5 June 1992; and further amendment there of, dated 24 June 1992.
  5. Decree No. 2980-1 of the Supreme Soviet: "State Program of Privatization of State and Municipi-

- pally Owned Enterprises of the Russian Federation for 1992," dated 11 June 1992.
6. Summary of Presidential Decree No. 623 "On Measures for Support and Revival of Insolvent (Bankrupt) State Enterprises and Application of Special Procedures to Them," dated 14 June 1992.
  7. Russian Presidential Edict No. 721 "On Organizational Measures to Transform State Enterprises and Voluntary Associations Thereof Into Joint Stock Companies," dated 1 July 1992.
  8. Statute "On the Commercialization of State-Owned Enterprises With Simultaneous Conversion into Public-Type Stock Corporations," approved by Edict No. 721 (see Tab 7 above), dated 1 July 1992.

*Sections*

- i. Procedure of Commercialization With Simultaneous Conversion into Public-Type Stock Corporations
  - ii. Procedure of the Alignment of the Organizational-Legal Form of Voluntary Combines of Enterprises with Current Legislation
  - iii. Regulations Governing the Formation and Activity of the Working Commission on Privatization
  - iv. Model Bylaws of a Public-Type Stock Corporation
9. Russian Federation Government Resolution No. 547 "On Measures to Implement Russian Presidential Edict No. 721 Issued on 1 July 1992" (see Tab 7 above), dated 4 August 1992.

*Attachments*

- i. Statute "On Procedure for Registration of Stock Issues by Openly Traded Joint-Stock Companies Established in the Process of Privatization"
  - ii. Model Privatization Plan
10. Decree of the Government of the Russian Federation No. 490 "On the Procedure for the Introduction of the System of Privatization Checks in the Russian Federation," dated 15 July 1992.

*Appendices*

- i. Steps to Be Taken on Introduction of the System of Vouchers in the Russian Federation
  - ii. Regulations on Coordination Committee on the Introduction of Vouchers in the Russian Federation.
11. Text of Decree of the Government of the Russian Federation No. 595 on "Revaluation of Fixed Capital (Funds) in the Russian Federation," dated 14 August 1992.
  12. President of the Russian Federation Decree No. 914 "On the Introduction of the System of Privatization Vouchers in the Russian Federation," dated 14 August 1992.
  13. Decree of the Government of the Russian Federation No. 708, "On the Procedure for Privatization, Reorganization of Enterprises, Organizations of the Agro-Industrial Complex," dated 4 September 1992, approving the appended, and with later amendment dated 11 December 1992.
    - i. Regulations on the Reorganization of Kolkhozes, Sovkhozes, and Privatization of State Agricultural Enterprises,
    - ii. Statute on Privatization of Enterprises for Initial Processing of Agricultural Products, Fish, and Sea Products, and Enterprises for Production-Technical Service and Material and Technical Support for the Agro-industrial Complex,
    - iii. Statute on Reorganization and Privatization of State Cooperative Enterprises of the Agro-Industrial Complex
  14. Russian Soviet Federated Socialist Republic State Committee for the Management of State Property Directive No. 369-r, dated 20 August 1992.

*Attachment*

- i. Statute on Territorial Commissions to Introduce Privatization Checks in the Russian Federation
  - ii. Instructions on Procedure for Issuing Privatization Checks to Citizens of the Russian Federation
15. Decree of the President of the Russian Federation No. 1151, under the rubric "Official Department," "On the Conduct of an Experiment on the Territory of Moscow Oblast in 1992 in the Auction of Land Parcels for Individual Residential Construction," dated 1 October 1992

