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Deloitte & Touche

Implementation Advisory Assistance Ministry of Privatization of the Slovak Republic

Final Report

Delivery Order No. 15

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Eastern European Enterprise Restructuring and Privatization Project

USAID

U.S. Agency for International Development
EUR/RME

June 17, 1994

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July 18, 1994

Mr. Lawrence Camp
ENI/PER/EP
Agency for International Development
320 21st Street, NW
Washington, DC 20523

Re: Contract No. EUR-0014-I-00-1056-00, Delivery Order No. 15, Slovak Republic - Final Report on Implementation Advisory Assistance to the Ministry of Privatization

Dear Lawrence,

In accordance with the requirements of the above Delivery Order, please find the Final Report for the Implementation Advisory Assistance to the Ministry of Privatization of the Slovak Republic. This report summarizes the activities of the consultants and concludes with more general recommendations for on-going privatization assistance in the Slovak Republic. The annexes contain the reports generated during the course of the project.

These deliverables were prepared by the Deloitte & Touche team working in Slovakia. If you have any questions concerning these deliverables, please call me at (202) 879-5612.

Sincerely,

Lizann Prosser
Senior Manager
Central & Eastern Europe

Deloitte Touche Tohmatsu International

Implementation Advisory Assistance
Ministry of Privatisation of the Slovak Republic

Final Report

Claus Frost Hansen
Robert Antonides

17 June 1994

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INTRODUCTION

This report summarises the work performed as Privatisation Implementation Technical Advisors at the Ministry of Administration and Privatisation of National Property of the Slovak Republic (MAPNP) during the period from 27 January to 17 June 1994. This technical assistance was provided, at the request of the MAPNP, by USAID through Deloitte & Touche management consultants.

The primary purpose for the technical assistance was to assist the Government of the Slovak Republic in developing a Privatisation Action Plan that would ensure compliance with one of the conditionalities for the World Bank Economic Recovery Loan approved on 2 December 1993. During this period the consultants also provided general advisory services on a wide variety of issues relating to privatisation in the Slovak Republic.

This report will provide a brief description of the most important activities undertaken by the team of consultants, and will conclude with some general recommendations for future programmes of assistance to support the privatisation process in the Slovak republic. The major deliverables produced during the assignment are gathered in the annex.

We would like to thank the staff of the Ministry of Privatisation for its warm reception, its assistance in introducing us to the officials from other institutions, and its support throughout the project. We would also like to thank USAID for sponsoring this technical assistance project which supports Slovakia in its challenge to develop a competitive market oriented economy and consolidate its young democracy.

Claus Frost-Hansen
Robert Antonides
17 June 1994

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1.0 EXECUTIVE SUMMARY

1.1 Background

The privatisation programme in the Slovak Republic is a key element of the transformation from a centrally planned economy to an efficient and internationally competitive, market oriented economy. The goal of the privatisation programme is to ensure that the largest number of viable, state owned enterprises and entities are successfully converted to privately-held enterprises in the shortest possible time frame.

The programme of privatisation was adopted by the former Federal Parliament in 1989 as part of an economic programme aimed at ensuring the economic transition from the previous centrally planned economy to a market based economy. The former Czech and Slovak Federal Parliament also approved privatisation legislation and this legislation remains currently in vigour in the Slovak Republic with some modifications to ensure its validity in the Slovak Republic.

The privatisation process was divided from a legal and implementation point of view into small scale and large scale privatisation. Small scale privatisation was initiated in 1991 and has currently been completed. During this process nearly 10,000 enterprises were sold to citizens of the Slovak Republic mainly through public auctions for an estimated SK 14.5 Billion.

Large scale privatisation encompasses an estimated 1,300 of the largest enterprises, and this privatisation programme has been divided into two broad waves for which the Government has identified the specific companies that will participate in each wave.

In Wave One, 751 companies with a book value of equity of some SK 170 Billion were identified. Wave One privatisation included directly selling property, and transferring enterprises into joint stock companies and privatising the shares (directly or through the voucher method). All First Wave enterprises were divided within the process into some 1,010 output units which were privatised primarily through the first wave of coupon privatisation and direct sales to strategic investors. The dominance of voucher privatisation as the primary method of privatisation utilised in Wave One is the most significant factor explaining the success in the speed of implementation.

Officially, Wave One has been completed. However, the Fund of National Property currently holds a majority stake (as of October 1993) in 118 Wave One enterprises with an estimated share value of some SK 40 Billion.

Wave Two Large Scale Privatisation was initiated as early as the summer of 1992. In October 1993, the list of Wave Two enterprises included 514 enterprises with a book value of equity of SK 223 Billion and included some of the largest enterprises in the fields of heavy industry, building industry, transport and telecommunications, and the energy sector. Currently (February 1994). The implementation of the privatisation of second wave enterprises has been very slow, and only with the recent Government change in March of 1994 is there strong evidence that the privatisation process will be re-energised with the implementation of a second coupon privatisation programme and the jump start of standard method privatisation.

1.2 Scope of the Project

The Slovak Ministry of Administration and Privatisation of National Property has requested technical assistance from the United States Agency for International Development (USAID) to assist in the development of a Privatisation Plan. The Privatisation Plan is part of the actions to be undertaken by the Government of the Slovak Republic to comply with the conditionalities of the World Bank Economic Recovery Loan, approved on 2 December 1993. The plan has also been developed in order to simplify and clarify procedures and decision-making for the privatisation process, and to develop a specific internal action plan that will allow the acceleration of the privatisation process.

The work for developing the Privatisation Plan was divided in two broad phases. In the first phase, a diagnosis of the privatisation process was performed in order to both describe the process in detail and to identify problem areas. The result of this work is presented in "The Slovak Republic Large Scale Privatisation Plan - Volume I, Description and Analysis of the Privatisation Process," which is included in the annex.

In the second phase, the privatisation strategy and implementation plan for the Ministry was developed and presented. This action plan was developed in conjunction with the staff of the Ministry of Privatisation and presents its strategy and implementation plan. The result of this component of our work is presented in "The Slovak Republic Large

Scale Privatisation Plan - Volume II, Action Plan for the Privatisation Process," and is also included in the annex.

We would like to indicate that much value has also been achieved from the actual process of developing the Privatisation Plan. During the period the study was undertaken, the Ministry strengthened its relations with international organisations, sought and achieved increased technical assistance from organisations such as US AID and EC PHARE, and began the process of improving the image of the Slovak Republic as an attractive investment destination.

The primary focus of the assignment included assisting the Ministry of Privatisation of the Slovak Republic to develop the Privatisation Action Plan. The scope of work, however, also included providing the Ministry with general ad-hoc technical advice on a variety of issues, some of which are listed below:

- Assisting the Ministry in its relations with international aid and lending agencies, and introducing the Ministry to potential technical assistance programmes;

- Developing selection criteria for the enterprises to participate in the second wave of voucher privatisation;

- Assisting the Ministry in identifying its public relations needs and developing an advertisement which was published in the May issue of the monthly magazine, Central European;

- Developing a market research questionnaire to identify the view of the managers of former SOEs towards private investment funds;

- Participating in the Voucher Privatisation Committee of the Slovak Republic;

- Drafting a discussion concerning the lessons learned from the debt conciliation programme that is being implemented in Poland; and,

- Assisting the MAPNP in presenting its public relations programme for a conference in Macedonia attended by representatives from the Ministries of Privatisation of most Central and Eastern European countries of the former eastern block.

The Terms of Reference for this assignment are included in the annex.

This Final Report will briefly describe the tasks undertaken during the period as technical advisors at the Ministry of Privatisation. The annex will provide the reader with the most important reports and documents produced during the assignment.

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2.0 SUMMARY OF WORK PROJECTS

In this section, the major activities undertaken by the consultants during the period from 27 January to 17 June 1994 will be summarised. Most of the activities presented in this section resulted in a deliverable to either the Ministry of Privatisation, USAID, or both. In those cases, all deliverables are included in the annex.

2.1 Inception Report

During the first weeks of the assignment, the consultants undertook a preliminary assessment of the privatisation process in the Slovak Republic and the policy environment under which the Privatisation Plan was to be drafted. The main objectives of the inception report were to:

- identify the key institutions and officials whose perspectives needed to be incorporated into the Privatisation Plan;
- provide an initial assessment of what key issues and challenges facing the large scale privatisation process in the Slovak Republic;
- perform an initial assessment of the programmes of assistance that could be provided to the Ministry of Privatisation in order to speed the privatisation process; and,
- identify and narrow the scope of the plan and the work programme, propose future steps for undertaking the project, and ensure approval by Ministry officials, USAID and the World Bank;

The inception report was drafted two weeks following the commencement of the technical assistance by Deloitte & Touche Management Consultants (officially presented on 24 February) and was distributed to the Ministry of Privatisation (MAPNP), the Fund of National Property of the Slovak Republic (FNP), USAID, and the World Bank.

The report was drafted after a significant number of interviews with key officials were conducted. By means of the interviews conducted as well as short analysis of

documents obtained from various institutions, we developed an insight into the process of Privatisation, the organisational structure of the various institutions involved in the process, the legal framework, and the political environment with respect to privatisation. And, on the basis of our initial analysis we identified several major issues which needed to be addressed in order to speed and support the privatisation process in the Slovak Republic.

The institutions interviewed include:

- Ministry of Administration and Privatisation of National Property
- Fund National Property of the Slovak Republic
- Ministry of the Economy
- Ministry of Finance
- Centre of Coupon Privatisation
- VuB Bank (Bank and Private Investment Fund)
- Ministry of the Interior
- Ministry of Health
- Ministry of Culture
- Ministry of Transportation, Communications, and Public Works
- USAID - Bratislava
- The World Bank

As a general rule, all representatives of these institutions which we had the opportunity to meet were very co-operative and supportive of the privatisation process, and it is our opinion that the interviews were conducted in a rather open manner.

We obtained comments on the Inception Report from the MAPNP, USAID, and the World Bank, and in general our findings were well received.

2.2 Privatisation Process Diagnosis

This document, "The Slovak Republic Large Scale Privatisation Plan - Volume I Description and Analysis of the Privatisation Process," is the result of an examination of the privatisation process in the Slovak Republic performed during February through April of 1994 with the objective of identifying problem areas, bottlenecks and potential areas of assistance, and to serve as an instrument for the development of a concrete

action plan in conjunction with the staff of the MAPNP and the Fund of National Property of the Slovak Republic.

The methodology followed to understand the privatisation process and identify the bottlenecks included focused interviews with all the participating institutions in the privatisation process (both Government Ministries, as well as private sector participants such as private investment funds). More than 50 officials were interviewed during this process (the list of people met is included in the annex). Information obtained from interviews was complemented with written reports and database reports obtained from the information systems of the MAPNP and the FNP.

During the period the study was undertaken and the Privatisation Plan developed, the Slovak Republic experienced a change in Government and in privatisation policy in mid-March 1994. The study reflects the privatisation process both before and after the change in Government, and identifies the key privatisation issues and procedural bottlenecks both before and after the change in Government and policy.

The change in Government clearly revealed the most important bottleneck to the privatisation process: at a policy level, there was an unwillingness to develop, communicate, and implement a vigorous privatisation policy. Instead, the complex privatisation process was utilised to slow the process. The new Government has clearly declared that reviving the privatisation process is one of its main objectives, and has worked within the same legal framework to develop a strategy and an implementation plan.