16. Ukaz No. 1186 of the President of the Russian Federation "On Measures on the Organization of a Securities Market in the Process of Privatization of State and Municipal Enterprises," [note: annexes are missing] dated 7 October 1992
17. Decree No. 3608-1 of the Supreme Soviet of the Russian Federation "On the Course of the Implementation of the State Program for Privatization of State and Municipal Enterprises in the Russian Federation for 1992," dated 9 October 1992.
18. Ukaz No. 1228 of the President of the Russian Federation "On the Sale for Privatization Checks of Housing, Land, and Municipal Property," dated 14 October 1992.
19. Ukaz No. 1229 of the President of the Russian Federation "On the Development of a System of Privatization Checks in the Russian Federation," dated 14 October 1992.
20. Ukaz No. 1230 of the President "On Regulation of Leasing Relations and Privatization of Leased Property of State and Municipal Enterprises," dated 14 October 1992.
21. Ukaz No. 1231 of the President "On Confirmation of the Model Statute on the Committee for Management of the Property of Kray, Oblast, Autonomous Oblast and Okrug, and the Cities of Moscow and Petersburg," dated 14 October 1992 (Attachment).
22. Ukaz No. 1304 of the President "On the Use of Privatization Checks for Social Protection of the Population," dated 26 October 1992.
23. Directive No. 695-r of the GKI "On Confirming the Statute on Licensing the Activity of Specialized Privatization Investment Funds, and the Statute on Procedure on Registration of Share Issues," dated 4 November 1992.
24. Directive of the GKI No. 701-r, approving the "Statute on the Sale of Shares in the Process of Privatization" and the "Statute on Specialized Check Auctions," dated 4 November 1992.
25. Edict of the President No. 1334 "On the Implementation in the Electrical Power Industry of Edict No. 992," dated 5 November 1992.
26. Edict of the President No. 1391 "On the Sale of Objects Being Privatized for Privatization Checks," dated 16 November 1992.
27. Edict of the President No. 1392 "On Measures for Implementing the Industrial Policy during Privatization of State Enterprises," dated 16 November 1992.

#### *Appendices*

- i. Interim Statute on Holding Companies Created Upon the Transformation of State Enterprises into Joint Stock Companies
  - ii. Amendments to the Standard By-laws of a Joint Stock Company, as approved by Edict No. 721 (see Tab 7 above)
28. Edict of the President No. 1403 "On Special Features in the Privatization and Reorganization of State Enterprises and Production and Scientific Production Associations in the Oil and Refining Industries and Industries Providing Petroleum Products Into Joint Stock Companies," dated 17 November 1992.
  29. Decree of the Government No. 93, "On Procedure for Decisionmaking by the Government of the Russian Federation and the GKI and Its Territorial Organs on the Privatization of Enterprises," dated 18 November 1992 (with Addendum).
  30. Directive No. 716-rp of the President on Establishment of Privatization Center, dated 23 November 1992.
  31. Decree No. 908 of the Government "On Measures to Organize Information for Russian and Foreign Investors Concerning the Privatization of State Enterprises," dated 24 November 1992.
  32. Edict of the President No. 1484 "On Unique Characteristics of Privatizing the 'GAZ' Production Association," dated 30 November 1992.
  33. Edict of the President No. 1519 "On Special Privatization Conditions of Enterprises in Bryansk Oblast," dated 30 November 1992.
  34. Directive No. 2294-r of the Government, approving the "Program for Support for the Establishment and Development of Specialized Privatization Investment Funds," dated 7 December 1992.
  35. Presidential Edict No. 1559, "On Changeover to Joint-Stock Companies and Privatization of State Enterprises, Associations and Organizations of the Russian Federation Gas Industry," dated 8 December 1992.

36. Directive No. 1143-r, amending the "Statute on Closed Share Subscription During Privatization," from the previous Direction No. 308-r, dated 16 December 1992.
37. Government Decree No. 1003 "On Privatization of Communications Enterprises," dated 22 December 1992.
38. Russian Federation Law "On the Right of the Russian Federation Citizens To Obtain Land Plots for Private Ownership and Sale for the Purpose of Conducting Personal Subsidiary and Dacha Farming, Gardening and Individual Housing Construction," dated 22 December 1992 (with implementing decrees).
39. Edict of the President No. 1702 "On the Transformation of Coal Industry Associations, Enterprises, and Organizations into Joint-Stock Companies and Their Privatization," dated 30 December 1992.
40. Edict of the President No. 1705 "On Expanding Opportunities for Participation by the Public in Specialized Check Auctions," dated 31 December 1992.
41. Draft: Temporary Regulations for Selling State-Owned Share Packages at Closed Tenders in the Russian Federation, dated 1992
42. Draft: Regulation Governing Large-Scale Privatization, dated 27 April 1992.
43. Draft: Manager/Employee Guide for Privatization, dated 27 April 1992.
44. Draft: Regulation on Investment Tenders, dated 6 May 1992.
45. Draft: Regulation on Foreign Investment in the Russian Federation, dated 6 May 1992.
46. Draft: Directives for Valuation of Property to be Privatized, dated 1992.
47. Draft: Standard Regulations on Committees for Property Management in Ethnic and Administrative Regions, dated 1992.