The report was distributed for comments to staff of the MAPNP, the FNP, USAID, Deloitte & Touche, and the World Bank The report was also accepted favourably.

2.3 Privatisation Action Plan

The Privatisation Action Plan was drafted by advisors from Deloitte & Touche Management Consultants in conjunction with the staff of the Ministry of Administration and Privatisation of National Property (MAPNP) of the Slovak Republic. The Plan incorporates information obtained through interviews with, reports drafted by, and press releases provided by key staff of the MAPNP.

During the period the study was undertaken and the Privatisation Plan developed, the Slovak Republic experienced a change in Government and in privatisation policy in mid-March 1994. The action plan reflects the privatisation strategy and action plan of the new coalition Government that was formed on March 1994.

The privatisation action plan presents the privatisation strategy of the Slovak Government, as communicated in April 1994, and its implementation action plan. It addresses, specific actions for each of the components of the privatisation strategy (voucher privatisation programme, privatisation through standard methods, restructuring prior to privatisation programmes, and privatisation of strategic enterprises). The plan also presents recommendations for institution building programmes at the MAPNP and the FNP, and identifies support programmes from external agencies.

The Privatisation Action Plan was completed in mid-May and it incorporates rather detailed steps for each component of the Government's Privatisation Strategy. It also incorporates specific privatisation volume targets for certain components (e.g. coupon and standard methods). However, given that the Plan was developed at a certain point in time, actual projections and targets have already changed; although only slightly.

The Privatisation Action Plan was submitted to key staff at the MAPNP and USAID.

Overview of Privatisation Strategy

The Government has committed itself to pursue a vigorous privatisation policy that will ensure that by the completion of the voucher privatisation programme at least 50% of State property will be privatised. The voucher programme, alone will be the method utilised to privatise at least 33% of State property. The Government will achieve these objectives by means of both standard and non-standard privatisation methods.

The voucher programme will encompass enterprises from all sectors of the economy, including some of the most attractive investment opportunities. Shares of large enterprises currently held in the Fund of National Property will also participate in the voucher programme. The voucher programme will not be a residual method of privatisation, but may be used as the primary method of privatisation. It is the objective of the Government that by the end of 1994, the voucher programme will be well within its implementation plan, and hence, that the volume of assets of the programme will contribute towards the 1994 privatisation target objective. The focus on implementing a

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vigorous coupon privatisation programme in late 1994 and early 1995 is a major privatisation policy shift of the new Government.

The Government will also speed up the privatisation by standard methods. Therefore, enterprises (or parts of enterprises) will be offered to solvent domestic and foreign investors able to prove their credibility and submit proposals that are attractive not only in financial terms but also in terms of business plans and future investments in the enterprises. In order to speed the standard methods approach and attract foreign investment, the Government will incorporate transaction implementation teams with experience in corporate finance and access to potential international investors (to be financed by USAID).

A strategy for divestiture of FNP share holdings has also been developed, and the FNP will co-operate with the MAPNP in order to speed the sale of shares in its portfolio in the most beneficial way for the Slovak Republic.

Strategic enterprises will be identified and a privatisation policy towards these enterprises will be developed. Strategic enterprises will include the energy and utility enterprises and those in the armament industry. For these enterprises, the State will hold a controlling interest in the short run; while restructuring and regulation of the industries is developed.

Finally, the Government will open the privatisation process in order to enhance transparency and equality to all participants

2.4 Relationship Building with International Lending Agencies

During our initial assessment phase (the first 2-3 weeks on the assignment), it was clear that the MAPNP could benefit from a variety of technical assistance programmes including training, transaction teams, legal support, support in running tenders, etc. (see Inception Report and Volume II - Action Plan for the Privatisation Plan). Convincing the previous Government to accept major assistance programmes in the area of privatisation was proving to be a very difficult undertaking.

The new Government, however, entered office in the middle of March with an ambitious privatisation policy, and in need of support in order to implement its

privatisation plan. We introduced the leadership of the MAPNP to programmes of technical assistance that we and the international aid community had implemented in other countries successfully; and we assisted in defining programmes of assistance that would benefit the Slovak Republic and could be supported by the international aid community. Finally, we also provided advice in approaching these institutions and consolidating a long term relationship.

The results of this process have been truly remarkable. The international aid community, and specifically USAID, responded very quickly with specific assistance programmes. In a very short time, USAID provided technical assistance towards the voucher privatisation programme in the form of expert legal and industry specialist staff. Furthermore, temporary transaction teams to be based at the MAPNP for 2-3 months were approved; while tender procedures for long term transaction teams are well under way. And, these two are only examples of components of USAID's total programme of assistance to the privatisation process in the Slovak Republic.

EC PHARE has also responded quickly with support for the voucher programme in the form of financing expert staff. EC PHARE will also provide the Fund of National Property with transaction teams.

We are very proud of our efforts in this area, and we feel that it is here where we have provided the greatest contribution to the Ministry and the Slovak Republic.

2.5 Selection Criteria for Second Wave of Voucher Privatisation

Upon deciding to implement a second wave of voucher privatisation, one of the first steps is to select enterprises and the share of those enterprises for participation in the programme. Through a series of meetings we provided advice to the Ministry regarding selection criteria. The advice that was provided was made within the context of the Ministry's objectives for the voucher programme and its focus on implementing the programme relatively fast so as to make it irreversible by September 1994.

The proposed selection criteria are summarised below:

- *All enterprises with book value of equity greater than SK 250 million.*

  Select large enterprises in order to ensure that the effort of processing privatisation projects is targeted at the largest and therefore will create the largest programme possible given limited resources and time.

  Select large enterprises to ensure there is sufficient subscription capital to meet the possible demand of an expected 2.5 million participating citizens in the voucher programme. Minimise over subscription and resulting inflated prices.

- *Also include several (25 - 50) enterprises with book value between SK 100 - 250 million, but which are classified as very good enterprises in terms of profitability and market potential.*

  It is important for both maximising the success of the coupon privatisation and public support of the programme to include companies with viable business potential. This will maximise the return of citizens participating in the programme, and will limit the number of enterprises that will require liquidation proceedings during the period under which an ownership control is being consolidated or shortly after.

- *Exclude those large enterprises (> SK 250 million in book value of equity) which are in very poor operational and financial condition, and which require extensive restructuring or liquidation proceedings together with a customised privatisation plan.*

  These enterprises will probably not survive the coupon privatisation programme without a restructuring plan, and will most likely have to be liquidated as soon as ownership control is exercised. Such events at key large enterprises could jeopardise the success of the coupon privatisation programme and its perception by the Slovak public.

  The Ministry of Economy has already selected some 20 enterprises which require such restructuring and international lending organisations have committed their support to undertaking the restructuring and privatisation plans.

- *Exclude those enterprises, or limit the percent that will be privatised via the coupon, for which there are seriously interested foreign or domestic investors which have initiated negotiations for their acquisition.*

  The coupon programme should not jeopardise on-going negotiations with foreign or domestic investors which may result in the injection of cash into the enterprises, the quick privatisation of the enterprises, and the injection of foreign exchange into the Slovak Republic.

  The image of the Slovak Republic as an world investment destination will be hurt if advanced negotiations with foreign investors are halted.

  It will be critical to launch a public relations campaign that will communicate the coupon privatisation programme to the financial community.

- *Exclude those enterprises, or limit the percentage that will be privatised via the coupon, which may be deemed strategic by the Government of the Slovak Republic*

- *Particular attention should be given to enterprises where the FNP has over 50% of the shares as privatising these will contribute towards the privatisation target since the definition of a privatised enterprise is one in which over 50% of the shares are not in the hands of Government institutions.*

We also provided advice on the percentage of each SOE that should participate in the voucher programme. We recommended that as high a percent in any enterprise be placed in the coupon programme in order to increase popular support for the programme. Reasons to reduce the percent placed in the coupon may include:

- Strategic reasons where a certain percent should be maintained by the Fund National Property (utility companies which require regulation to be passed);

- To divest through a combination of standard and coupon methods in situations where there is a defined foreign or domestic investor willing to invest cash into the enterprise.

- To provide an incentive of the management of the SOEs to co-operate in the coupon programme, it should be considered to provide the management and employees of the enterprises with a percentage of the shares (e.g. 10% of shares, without voting rights but with rights to dividends).

With very few exceptions, the actual selection criteria mirror that which we proposed.

2.6 Public Relations

In our view and given the current debate on privatisation policy, it will be critical for the successful implementation of the coupon privatisation programme that a well defined public relations campaign be developed and implemented both nationally and internationally. The national public relations campaign should focus on communicating the economic rational behind the programme in order to encourage participation, support, and enhance the transparency of the process. Internationally, Slovakia needs to promote the country as a desired investment destination. Also, an improved organisational structure for servicing and informing potential foreign investors needs to be developed.

Currently, potential foreign investors face difficulties identifying attractive investments, obtaining reliable information and initiating negotiations. Furthermore, there is no central body empowered to co-ordinate and guide potential foreign investors through the Slovak privatisation process. All these factors have contributed to a limited success in attracting foreign investment.

We provided advice in designing such an organisational structure and in encouraging the Ministry to seek expert public relations technical assistance which could be financed by international aid organisations (e.g. for the design and implementation of the international public relations strategy).

The general guidelines of the recommended programme included the following:

- Technical Advisor in the form of a communications expert with knowledge of the international financial press and who will be able to work closely with the MAPNP and the FNP in developing a communications strategy and message to targeted at both the domestic and international financial community. This technical advisor will also work closely with the current staff of the MAPNP and FNP in order to strengthen and build the institutional aspects of the public relations function, and thus address the current problem that foreign investors face in understanding and participating in the Slovak privatisation programme.

- Assistance in financing the communication of information concerning the privatisation programme in domestic and international communications channels. We estimate at this point that some $250,000 will permit the Government of the Slovak Republic to conduct two waves of targeted advertisements in the financial press.

- In addition, short 2-day seminars on investment opportunities in the Slovak Republic should be undertaken. To ensure the success of such seminars the Government of the Slovak Republic should provide high level officials from its ministries, as well as selected business leaders.

Advertisement in the May issue of Central European

Together with staff of the MAPNP we assisted in drafting a one page advertisement where the Minister of Privatisation announced to the international community the Government's privatisation strategy and the implementation of the second wave of voucher privatisation later in 1994. The advertisement was financed by USAID and is presented in the following page.

Privatisation in The Slovak Republic

"The Slovak Republic will launch the second wave of coupon privatisation later in 1994 as the cornerstone of a vigorours privatisation strategy which will include international public tenders and divestiture of shares into the capital markets."

JUDr. Milan Janičina
Minister of Privatisation

The Slovak Republic has had great success in its privatisation efforts to date. During the small scale privatisation, more than 9,750 units (such as restaurants and small retail shops) were sold for more than 12.7 billion Slovak crowns (SK) ($425 million). In addition, the first wave of large scale privatisation resulted in the privatisation of more than 500 formerly state-owned enterprises.

Most of the large scale privatisation was accomplished via the well-known and very popular coupon method, whereby citizens were encouraged to purchase coupons for a nominal fee and use the coupons to bid for shares in newly-formed joint stock companies. However, other methods such as public tenders and direct sales were also used.

The plans for the future remain equally ambitious. The Slovak Republic recognises that it lacks sufficient resources to achieve a high level of economic development in a short period. Thus, a key part of the privatisation strategy for the Slovak Republic is to attract foreign investors: their capital, management skills, technology and know-how.

As part of this strategy, the Ministry of Privatisation plans to choose between 30 and 50 enterprises for international public tenders in 1994. Information memoranda for these enterprises should be ready by July 1994 and information concerning these enterprises will be publicised in the Western press.

The Slovak Republic will also launch the second wave of coupon privatisation later in 1994. As many as 300 enterprises with an approximate book value of equity of between Sk80 billion and Sk100 billion (between $2.5 billion and $3 billion) will be privatised through coupons. Generally, the enterprises included in the coupon privatisation will each have book value of equity of over Sk250 million ($7.8 million). However, some smaller enterprises, with book value of equity of between Sk100 and Sk200 million ($3 million and $6 million), will also be included.

Slovak citizens will register their coupon privatisation books in September of this year. Beginning in October, citizens will decide whether they wish to invest their coupons independently or whether they wish to give their coupons to one or more of the many privatisation investment funds which will make investment decisions on their behalf. Domestic and foreign private investors who wish to participate as privatisation investment funds must register with the Ministry of Finance.

The ultimate result of the coupon privatisation process is that citizens and investment funds acquire stock in individual companies. This stock is traded on the capital markets and foreign investors have the opportunity to buy and sell controlling interests in Slovak companies.

The Fund of National Property of the Slovak Republic maintains minority stock ownership interests in hundreds of former state-owned enterprises. Present plans are to sell shares in approximately 400 of these joint stock companies with a share capital value of approximately Sk15 billion ($469 million) through the capital and in tenders.

It is the Government's expectation that the combination of the second wave of coupon privatisation, plus the sale of the remaining ownership interest of the Fund of National Property via the capital markets will greatly increase the significance of the capital markets in Slovakia. Of course, foreign and domestic investors continue to have the opportunity to invest in and acquire controlling interests in Slovak enterprises via the capital markets.

During the first wave of privatisation, Slovakia established the necessary infrastructure required to implement a robust privatisation programme. The continuation of this process through the second wave will ensure that the Slovak Republic will remain at the forefront of those countries seeking to transform their economies successfully from the former command system to a vigorous and competitive free market system.

Foreign investors should not miss this excellent and unique opportunity to take advantage of democratic conditions, a positive pro-investment climate and a highly-skilled and educated workforce to expand throughout Europe.

For more information, please contact: International Relations Department, Ministry of Privatisation, Drienova 24, 820 09, Bratislava, Slovakia. Fax: (42 7) 233 335.

2.7 Market Research Programme (Private Investment Funds)

One of the main concerns of the MAPNP in pursuing the voucher privatisation programme is the corporate governance role that the private investment funds will have following the implementation of a programme which is expected to result in some 60% to 80% of "voucher" shares to be effectively controlled by these funds. In order to obtain such information, the MAPNP asked for advice on how to undertake a market research study aimed at the management of SOEs and former SOEs which are now controlled by private investment funds.

We provided advice on how to technically implement such a market study, and also provided a list of potential questions to be asked. A list of suggested questions is included in the annex.

2.8 Voucher Privatisation Committee

In order to plan and co-ordinate the work that needed to be undertaken in order to implement the voucher programme within a very tight time schedule, and to assign responsibilities and deadlines, the Ministry of Privatisation formed the Voucher Privatisation Committee, with representatives from the Ministry of Finance, Centre of Coupon Privatisation, and the Fund of National Property. We served on this committee between March and May in the capacity as advisors to the MAPNP.

2.9 General Ad-Hoc Advice

During the period as technical advisors we maintained an open door policy whereby we openly discussed a variety of issues with the staff of the MAPNP. Some of the issues that were (are) of a high priority, and for which we provided input in developing solutions and policies include:

- Developing proposals so that the managers of SOEs will support the voucher privatisation process (e.g. providing management and employees with shares in their enterprises;

- Proposals to prevent policies of asset stripping by managers of SOEs during the period prior to privatisation;

- How to institute effective corporate governance during the period between which SOEs, participating in the voucher programme, are transformed into Joint Stock Companies, and when ownership control is finally exercised after the completion of the voucher programme;

- Organisational development programmes for the FNP and the MAPNP.

2.10 Debt Conciliation Paper

The Slovak Republic is currently in the process of developing a mass debt conciliation programme, sponsored by international lending agencies, whereby some sort of out of court bankruptcy proceedings will be established and whereby banks will be re capitalised. As input to the development of this programme, we drafted a short discussion paper concerning some of the lessons learned from the Polish experience with its on-going mass debt conciliation programme. This paper is included in the annex.

3.0 Recommended Future Programmes of Assistance Supporting Privatisation

In order to implement the privatisation strategy of the Government of the Slovak Republic, continued external assistance will be required. Some assistance programmes may include the following:

- In order to speed the implementation of sales through standard methods, technical assistance will be required in the form of expert transactions teams that will attract potential foreign investments and assist in negotiating and implementing direct sales and domestic and international tenders. The transaction teams should also assist in developing sales memoranda in accordance to international quality standards for a selected group of enterprises that will be identified as candidates for an international public tender programme;

- General technical assistance should be provided to the MAPNP in order to develop clear and transparent transaction project evaluation criteria. This could be done as an expanded role for the transaction teams;

- Technical assistance will be required by the MAPNP in the form of Slovak lawyers and financial analysts in order to quickly evaluate and approve the 150 to 200 privatisation projects which will enter the second wave of voucher privatisation. This is being provided by USAID and EC PHARE;

- In order to facilitate the implementation of the voucher privatisation programme, technical assistance will be required to speed the process of corporatising the state owned enterprises. This legal man-power assistance will be provided to the FNP and the Ministry of Justice;

- Technical assistance will be required to develop a communications and public relations strategy both for the voucher privatisation programme and the international tender programme to be implemented in 1994, and in order to attract foreign investment.

- Assistance will also be required to speed the programme of enterprise restructuring and debt conciliatory programmes sponsored by various international organisations;

- Training programmes to develop the general business and financial skills of the staff of the MAPNP and the FNP are critical to the success of the privatisation programme. Of particular need, will be training programmes targeted at the staff of the FNP concerning the functioning of capital markets, transaction negotiating strategies, and evaluating business and financial plans.

Implementation Advisory Assistance
Ministry of Privatisation of the Slovak Republic

Annex to the Final Report

Claus Frost Hansen
Robert Antonides

17 June 1994

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6. The Slovak Republic - Large Scale Privatisation Plan - Volume I, Diagnosis and Analysis of the Privatisation Process (Slovak Version)

7. The Slovak Republic - Large Scale Privatisation Plan - Volume II, Action Plan for the Privatisation Process (English Version)

8. The Slovak Republic - Large Scale Privatisation Plan - Volume II, Action Plan for the Privatisation Process (Slovak Version)

9. Advertisement in May Issue of Central Europe

10. Market Research of Private Investment Funds Questionnaire

11. Overhead Slides for Public Relations Presentation by MAPNP in Macedonia Conference

12. Lessons of Polish Experience with Debt Conciliation Programme

Slovak Republic

Ministry of Administration and Privatization of National Property (MAPNP)

Terms of Reference for an Implementation Advisory Team

1. As a part of the actions to be undertaken by the Government of the Slovak Republic to comply with the conditionalities of the World Bank Economic Recovery Loan, approved on December 2, 1993, the MAPNP has prepared a preliminary plan to streamline, simplify, and clarify procedures and decision-making for privatization ("privatization implementation plan") so as to facilitate and accelerate the pace of privatization. The final detailed privatization implementation plan will be completed by April 1994 and full implementation will begin as soon as possible thereafter.

2. In order to prepare detailed streamlined procedures and processes, the MAPNP will use the assistance of a group of implementation advisors, to be financed by the US/AID funds, for a period of about 120 days, starting at end of January 1994. The selected advisors will have extensive experience in working with privatization agencies in the region, confirmed implementation and team management skills, extensive industrial and financial sector experience and very good command of English. The MAPNP will provide the experts with the services of a full-time translator.

3. The advisors will be based in the MAPNP, and will assist the management of the MAPNP in elaborating and finalizing of the above privatization plan. In particular, the advisors will perform the following tasks:

- drafting with MAPNP the action plan for privatization which will include: roles and obligations of each concerned ministry and/or fund/agency (particularly the National Property Fund), areas of their co-operation, communication procedures, identification of key persons in each concerned ministry and/or agency, decision making process (on internal and external/inter-ministerial levels), as well as detailed description of areas and skills which need strengthening and improvement,

- drafting of a detailed multi-year privatization plan for the MAPNP, including budget, staffing, and financial plans,

- identifying internal and external supports (funding and skills) which are/will be available to strengthen the execution capacity of the ministries and agencies involved in the privatization process; this will include assisting MAPNP in coordinating activities with donor institutions (World Bank, etc..),

- advising and training on-the-job the key decision makers in the MAPNP departments in the areas crucial to their operations (to be defined by the expert),

- advising on external relations strategy to facilitate and improve the perception of the privatization process,

- facilitating the co-operation between the concerned ministries, agencies and committees, and, if needed, recommend solutions to resolve any potential implementation problems and bottlenecks that may arise during the process,

- any other necessary assistance to the management of the MAPNP, if required, in order to stimulate and facilitate the implementation of the privatization plan.

4. To perform these tasks, US/AID will use Deloitte and Touche as the prime contractor, which in turn has identified the appropriate candidates whose assignment will commence on January 31, 1994. The three advisors selected are David Kochav (Senior Advisor), 31 days, Claus Frost-Herman (Senior Advisor), 45 days, Robert Antonides (Junior Advisor), 60 days. Advisors will be recruited and reimbursed under the labor categories defined by Deloitte and Touche under its contract with US/AID.

5. Counterpart support will be provided by MAPNP under the day to day management of Director Jan Porvaznik and overall supervision of Mr. Jan Kato, Head of Office. The advisory team will report to Ms. Lezan Prosser of Deloitte and Touche (contractor); US/AID Bratislava, Ms. Patricia Lerner (AID Rep.) and Mr. Frank Vita (Special Advisor, AID Washington). Close coordination will be maintained with the World Bank (Messrs. Yves Duvivier and Robert Anderson).