#### *Regional*

- i. Adopted by the Small Council of the Moscow Soviet, "Program for Privatization of State-Owned and Municipal Firms in the City of Moscow in 1992," undated.
- ii. The Tatarstan Republic's State Program for Privatizing State and Municipal Property During 1992 and the Outlook to 1995, undated.
- iii. Decision No 307 of the Small Soviet of the St. Petersburg City "On Sales of St. Petersburg Property and City Contracts at Investment Auctions," dated 20 October 1992.

#### *Part 3 (1993)*

1. Edict of the President "On Procedure for Issuing 1992 Privatization Checks to Certain Categories of Citizens," dated 10 January 1993.
2. Edict of the President No. 8 "On the Use of Sociocultural and Municipal Facilities by Privatized Enterprises," dated 10 January 1993.
3. Edict of the President No. 216, approving the Statute "On Procedure for Circulation and Cancellation of Privatization Checks," dated 12 February 1993.
4. Draft: The State Program for Privatization of State and Municipal Enterprises in the Russian Federation in 1993, undated (published on 4 February 1993).

#### **TAJIKISTAN**

1. Law on Property, dated 5 December 1990.
2. Law of the Tajik SSR on Denationalization and Privatization of Property in the Tajik SSR, dated 21 February 1991.
3. Ukase of the President of the Tajik SSR on Organization of Work on the Denationalization and Privatization of Property in the Tajik SSR, dated April 16, 1991.

**TURKMENISTAN**

1. Law on Destatization and Privatization of Property in Turkmenistan, dated 19 February 1992.

**UKRAINE**

1. UkSSR Law on "Property," dated 26 March 1991.
2. Draft (1991): General Concept for the Denationalization of Property in the Ukraine.
3. Edict by the Ukrainian Supreme Soviet Presidium on Transferring Enterprises, Institutions, and Organizations Subordinate to the Union and Situated on the Territory of Ukraine to the Possession of the State, dated 30 August 1991.
4. Law of Ukraine on the Privatization of the Property of State Enterprises (with implementing decree), dated 4 March 1992.
5. Law on Privatization of Small Scale Enterprises (with implementing decree), dated 6 March 1992.
6. Law on Privatized Securities (with implementing decree), dated 6 March 1992.
7. Law of Ukraine on Privatization of State Housing, dated 9 June 1992.
8. Ukraine's Supreme Soviet Decree on a State Program of Privatization of Property of State Enterprises, dated 7 July 1992.
9. Order No. 138 of the Chairman of the Board of the Fund of State Property of Ukraine, approving "Statute on Procedure for the Issuance to Specialized Enterprises of a Permit (License) for the Performance of Intermediary Activities in the Process of Privatization of State Enterprises, dated 12 August 1992.
10. Order No. 345 of the Chairman of the Board of the State Property Fund of Ukraine, confirming "Procedure for Filing and Consideration of Privatization Petitions, dated 26 August 1992.
11. Order No. 371 of the Chairman of the Board of the State Property Fund of Ukraine, confirming "Statute on Privatization Commissions," dated 8 September 1992.
12. Order No. 56 of the State Committee of Ukraine for Housing and Municipal Services, approving the "Statute on Procedure for the Transfer of Apartments (Buildings) to the Ownership of Citizens," dated 15 September 1992.
13. Order No. 329 of the acting Chairman of the Board of the State Property Fund of Ukraine "On Procedures for Work With Enterprises Having Foreign Investment and Economic Companies," (with Annex) dated 28 September 1992.
14. Decree No. 572 of the Cabinet of Ministers of Ukraine "On the Mechanism for Enactment of the Law of Ukraine On Privatization of the State Housing Fund," (with various Procedures, Rules, and Standard Partnership Bylaws) dated 8 October 1992.

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1. Law on Ownership, dated 31 October 1990.
2. The Law of the Republic of Uzbekistan, "Destatization and Privatization," (with implementing Resolution of the Supreme Council of the Republic of Uzbekistan, Resolution No. 107), dated 19 November 1991.
3. Resolution of the Cabinet of Ministers No. 362, "Regulations on Committee for State Property Management and Privatization of the Republic of Uzbekistan," dated 3 August 1992.
4. Resolution of the Cabinet of Ministers No. 378, "On Privatization of State Housing Fund in the City of Tashkent," dated 13 August 1992.
5. Resolution of the Cabinet of Ministers (unnumbered) "About the Measures for Denationalization and Privatization of Enterprises/Organizations of the Local Industry," undated.
6. The Law of the Republic of Uzbekistan, "On Lease," undated.
7. Draft (latest available, undated): Resolution of the Cabinet of Ministers on "Denationalization and Privatization of Enterprises of the Uzbek State and Joint Stock Associations."

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