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Yves Duvivier
Principal Industry Specialist
Private Sector Development Department

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List of People Met

Ministry of Administration and Privatisation of National Property (MAPNP)

- Milan Janicina, Minister
- Gabriel Palacka, State Secretary
- Mr. Ivan Lexa, Former State Secretary
- M. Kozlik, Director, Legal Section
- M. Novakova, Legal Section
- F. Doktor, Legal Section
- Jan Porvaznik, Director, Privatisation Industrial Enterprises
- Ludovit Zachar, Privatisation Industrial Enterprises
- Marta Bogdanova, Privatisation Industrial Enterprises
- J. Janik, Director, Privatisation Agriculture
- Dezider Mosny, Deputy, Privatisation Agriculture
- Rastislav Zboril, Director, Privatisation Non Productive Enterprises
- Peter Rosa, Director
- M. Prutzerova, Director, Finance and Personnel
- Dusan Kasan, Deputy, Finance and Personnel
- M. Kuchta, Head, Database Section
- Igor Uhrik, Advisor to the Minister
- Mr. Michalko, Voucher Privatisation
- David Frankel, Advisor
- Iva Kutarnova, International Relations
- Mirko Turcan, International Relations

Fund for National Property (FNP)

- Mr. Kato, Former Chairman of the Executive Committee
- Dusan Fiala, Director, EC Phare PMU
- Mr. Pinkava, Director
- Lubomir Melicharak, Management Information System
- Karol Danys, Director
- Ivan Gondas, Director
- Galajda, Deputy
- Michal Dirga, Director
- Vrbova, Deputy
- Pavol Kendra, Director
- Mr. Sumichrast, Deputy
- Jaroslav Bilik, Director
- Mr. Hudakova, Deputy
- Dusan Svantner, Director
- Mr. Karaffa, Director
- Mr. Ukropec, Deputy
- Mr. Lachkovic, Director
- Danica Dvorakova
- David Douglas, Advisor
- Simon C. Hawken, Advisor
- Volker Hillebrandt, Advisor

Ministry of Economy
- Jozef Petras, Director, Department of Financial Policy
- Darina Volfova
- Ms. Novemska

Ministry of Land Ressources (Agriculture)
- Vadim Haraj, Director

Ministry of Finance
- Jozef Magula, Head of Section

Ministry of Culture
- Ivan Izakovic, Vice Minister

Ministry of Health
- Eduard Simko, Former Director

Ministry of the Interior
- Vladimir Belo-Caban, Director, Ministry Office
- Jozef Liska, Director, Internal Administration

Ministry of Transport, Communication and Public Works
- Jan Ricotti
- Marian Stefanek

Center of Coupon Privatisation
- Matus Sramek, Director
- Jan Filipek

RM System Slovakia a.s.
- Darina Huttova, Deputy Director

Supreme Audit Office
- Marian Vrabec, Managing Director
- Peter Sokol, Deputy

Slovak Antimonopoly Office
- Eugen Jurzyca, Director

Slovak National Agency for Foreign Investment and Development (SNAFID)
- Jana Cekanova, Sales Executive
- Lenka Jasencakova, Public Relations

European Bank for Reconstruction and Development
- Igor Tham, Resident Representative

VUB Invest i.a.s.
- Ladislav Vaskovic, General Director
- Jozef Oravkin, Manager

Creditanstalt Securities a.s.
- Peter Foltion, Chief Executive Officer
- Ivan Benda, Managing Director

Creditanstalt Investment Company a.s.
- Martin Cabadaj, Managing Director

Centurion East European Mining Plc, UK
- Michael J. E. Foster, Managing Director

Overseas Private Investment Corporation
- Barbara F. Brereton, Investment Services Officer

The World Bank
- Yves Duvivier
- Robert E. Anderson

US Embassy
- Ted Russell, Ambassador
- Chris Sandrolini

U.S.A.I.D.
- Patricia J. Lerner, Representative to Slovakia
- Marian Krsko, Project Advisor

Deloitte & Touche
- Bob Wood, Partner in Charge
- Lubomir Haluska, Partner

Privatisation in The Slovak Republic

"The Slovak Republic will launch the second wave of coupon privatisation later in 1994 as the cornerstone of a vigorours privatisation strategy which will include international public tenders and divestiture of shares into the capital markets."

JUDr. Milan Janičina
Minister of Privatisation

The Slovak Republic has had great success in its privatisation efforts to date. During the small scale privatisation, more than 9,750 units (such as restaurants and small retail shops) were sold for more than 12.7 billion Slovak crowns (SK) ($425 million). In addition, the first wave of large scale privatisation resulted in the privatisation of more than 500 formerly state-owned enterprises.

Most of the large scale privatisation was accomplished via the well-known and very popular coupon method, whereby citizens were encouraged to purchase coupons for a nominal fee and use the coupons to bid for shares in newly-formed joint stock companies. However, other methods such as public tenders and direct sales were also used.

The plans for the future remain equally ambitious. The Slovak Republic recognises that it lacks sufficient resources to achieve a high level of economic development in a short period. Thus, a key part of the privatisation strategy for the Slovak Republic is to attract foreign investors: their capital, management skills, technology and know-how.

As part of this strategy, the Ministry of Privatisation plans to choose between 30 and 50 enterprises for international public tenders in 1994. Information memoranda for these enterprises should be ready by July 1994 and information concerning these enterprises will be publicised in the Western press.

The Slovak Republic will also launch the second wave of coupon privatisation later in 1994. As many as 300 enterprises with an approximate book value of equity of between Sk80 billion and Sk100 billion (between $2.5 billion and $3 billion) will be privatised through coupons. Generally, the enterprises included in the coupon privatisation will each have book value of equity of over Sk250 million ($7.8 million). However, some smaller enterprises, with book value of equity of between Sk100 and Sk200 million ($3 million and $6 million), will also be included.

Slovak citizens will register their coupon privatisation books in September of this year. Beginning in October, citizens will decide whether they wish to invest their coupons independently or whether they wish to give their coupons to one or more of the many privatisation investment funds which will make investment decisions on their behalf. Domestic and foreign private investors who wish to participate as privatisation investment funds must register with the Ministry of Finance.

The ultimate result of the coupon privatisation process is that citizens and investment funds acquire stock in individual companies. This stock is traded on the capital markets and foreign investors have the opportunity to buy and sell controlling interests in Slovak companies.

The Fund of National Property of the Slovak Republic maintains minority stock ownership interests in hundreds of former state-owned enterprises. Present plans are to sell shares in approximately 400 of these joint stock companies with a share capital value of approximately Sk15 billion ($469 million) through the capital and in tenders.

It is the Government's expectation that the combination of the second wave of coupon privatisation, plus the sale of the remaining ownership interest of the Fund of National Property via the capital markets will greatly increase the significance of the capital markets in Slovakia. Of course, foreign and domestic investors continue to have the opportunity to invest in and acquire controlling interests in Slovak enterprises via the capital markets.

During the first wave of privatisation, Slovakia established the necessary infrastructure required to implement a robust privatisation programme. The continuation of this process through the second wave will ensure that the Slovak Republic will remain at the forefront of those countries seeking to transform their economies successfully from the former command system to a vigorous and competitive free market system.

Foreign investors should not miss this excellent and unique opportunity to take advantage of democratic conditions, a positive pro-investment climate and a highly-skilled and educated workforce to expand throughout Europe.

For more information, please contact: International Relations Department, Ministry of Privatisation, Drienova 24, 820 09, Bratislava, Slovakia. Fax: (42 7) 233 335.

Market Research Study
Private Investment Funds

Suggested Questions to Include:

Name of Enterprise
Address
Telephone
Contact Person

I. Corporate Governnace

- What is the precise ownership structure of your enterprise ?
  - Private investment Funds
  - Private Shareholders
  - Management / Employees
  - Fund of National Property
  - Others
- As of when did this basic ownership structure presented above develop ?
- Is the ownership represented in the Supervisory Board of your enterprise ?
- When was the Supervisory Board Established ?
- How many members of the supervisory Board are appointed by the private investment fund ?
- In general, have the board members representing the private investment funds taken an active role in the management direction of the enterprise?
- How knowledgeble and familiar with the industry and the enterprise are the Supervisory Board members representing the private investment funds?

II. Financial Performance:

- Since the new ownership structure has been established, has the financial performance of the enterprise improved or deteriorated?
  - profits
  - total revenue
- What are the reasons for the change in performance?

III. Products and Markets:

- Has there been a change in policy regarding products and markets as a result of the new ownership structure?
- If so, has the change in policy been positive or negative?

IV. Employment:

- What employment policies have changed? Is their a new management team? Has staffing been reduced?
- Have employment policies been directed by the new owners and are they positive?

V. Investment:

- Have investment plans changed due to a new investment policy resulting from the new ownership structure ?
- If so, how ? Have they been reduced or increased ? Has the new ownership brought sources of capital for investment purposes ?

VI. Future Outlook

- Do you view as positive or negative from the future outlook of the enterprise the ownership role of the private investment funds?
- Have future investment, marketing and general business plans been drafted as a mandate from the new ownership?
- In your opinion, are the private investment funds interested in a long or short term committment to your enterprise?

The Slovak Republic
Public Relations for Privatisation

Basic Privatisation Methods

Standard Methods

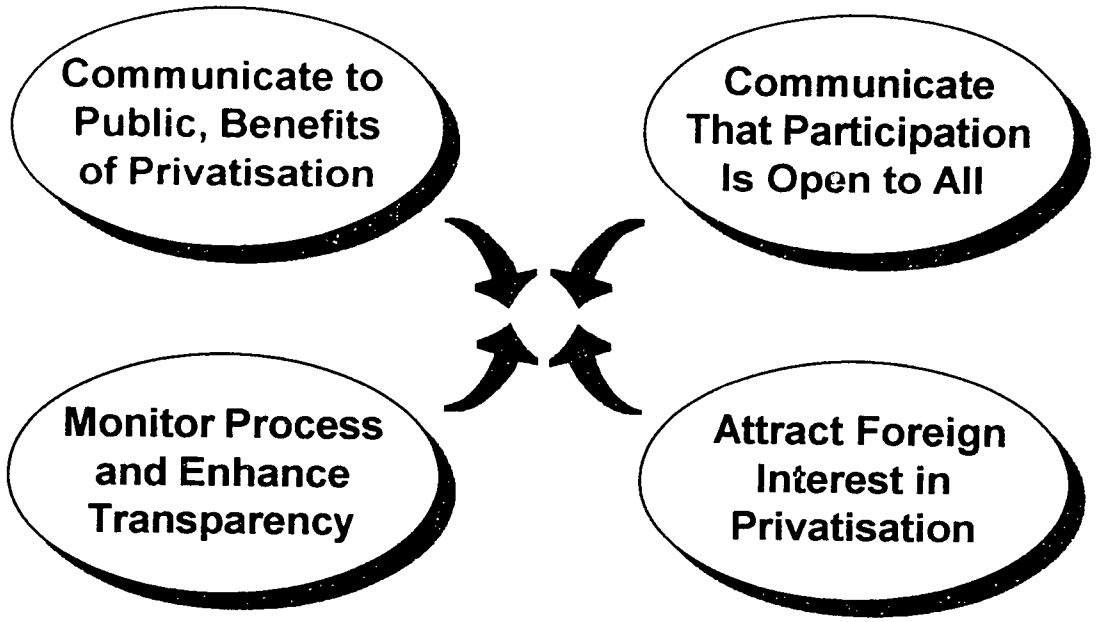
Direct Sales
Public Tenders
Auctions
Liquidations

Non-Standard Methods

Coupon Privatisation

The Slovak Republic
Public Relations for Privatisation

Objectives of Public Relations Function



The Slovak Republic
Public Relations for Privatisation

The Privatisation Process

Phase I

Prepare Privatisation Project

State Enterprise
Founding Ministry

Phase II

Evaluate & Approve Privatisation Project

Ministry Privatisation
Government

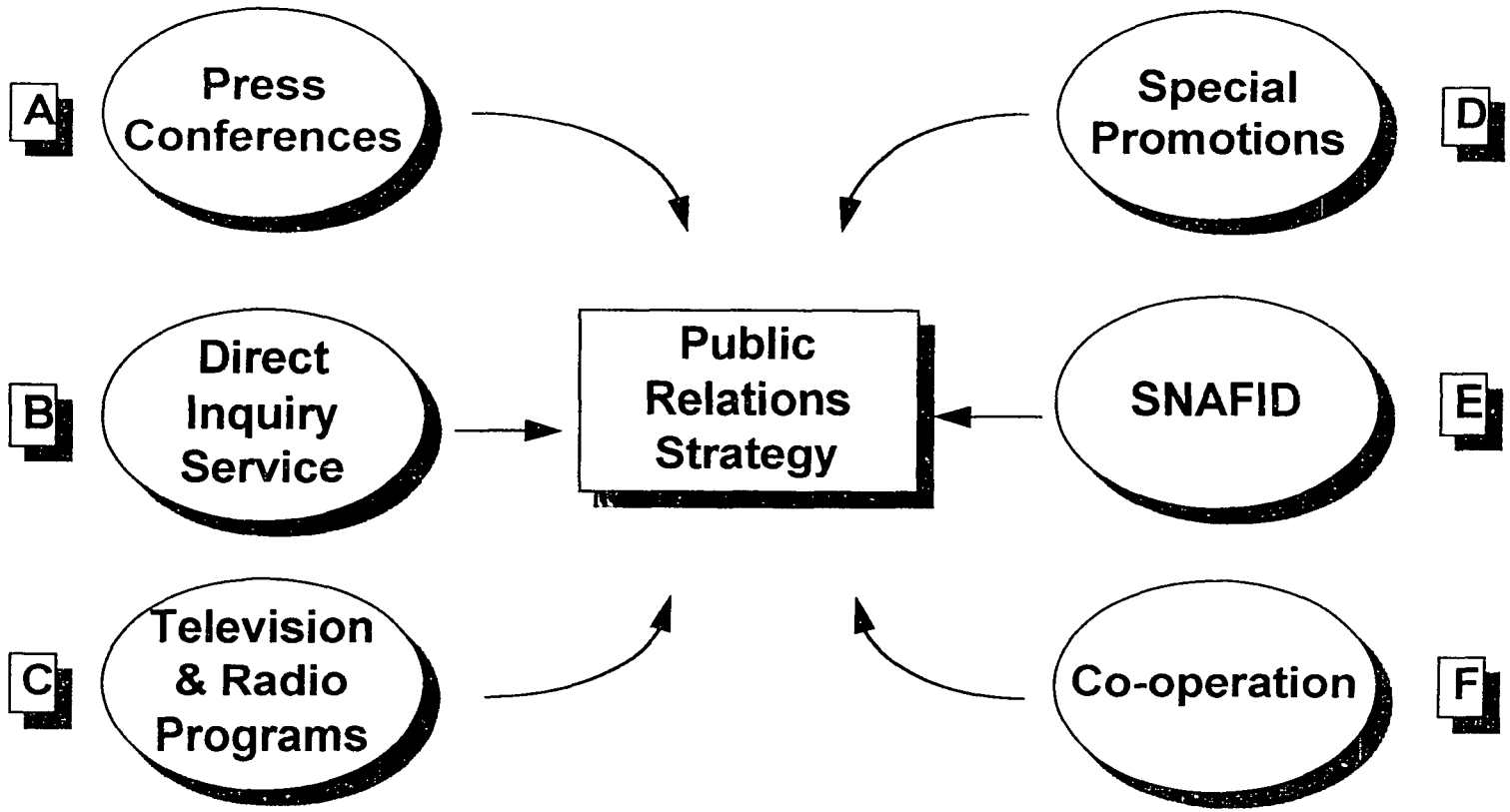
Phase III

Transform Enterprise & Implement Project

Fund National Property

The Slovak Republic
Public Relations for Privatisation

Overall Public Relations Strategy



The Slovak Republic
Public Relations for Privatisation

Future Promotional Campaign

- Special Film Pr
- oduction
- Advertising in Daily and Weekly Newspapers
- Television Advertising
- Direct Mail Campaign
- Posters
- Information Desk at RM System Contact Points
- Local Public Meetings
- Telephone Inquiry Facility
- Debates on Television and Radio
- Press Releases and Conferences

The Slovak Republic
Public Relations for Privatisation

Slovak National Agency for Foreign Investment and Development (SNAFID)

Objectives

- Identify Potential Foreign Investors
- Promote and Maximize Foreign Direct Investment in the Slovak Republic
- Assist Potential Foreign Investors

Services

- Macro-economic information on the Slovak Republic
- Industry specific information and enterprise specific information
- Identify professional services firms (lawyers, accountants, translators)
- Introduction to potential joint venture partners
- Assistance in all stages of investment project implementation

The Slovak Republic
Public Relations for Privatisation

Key Challenges

- Overcoming Tight Budgetary Constraints
- Enhancing Skills and Experience Level

Working Draft

Law No. 92:1991 (Digest)

dated February 26, 1991

on the conditions of transfer of state property to other persons

including amendments and supplements introduced pursuant to the laws No. 92:1992 (Digest), 264:1992 (Digest), the constitutional law No. 541:1992 (Digest), 544:1992 (Digest), the No.17:1993 (Digest) law of the National Council of the Slovak Republic, the No.172:1993 (Digest) law of the National Council of the Slovak Republic, the No. 278:1993 (Digest) law of the National Council of the Slovak Republic and the No.60:1994 (Digest) law of the National Council of the Slovak Republic.

(Complete wording)

The National Council of the Slovak Republic has passed the following law:

SCHEDULE ONE

PART ONE

SUBJECT AND SCOPE OF PROVISIONS

§ 1

(1) This law delimitates the transfer conditions of state property to which the rights of management lie with state enterprises, state financial institutions, state insurance agencies and other state organizations (hereinafter referred to as "enterprises") or which is under administration of the Slovak Land Fund, including their property participations in businesses of other legal entities, as well as the transfer conditions of such participations of the state in such businesses, to Slovak or alien legal entities or natural persons (hereinafter referred to as "privatization").

(2) This law shall be similarly applied to the property of foreign trade companies and specific foreign trade organizations, including their property participations in businesses of other legal entities.

(3) The transfer conditions of state property as stipulated by this law shall not apply to property which, in conformity to constitutional laws or special laws can only be owned by the state.

§ 2

The property of the enterprise is for the purposes of this law defined as the sum of things and financial means which the enterprise has the rights of management or rights of ownership to, as well as the sum of rights, other proprietary valuables and liabilities of the enterprise.

§ 3

(1) Property to be restituted to legal entities on the base of special regulations[1)] is not subject to this law. Similarly, this law is not applicable to property originally owned by churches, orders and religious associations and transferred to the state after February 25, 1948.

(2) Property claimed by natural persons on the base of special regulations[2)] may be subject to this law. The acquirer of such property or his legal successor shall become a liable person according to special regulations.

(3) Those who have surrendered property pursuant to Section (2) above shall be compensated by the Fund of National Property of the Slovak Republic, the value of such compensation to be determined by a law of the National Council of the Slovak Republic.

[1)] For example, the 298:1990 (Digest) law on the adjustment of certain ownership relations of monastic orders and congregations, and of the Archbishopric of Olomouc.

[2)] For example, the 403:1990 (Digest) law on the mitigation of consequences of certain property-related cases of hardship, as amended by later legislation.

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§ 4

No property can be transferred in compliance with this law, even though proposed or included as property to be transferred to other legal entities or natural persons in accordance with special regulations[3)] before a decision has been made that it shall not be included in the lists of transferable units by such special regulations, or that it was excluded from such lists[4)].

PART TWO

PRIVATIZATION DECISIONS AND PRIVATIZATION PROJECTS

§ 5

Privatization decisions and privatization projects

Transfer of property pursuant to this law shall be carried out based on decisions on privatization of enterprises or parts thereof, or on decisions on privatization of the proprietary share of the state in businesses of other legal entities (hereinafter referred to as "privatization decisions") issued on the base of privatization projects.

Privatization project of the enterprise

§ 6

The privatization project of the enterprise is a set of economic, technical, proprietary, time and other data, showing the following:

(a) Name of the enterprise and delimitation of its property designed for privatization according to the project (hereinafter referred to as "privatized property"),

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[3)] 427:1990 (Digest) on transfer of state ownership of certain things to other natural persons or legal entities as amended by the No.541: 1990 (Digest) law.

[4)] 474:1990 (Digest) law of the Slovak National Council on the jurisdiction of authorities of the Slovak Republic in matters of transfer of state ownership of certain things to other legal entities or natural persons, as amended by the No. 501:1991 (Digest) law of the Slovak National Council.

(b) List of the real estate[4a)] being privatized, data on the method by which such privatized property had been acquired by the state, and what title for surrender of the same might be claimed pursuant to § 3, Section 2 above,
(c) Delimitation of those parts of the property which cannot be used for business purposes (e.g. irrecoverable claims, unusable capital assets and warehouse stock) and the disposition method of such property,
(d) Valuation of the privatized property,
(e) Method of transfer of the privatized property, including settlement of claims of qualified persons,
(f) In case of establishment of a business company determination of its legal form,
(g) In case of establishment of a joint-stock company the method of distribution of the stock, its ratios and/or types and data on the scope of use of investment coupons, if any,
(h) In cases of sale the method, proposed price and terms of payment as well as proposed investments and other conditions of sale which could be taken into consideration in negotiations of the purchase price or create reasons for a partial remission of the purchase price,
(i) Division of the privatized property among individual transferees (final privatized units),
(j) Transfer method of industrial rights and/or rights related to other spiritual property, negotiated with the Office of Industrial Ownership of the Slovak Republic if such rights are owned by the enterprise,
(k) Time schedule of implementation of the privatization project.

(2) In addition to data stipulated by Section (1) above, the privatization project may show the following:

(a) Recommendations related to corporate business activities,
(b) Information on persons showing interest in the purchase of the enterprise, or in participation in the establishment of a trading company using its corporate property, or in stock purchases of a newly established joint-stock company,
(c) Data on the current and expected market position of the enterprise,
(d) Data on the number and qualification structure of the employees.

4a) § 119, Section 2 of the Civil Code.

(3) Privatization projects may relate to parts or the whole of the enterprise, or to the property of several enterprises.

§ 6a

(1) Privatization projects submitted after February 29, 1992 must include the evaluation of ecological liabilities of the enterprise, certified by the state environmental authority of jurisdiction.

(2) The evaluation pursuant to Section (1) above shall include:

(a) Assessment of those directions where the enterprise does, or is unable to, meet the stipulations of ecological legislation currently in force showing the costs necessary to acquire accordance with such legislation,
(b) Review of payments imposed upon the enterprise for environmental pollution and utilization of natural resources[4b)] and a review of sanctions levied against the enterprise for environmental pollution pursuant to the Environment Act and other special regulations,
(c) Quantification of the environmental damage hitherto caused by corporate activities[4c)].

§ 7

(1) The founder or establisher of the enterprise (hereinafter referred to as the "founder") to whom draft privatization projects are submitted is responsible for elaboration of the privatization project.

(2) Draft privatization projects are as a rule elaborated by the enterprises concerned. In case of such elaboration by the founder or by another person, the founder shall request the opinion of the enterprise concerned.

(3) The founder may order the enterprise to submit its draft privatization project, and may specify an adequate time period for such submission; the same procedure may be applied by the Ministry of Administration and Privatization of National Property of the Slovak Republic (hereinafter referred to as the "Ministry") to the founder.

[4b)] § 31 of the Environmental Act (17:1992 'Digest').
[4c)] For example, § 8, Section 2 of 17:1992 (Digest).

(4) The Ministry shall determine deadlines for submissions of privatization project proposals. If so required by the Ministry, the founder and the enterprise shall present updating data, documents, information etc. on the privatization project within the deadline specified by the Ministry.

(5) The enterprise shall inform the responsible trade unions on the draft privatization project. Trade union bodies may present statements on the privatization projects to the founders prior to submission of such projects.

(6) If the draft privatization project was prepared by an entity other than the enterprise, the latter shall at the request of the former provide data as specified by § 6, Section 1, Subsections (a) through (d), (j) and by the nature of the matter also by Subsection (i) as well as data specified by Section 2, Subsection (b) concerning the privatized property. The above data shall be provided in writing without delay. The responsibility for meeting this liability shall lie with the respective statutory body. Any data thus provided may only be used in the preparation of the privatization project, and the entity whom they had been supplied to shall take every precaution to prevent acquisition of such data by others. The enterprise shall remain liable to provide data as above only until expiration of the period specified for the submission of privatization project proposals related to its property. After that period the founder shall determine the continuing range of the enterprise´s cooperation in the provision of data with relevance to its privatization in cases of initiations on the privatization method filed pursuant to § 8, Section 4 hereunder.

(7) The Ministry may impose a fine amounting up to SKK 100,000 upon statutory bodies of enterprises who, by infringement on their duties, have caused that such enterprise failed to submit data pursuant to Section 6 above or that it submitted incomplete or erroneous data.

(8) The amount of fine shall be determined taking into account mainly the measure of guilt, gravity, time of duration and consequences of the unlawful action.

(9) Fines pursuant to Section 7 above may be imposed within 6 months from the date when the Ministry was informed on the infringement of duties but within one year latest from the date of occurrence of such infringement.

(10) Income from fines imposed pursuant to Section 7 above shall be a special Ministry account revenue.

(11) To the imposition of fines pursuant to Section 7 above the general rules of administrative proceedings shall be applicable.

§ 8

(1) The founder shall evaluate all submitted proposals of privatization projects of the enterprise and shall submit one copy thereof to the Anti-Monopoly Office of the Slovak Republic for a statement, delivered in accordance with special regulation[4d)]. The founder shall present the proposals of privatization projects, and any initiation filed pursuant to Section 4 hereunder, along with its views and with statements of the Anti-Monopoly Office of the Slovak Republic as well as with the proposal of privatization decision to the Ministry within the deadline determined by the Ministry. At the time of submission of the privatization project proposals the founder shall also inform the qualified persons on the proposed method of fulfilment of their respective claims (§ 47, Section 1).

(2) The founder shall, pursuant to Section 1 above, submit also those privatization project proposals which he did not recommend for implementation, accompanied with substantiation of his opinion.

(3) The founder shall publish the information on submission of the privatization project of the enterprise prepared by the enterprise in daily newspapers of countrywide circulation. The enterprise shall provide information on itself, in the scope of the mandatory privatization project syllabi required by law, to parties interested in the preparation of a competitive project.

(4) Parties interested in the privatization may file an initiation of the privatization method of the enterprise or part thereof until the date of issue of the privatization decision.

4d) § 19 of the 63:1991 (Digest) law on protection of economic competition, as amended by the 495:1992 (Digest) law.

§ 9

Privatization project of property participation of the state in corporate businesses

(1) The state administration body executing those rights of the state which relate to its property participation in businesses of legal entities shall be responsible for the preparation of privatization project proposals of such participations within the deadline specified by the Ministry, and submit them to the Ministry.

(2) Privatization projects of property participation of the state in corporate businesses (hereinafter referred to as "privatization projects of participation") shall include all appropriate prerequisites of privatization projects of enterprises.

(3) Proposals of privatization projects of participation shall as a rule be prepared by the legal entities concerned. The process as stipulated by §§ 7 and 8 hereto shall commensurately apply.

§ 10

Privatization decisions

(1) Decisions of privatization by direct sales outside of public business contests (hereinafter referred to as "public contest") or of public auctions shall be issued by the government upon Ministry proposals. The government may reserve its right to decide on privatization in other matters.

(2) Decisions of privatization not included in Section 1 above shall be issued by the Ministry.

(3) The body of issuance of privatization decisions shall, prior to such issuance, publish the information on submisssion of the privatization project of the enterprise in daily newspapers with countrywide circulation.

(4) Privatization decisions shall not be issued before 30 days from the date of publishing of the information pursuant to Section 3 above.

(5) The Ministry shall publish issuance of the privatization decision within 30 days in the Official Gazette, and shall use also other forms of publishing.

(6) General rules of administrative proceedings shall not apply to privatization decisions. Such decisions shall not be subjected to court enquiries.

(7) The decisionmaking process of privatization is not a public procedure. Within its frameworks all privatization projects, submitted with respect to a given property or property participation in the business of another legal entity within the specified deadlines shall be taken into account, along with initiations filed in accordance with § 8, Section 4 hereto. Each privatization decision shall be made in writing, and delivered to the entity who had elaborated the privatization project or filed the initiation selected by such decision for implementation. Those who have elaborated further privatization projects and/or filed further initiations with relevance to the given decision shall be informed in writing on the method of privatization, and on the fact that their respective privatization projects or initiations were not selected for implementation by the respective decision.

(8) Privatization decisions may be issued on parts of the property involved in the privatization project proposal.

(9) The body of issuance of the privatization decision may prior to such issuance amend by written codicil the conditions, scope and method of privatization specified in the privatization project proposal.

(10) The body of issuance of the privatization decision may only amend such decision in case of grave facts having appeared after the issuance which were not known at the time of issuance of the privatization decision, and would have substantially influenced the original decisionmaking process.

(11) Amendments pursuant to Section 10 above may only be made before the privatized property was transferred to the Fund of National Property of the Slovak Republic (hereinafter referred to as "the Fund").

§ 10a

Decisions on the privatization of enterprises shall specify the following:

(a) Identification of the project
(b) Designation of the approved method of privatization
(c) Book value of the property of individual units independently privatized, corresponding to the privatization project determined for implementation by the decision,
(d) Book value of the property if any which cannot be used for entrepreneurial purposes, after deduction of any income yielded by its realization, and the disposition method of such property,
(e) Reference to the fact if any that transfer of the privatized property is linked to inception of a new liability for the transferee, with specification of the range of such liability and of sanctions applicable to its non-fulfilment,
(f) Reference to the fact if any that the privatization project or part thereof shall be implemented by the Slovak Land Fund,
(g) Reference to the fact if any that civil defence multipurpose storage establishments and/or property shall be transferred at no charge within the scope of the privatization project,
(h) Reference to the fact if any that the Fund, by governmental decision, shall sign a reimbursement agreement with the transferee with respect to costs ensuing from environmental liabilities whose origin lies before the privatization,
(i) Any further conditions.

(2) Decisions on privatization of enterprises by direct sales to a predetermined transferee shall, in addition to stipulations pursuant to Section 1 above, specify the following:

(a) Method of selection of the transferee,
(b) Identity of the transferee, defined by his identification code or citizen´s card-index number,
(c) Method of determination of the purchase price; if determined by agreement, the absolute total sum shall be shown,
(d) Terms and enforcement of payment.

(3) Decisions on privatization of enterprises by public contest shall, in addition to stipulations pursuant to Section 1 above, specify the following:

(a) Conditions of the public contest and criterions used to evaluate their fulfilment,
(b) Delimitation of the group of privatization participants.

(4) Decisions on privatization by incorporation of the privatized property in a business company and subsequent privatization of its business participation or stock, and decisions on privatization of property participation of the state shall, in addition to stipulations pursuant to Section 1 above, specify the following:

(a) Privatization method of the stock (part of business), expressed as the percentages of individual privatization methods of stock (part of business) and/or percentages sold to individual transferees,
(b) Existence of special-rights shares, if any,
(c) Changes, if any, proposed in the composition of statutory bodies of the business company,
(d) In case of sales of stock (part of business) for an agreed purchase price the price of one share (part of business) or the agreed total price.

(5) The privatization project selected for implementation by the privatization decision shall be accompanied with a list of real estate according to data obtained from the cadastre of landed property.

(6) Privatization decisions on privatization projects involving property participations may order the Fund to ensure sale of such property, or its delivery to the qualified person in accordance with special regulations[2)]. Such decision shall be met by the Fund within its execution of shareholders´ rights[4e)].

4e) § 187 of the Business Code.

PART THREE

TRANSFER OF PRIVATIZED PROPERTY TO THE FUND OF NATIONAL PROPERTY OF THE SLOVAK REPUBLIC, AND USE OF PROPERTY OF THE FUND OF NATIONAL PROPERTY OF THE SLOVAK REPUBLIC

§ 11

(1) The founder shall, in accordance with the privatization decision, discontinue the enterprise without liquidation proceedings, or extract his property participation from the enterprise to the date determined by the Fund.

(2) By the date of discontinuance of the enterprise, or of extraction of the property participation thereof the privatized property shall be transferred to the Fund.

(3) In cases where part of the property privatized according to the privatization decision is represented by property under administration of the Slovak Land Fund, such property shall also be transferred to the Fund pursuant to Section 2 above. The stipulation of Section 1 above shall be appropriately used.

(4) Prior to transfer of property pursuant to Section 2 above the enterprise shall dispose of its assets which cannot be used for business purposes (§ 6, Section 1, Subsection /c/) in compliance with the privatization decision.

(5) The founder shall not extract those parts of the property of the enterprise formed by, or linked to industrial rights or other spiritual property rights (§ 6, Section 1, Subsection /j/). The enterprise shall transfer such rights by contract to the transferee of the privatized property.

(6) In cases where all property of the enterprise transfers to the Fund, the foundation of a business company or the sale of such property shall coincide with the discontinuance of the enterprise without liquidation proceedings.

(7) Property participations shall, to the date determined by the Fund, be transferred to the Fund by the state administration body in accordance with the privatization decision.

§ 12

(1) Property of the Fund does not constitute state ownership and may only be used for purposes defined by this law.

(2) Property of the Fund may be used in accordance with approved privatization projects for the following purposes:

(a) Foundation of a joint-stock or another trading company[5)] and disposition of the property participation in such companies,
(b) Sale of the property of the enterprise or parts thereof, or sale of the property participation in the business of another legal entity,
(c) Transfer of privatized property to municipalities,
(d) Transfer of privatized property for purposes of health and pensions insurance,
(e) Transfer of the privatized property if constituted by assets used for agricultural or forestry production to the Slovak Land Fund which shall further handle such property appropriately in accordance with the privatization decision as stipulated by Subsections (a) through (d) above.

(3) In cases pursuant to § 12, Section 2, Subsection (e) above the stipulations of §§ 13 through 21 shall similarly apply to the Slovak Land Fund.

§ 13

No preferential treatment in cases of sale of the property of funds is allowable. In the case of sales of stock only such preferential treatment as allowed by the law on joint-stock companies may be granted.

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5) The Business Code.

§ 14

(1) Sales of privatized property are implemented by the Fund by contracts signed with the buyers, or by public auctions. In case of sales by public auction the rules of transfer of state property in accordance with special legislation[3)] shall appropriately apply. The contracts shall define responsibilities of the buyers for cases of failure to meet contractual liabilities, including possibilities of provisoes by agreement and conditions of cessation of the legal relations established by the contracts.

(2) If privatized property should be deposited as part of the share capital of a business company, the Fund shall proceed in accordance with special legislation[5)], with variations as specified by this law.

§ 15

(1) With the transfer of ownership rights of the privatized property to the transferee other rights and liabilities related to such property are also transferred.

(2) Transfers of claims are ruled by rules governing the surrender of claims in accordance with special legislation[7)].

(3) Transfers of liabilities require no creditors' approval. The Fund shall however guarantee with its property to the amount of acquired value of the privatized property fulfilment of liabilities of such privatized property. Creditors shall be entitled to claim fulfilment of such liabilities from the Fund only if they have notified the Fund on the applicable legal reasons and values within one year from the transfer of such liabilities to the transferee of the privatized property, and if all legal means to obtain such fulfilment from the debtor were exhausted beforehand[7a)].

(4) The transferee shall notify creditors on the transfer of liabilities without undue delay.

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7) The Business Code.

7a) For example, §§ 80, 251 etc. of the Civil Docket (99:1963 /Digest/) as amended by later legislation (see also the complete wording in 501:1992 /Digest/); the 328:1991 (Digest) law on rules of bankruptcy and settlement, as amended by later legislation.

§ 15a

(1) The transferee may within one year from signature of the property sales contract of the privatized enterprise, or - in case of deposition of property of the privatized enterprise in a business company - within one year from the foundation of such company carry out business within the relevant scope of authorization of such enterprise. In case of sale or deposition of an organizational component of the privatized enterprise the right to carry out business is similarly passed to the transferee within the scope of activities of such organizational component.

(2) The stipulations of Section 1 above are similarly applicable to the sale of the enterprise or of its organizational component by public auction.

§ 16

Industrial rights or rights of other spiritual property shall be transferred on the base of contracts closed between the proposer and the enterprise.

§ 17

Rights and liabilities of the privatized enterprise related to labour law relations with staff members employed by it or by its privatized organizational component shall transfer to the transferee.

§ 18

If privatization relates to the entire property of the enterprise, and if not differently stipulated in the contract or legal act by which property of the enterprise is deposited in the share capital of a business company, the right of use of the enterprise trade name transfers to the transferee unless such transfer would be contradictory to legislation applicable to the use of trade names. Such transfer shall not be prejudiced by a change in the tradename complement designating the legal form of the enterprise.

§ 19

(1) To the date of effectivity of the contract or deposition the Fund shall deliver, and the transferee shall accept the things included in the privatized property. The acceptance shall be recorded in a protocol signed by both parties.

(2) By delivery of the property the risk of damage of things pursuant to Section 1 above shall pass to the acquirer.

(3) The rights of ownership related to things included in the privatized property shall pass to the transferee by the agreed date of effectivity of the contract, or in case of deposition by the date of establishment of the business company; rights of ownership related to real estate shall transfer by deposition to the cadastre of landed property.

§ 20

(1) The protocol of acceptance (§ 19, Section 1 above) shall contain a list of things missing and/or damaged. Unless stipulated differently by the contract, things which were not delivered to the transferee in spite of being accounted for as part of the delivered property shall be considered as missing. Assessment of damaged things shall take into consideration their continuing capability of use in operations of the enterprise, and their duration of use as determined from bookkeeping records.

(2) Unless stipulated differently by contract, the transferee shall be entitled to request an adequate discount for things shown in the protocol of acceptance as being missing or damaged.

(3) The transferee may claim a discount with respect to liabilities which transferred to him but had not been accounted for.

§ 21

At the delivery of things and preparation of the acceptance protocol the Fund is represented by persons who were authorized, to the date of discontinuance of the enterprise or to the date of extraction of parts of the property, to act on behalf of the enterprise. Such persons are responsible to the Fund in their above capacity.

PART FOUR

TRANSFER OF PROPERTY BY INVESTMENT COUPONS

§ 22

(1) Investment coupons (hereinafter referred to as "coupons") may be used for the purposes of transfer of property participations of the Fund or of the Slovak Land Fund to other persons.

(2) For the purposes of this law, coupons are registered securities entitling to purchase shares designated for sale against coupons.

(3) The date of registration of the coupon is the day of filing of the coupon book in the name of its owner, within the deadline determined by the Ministry of Finances of the Slovak Republic (hereinafter referred to as "Ministry of Finances"), in the numbered system of special workplaces (hereinafter referred to as "recording points"). Recording points are established, and their list published by the Ministry of Finances. Registration executed outside of the specified period of time shall be invalid unless stipulated otherwise by this law or by special regulation.

(4) In cases of temporary shortage of coupon books the Ministry of Finances shall issue substitute registration cards. Such cards shall, for purposes of claims pursuant to § 24, Section 2 hereunder, be replaced with registered coupon books within the deadline determined by the Ministry of Finances.

(5) Citizens may be represented by a legal entity or a natural person at registration of their coupon books, based on a written power of attorney with the signature of the assignor officially certified.

(6) Coupons with exception of their use pursuant to § 24, Section 3, Subsection (c) hereunder are not transferable, and their relevant rights are passed on heirs only. Coupons are irredeemable.

§ 23

(1) Coupons shall show in particular:

(a) Name, citizens card-index number and permanent residence of the holder,
(b) Designation of the body issuing the coupon,
(c) Price of acquisition,
(d) Date of issue and duration of validity,
(e) Date of registration.

(2) Coupons are issued by the Ministry of Finances.

(3) The net revenue from sales of coupons shall be transferred to the Fund.

§ 23a

(1) Coupons shall remain valid ten months from the date of issue. This period may be extended by the Ministry of Finances.

(2) The date of issue of coupons shall be determined by the Ministry of Finances upon agreement with the Ministry.

§ 24

(1) All citizens of the Slovak Republic with permanent residence in its territory and having completed the eighteenth year of their age to the date of issue of coupons are entitled to acquire coupons.

(2) The highest total delivered volume of shares ordered per coupon holder and per privatization wave is the equivalent of one thousand investment points.

(3) Holders of coupons of the applicable issue are entitled to use the investment points in the respective wave of privatization for the following purposes:

(a) Purchase of stock of any joint stock company whose stockholder is the Fund and which was, for that purpose, included into the stock list of joint-stock companies (§ 24c, Section 2),

(b) Purchase of stock of any joint stock company whose stockholder is the Slovak Land Fund and which was, for that purpose, included into the stock list of joint-stock companies (§ 24c, Section 2),
(c) Acquisition of participation in investment funds[8)] established for the respective wave of privatization (hereinafter referred to as "investment funds") incorporated for that purpose in the list of the Ministry of Finances.

(4) The methods of use of investment points as stipulated by Section 3 above may be applied concurrently.

(5) The method of use of investment points pursuant to Section 3, Subsection (c) above shall only be possible in the period prior to commencement of the privatization wave determined by the Ministry of Finances upon agreement with the Ministry (hereinafter referred to as "preliminary round").

§ 24a

(1) The preliminary round is not part of a privatization wave and cannot be commenced before the list of investment funds to whom investment points can be submitted for the purpose of ordering shares for coupons was published. The preliminary round cannot be terminated before publishing of the list pursuant to § 24c, Section 2 hereunder.

(2) The Ministry of Finances shall include those investment funds which have documented registration in the Business Register into the list pursuant to § 24, Section 3, Subsection (c).

(3) The sites and deadlines for registration of investment funds shall be determined by the Ministry of Finances.

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8) 248:1992 (Digest) law on investment companies and investment funds as amended by the 600:1992 (Digest) law.

§ 24b

The Ministry of Finances shall maintain central records of the coupons, carry out changes of recording points upon request, determine workplaces for ordering of shares (hereinafter referred to as "filing offices"), maintain central records of orders of shares and determine the period of time for which the respective parts of coupon pages used for share orders shall remain at the filing office.

§ 24c

(1) The Ministry shall, for each wave of privatization, prepare and publish at the beginning of the registration period of coupon books latest a preliminary list of enterprises and state property participations designated for privatization with the use of investment coupons.

(2) Based on Ministry documents, the Ministry of Finances shall publish essential information on joint-stock companies whose stock shall be offered for coupons in the respective privatization waves (hereinafter referred to as "stock lists"). Stock lists shall be based on the lists pursuant to Section 1 above, and the Ministry of Finances shall be entitled to adjust them prior to publishing to bring them into correspondence with the actually determined numbers of registered coupon books or for other grave reasons. The Ministry of Finances shall publish the stock list prior to commencement of the respective wave of privatization. Stock lists updated from demand viewpoints shall be published by the Ministry of Finances after termination of each round of the respective privatization wave.

(3) The published information shall be of orienting nature and cannot be deemed a draft agreement prepared in accordance with special regulations.

§ 25

(1) The privatization wave is a time period whose commencement and termination determined by the Ministry of Finances upon agreement with the Ministry, over which coupon holders can claim their title to shares designated for sale against coupons.

(2) Privatization waves are divided into privatization rounds.

(3) Commencement and termination of privatization rounds, offers and par rates of stock and their publishing, beginning and end of the order period within privatization rounds shall be determined by the Ministry of Finances upon agreement with the Ministry.

§ 26

(1) In cases of doubt the Ministry of Finances shall decide on the following:

(a) Validity of the accomplished registration and priority of one of several registrations made in the name of the same coupon holder,
(b) Whether shares were ordered, or investment points submitted to investment funds by methods in accordance with this law or with special regulations.

(2) The Ministry of Finances has the right to adapt the contents of share orders to the claimable title of coupon holders in cases where the latter have exceeded such title in their share orders as stipulated by § 24, Section 2 above. In so doing the Ministry of Finances shall always grant priority to orders placed first before those placed later. In cases of concurrently placed share orders the Ministry of Finances shall decide on the validities of specific orders.

§ 26a

(1) Investment funds purchase shares against investment points submitted to them by holders of investment coupons, and use them together with further similarly purchased stock to increase their respective share capital in compliance with special legislation[8)]. The investment funds shall issue their own shares to coupon holders from whom they had acquired investment points, in the total value corresponding to their thusly increased share capitals. Each of these holders shall be entitled to obtain shares of the investment fund in the nominal value corresponding to the ratio of the number of investment points to the total number of investment points submitted to such fund. The valuation method of shares purchased with investment points shall be determined by the Ministry of Finances by a special regulation.

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(2) Submission and acceptance of investment points between the coupon holder and investment fund shall establish the inception of a contractual relation whose contents are the mutual rights and liabilities as stipulated by Section 1 above.

(3) The submission of investment points to the investment fund by methods established by special legislation constitutes a securities transfer contract[8a)].

§ 26b

(1) Based on results of the central evaluation of orders the Ministry of Finances shall determine, which of the orders submitted within a specific privatization round can, and which cannot be honored.

(2) All orders of shares of joint-stock companies where the aggregate demand for stock has not exceeded their aggregate offer in the respective privatization round shall be honored.

(3) Orders of shares of joint-stock companies where the aggregate demand in the respective privatization round has exceeded the aggregate offer by more than 25 % shall not be honored.

(4) In case the aggregate demand for the stock of a joint-stock company has exceeded its total offer by no more than 25 % in the respective privatization round, and the aggregate demand for such stock claimed by natural persons has not exceeded such total offer, the Ministry of Finances shall determine that orders placed by natural persons shall be fully honored, and those placed by investment companies shall be honored in part, proportionally to the range of orders placed by the individual investment companies. The investment points corresponding to such reduction may be used by the investment funds in further privatization rounds.

(5) In case stock orders cannot be honored at stipulated by Sections 2 and 4 above, the Ministry of Finances shall determine that none of such orders shall be honored and that - unless the last privatization round was involved - such stock shall be reoffered in the next privatization round.

8a) §§ 13 and 19 of 600:1992 (Digest) (the Securities Act).

(6) Investment points from orders not honored in a round of privatization shall be deemed unused, with exception of the last privatization round where all investment points shall be deemed used ones.

§ 26c

(1) The Ministry of Finances shall in the last stage of each round of privatization ensure full information of the registration points on share orders placed by coupon holders registered at the respective points, and the fulfilment of such orders.

(2) The Ministry of Finances shall in the last stage of each round of privatization publish information on stock whose orders could, and could not, respectively, be honored within the given round of privatization.

(3) The Ministry of Finances may upon agreement with the Ministry and depending on the development of demand and offer of stock of individual joint-stock companies decide on the termination of sales of such stock, or on the reduction of its offer in the round of privatization following such decision. This decision shall be published by the Ministry of Finances.

(4) The Ministry of Finances shall within one month from termination of the privatization wave inform each coupon holder and each investment fund whether their respective orders of stock placed over the duration of the privatization wave were honored. This information shall be complemented by the time and method of delivery of the respective shares.

(5) Investment funds shall within one month from delivery of the shares pursuant to Section 4 above inform in writing the coupon holders who had commissioned them to order shares in the preliminary round the number and par value of the shares claimable by such holders, and the time of delivery of such shares to them.

(6) The Ministry of Finances is entitled to appropriately proceed pursuant to Section 4 above in cases the sales of individual joint-stock companies were terminated in the course of the privatization wave.

PART FIVE

THE FUND OF NATIONAL PROPERTY OF THE SLOVAK REPUBLIC

§ 27

(1) The Fund is a legal entity established by special legislation[8b)], registered in the Business Register. The legal status and legal relation of the Fund shall be governed by the stipulations of this law from the date of its effectivity.

(2) The Fund shall cover costs related to its activities from its property within its budget approved by the National Council of the Slovak Republic.

(3) Official bodies of the Fund are its Presidium, Executive Committee and Board of Supervisors.

(4) Detailed provisions on the organizational arrangement of the Fund and on its activities are shown in its Charter, approved by the National Council of the Slovak Republic following to debate in the government. In addition, the Charter shall determine the forms of mutual cooperation between the Fund, the Ministry, the founders and the government while executing its function as the founder of business companies established in accordance with privatization decisions and while performing its other activities as well as of mutual cooperation of the Fund with the Slovak Land Fund in matters of implementation of enterprise privatization decisions.

8b) No.253:1991 (Digest) law on the jurisdiction of authorities of the Slovak Republic in matters of transfer of state ownership to other persons and on the Fund of National property of the Slovak Republic, as amended by the No. 501:1991 (Digest) law of the Slovak National Council, No. 29:1992 (Digest) of the Slovak National Council, and the No. 17:1993 (Digest) law of the National Council of the Slovak Republic.

8c) § 15 and § 16, Section 1 of the Slovak National Council law No. 474:1990 (Digest) on the jurisdiction of authorities of the Slovak Republic in matters of transfer of state ownership of certain things to other legal entities or natural persons, as amended by later legislation; § 7, Section (b), § 10, Section (3) and § 22, Section (3) of the No.403:1990 (Digest) law on mitigation of consequences of certain cases of property - related hardship as amended by later legislation.

§ 28

Property of the Fund and its utilization

(1) Property of the Fund includes, in particular:

(a) Privatized property transferred to the Fund in accordance with this law (§ 11),
(b) Profit accrued from participation of the Fund in activities of those business companies the Fund is participating in,
(c) Net earnings from sale of investment coupons (§ 23,Section 3),
(d) Earnings from sales of stock or shares in other than joint stock companies.

(2) Financial means from income accumulated in a special Ministry account pursuant to special legislation[8c)] are converted into Fund property, after accountancy as stipulated by Section 4 hereunder has been accomplished.

(3) Income and expenditures of the Fund are not parts of the state budget of the Slovak Republic and may only be utilized for the following purposes:

(a) In accordance with privatization decisions,

1. For privatization methods pursuant to § 12, Section 2,
2. For transfer to the Restitution investment fund,
3. To reimburse costs linked to environmental liabilities of the transferee whose origin lies before the privatization,

(b) In accordance with governmental decisions,

1. To meet liabilities of enterprises designated for privatization, particularly those of credits guaranteed by rights of lien,
2. For augmentation of resources of credit - offering banks and savings banks,
3. To honor guarantees of credit to business companies whom the Fund has a permanent property participation of at least 34 % in,
4. To support development programs of the Slovak Republic by property deposits,

within the scope of use of Fund assets, approved pursuant to § 32, Section 3,

(c) Increase of the share capital of those trading companies whom the Fund is a stockholder or partner of,

(d) Coverage of costs related to Fund activities within the scope determined by its budget,

(e) Financial reimbursement to subjects whom the enterprise had been responsible to for defects, unless such responsibility has passed to the transferee,

(f) Coverage of costs accrued in link with the preparation and implementation of privatization projects and privatization decisions within the scope as determined by the Fund charter,

(g) Purchase of property and property participations whom the Fund has first options of,

h) Fulfilment of claims of qualified persons in accordance with special legislation[8d)] and with § 47 hereto,and coverage of costs of restitution and privatization lawsuits reimbursable by the Fund, and/or compensation of related damage caused by the Ministry or by the Fund,

(i) Coverage of expenditures of a special Ministry account to be used in accordance with special legislation[8e)],

(j) Transfer of means into municipal ownership to the extent of a 25 % ratio of the total net earnings from sales according to special legislation[8f)] of those operational units which had been within founding (establishing) jurisdiction of the municipalities and local state administration bodies in the individual districts of the Slovak Republic; these means shall after December 1, 1992 be divided among individual municipalities within the districts pro rata their population numbers,

(k) Reimbursement of unpaid parts of environmental claims of the state against the perpetrator[8g)] if the latter is a business company with 100 % property participation of the Fund,

(l) Other purposes as may be specified by special legislation.

8d) 87:1991 (Digest) law on extra-judicial rehabilitation as amended by later legislation.

8e) § 16, Section 2 of the 474:1990 (Digest) law of the Slovak National Council as amended by later legislation.

8f) 427:1990 (Digest) on transfer of state ownership of certain things to other legal entities or natural persons, as amended by later legislation. 474:1990 (Digest) law of the Slovak National Council, as amended by later legislation.

8g) §§ 17a and 32 of the 328:1991 (Digest) law on rules of bankruptcy and settlement, as amended by later legislation.

(4) The Fund shall clear its accounts of income pursuant to Section 2, and of expenditures pursuant to Section 3, Subsection (h) on a regular basis with the Ministry.

(5) The Fund shall dispose of its property, and property participations in the business of other legal entities which, according to the privatization decision, could not be subjected to privatization for reasons for which the Fund cannot be held responsible, by methods approved in writing by the Ministry beforehand. The stipulations of §§ 8 and 10 shall be appropriately used.

(6) The stipulation of Section 5 above shall also be used in cases of the property and property participations of the Fund in the business of other legal entities which have passed to the Fund due to cancellation of contracts as the result of failures to meet contractual liabilities by the transferees of privatized property.

(7) In cases pursuant to Section 5 above the Ministry shall prior to issuance of its written approval ensure annullment of the original privatization decision or part thereof.

§ 29

Juridical acts of the Fund

(1) The Fund is entitled in accordance with privatization decisions to sign contracts in its own name and to accomplish other juridical acts, particularly:

(a) Foundation of business companies or participation in such foundation, and deposition of such deposits therein as the Fund may have accepted the obligation to,
(b) Acquisition of stock based on its participation in activities of joint-stock companies and execution of stockholders rights including participation in general assemblies,
(c) Execution of partners rights within its participation in activities of other than joint-stock companies,
(d) Sharing the economic results of those business companies in whose activities the Fund participates, and sharing their consequences in the form of profits and losses,
(e) Sales of stock or shares in other than joint-stock companies,
(f) Sharing of the liquidation value of companies within the scope of participation of the Fund in their respective business activities,

(g) Closing contracts of sale of companies, their organizational components and parts of property, using among others the form of public contest,
(h) Sale of privatized property at public auctions,
(i) Transfer of privatized property to municipalities and to the Slovak Land Fund,
(j) Transfer of privatized property for purposes of health and social insurance,
(k) Rent of such values for specific time periods before their use for privatization purposes.

(2) Prior to the foundation of a business company in accordance with the privatization decision the Fund shall update the non-financial deposit value. Should, as the result of such updating, the requirement arise to establish a business company with different value of its share capital or reserve fund than specified in the privatization decision, the Fund may so proceed upon approval of the Ministry.

(3) In case of permanent Fund property participation in a trading company the Fund executes stockholders rights in joint-stock companies or partners rights in other than joint stock companies in matters involving increase or decrease of the share capital, amendment of the Charter and discontinuation of the company with approval of the authority issuing the privatization decision.

(4) In juridical acts pursuant to Section 1, Subsections (a), (g), (h), (i) and (j) the Fund acts in cooperation with the founders.

(5) The Fund shall also honor claims of qualified persons if their ownership rights to the property were divested by a method pursuant to § 2, Section 3 of the Extra - Judicial Rehabilitation Act (87:1991 /Digest/) in accordance with the time schedule as specified in the privatization decision but within one year latest from issuance of such decision. The Fund shall honor such claims only if the persons qualified have submitted their claims in due time, showing the name and site of the enterprise holding such property.

§ 30

Implementation of activities pursuant to § 28 hereto results in the occurrence of rights and liabilities to the Fund. The Fund is entitled to request legal action in pursuance of its rights before a court or other bodies of jurisdiction, and may be subjected to legal action for being in default of its liabilities or other obligations for whose non-observance it is responsible with its entire property.

Official bodies of the Fund

§ 31
The Presidium

(1) The Presidium is the highest official body of the Fund, consisting of nine members.

(2) The President of the Presidium, the Vice-President and further seven members are elected and recalled by the National Council of the Slovak Republic, based on proposal by the government or by a committee of the National Council of the Slovak Republic, by secret ballot.

(3) With exception of the Vice President of the Presidium, members of the Presidium are not Fund employees. Execution of membership functions shall be subject to remuneration within the range specified in the Charter.

§ 32
Jurisdiction of the Presidium

(1) Jurisdiction of the Presidium includes in particular:

(a) Nomination and revocation of members of the Executive Committee,
(b) Approval of the remuneration granted to members of the Executive Committee and principles of compensation of other Fund workers,
(c) Approval of the agenda of Presidium and Executive Committee meetings.

(2) Responsibilities of the Presidium include in particular:

(a) Preparation of proposals of use of Fund property pursuant to § 28, Section 3, Subsection (b),
(b) Preparation of Fund budget proposals,
(c) Preparation of the annual closing of books of the Fund,
(d) Preparation of the annual statement of the Fund,
(e) Preparation of the draft Charter of the Fund,
(f) Preparation of information and data on Fund activities pursuant to § 40 hereto.

(3) The proposal of use of Fund property pursuant to § 28, Section 3, the budget proposal, annual closing of books and annual statement of the Fund shall be submitted, after debate in the government, to the National Council of the Slovak Republic for approval within deadlines specified in the Charter.

§ 33
Resolutions of the Presidium

(1) The Presidium shall have the quorum in the presence of the simple majority of its members at the meeting. Resolutions are passed by simple majority of votes of all Presidium members.

(2) Documents are signed on behalf of the Presidium by the President, or in his absence by the Vice-President.

The Executive Committee

§ 34
Jurisdiction of the Executive Committee

(1) Activities of the Fund are implemented in accordance with instructions of the Presidium by the Executive Committee of the Fund (hereinafter referred to as the "Committee").

(2) The Committee acts on behalf of the Fund within the scope delimited by the Charter. In such cases written legal acts require the signature of two Committee members for validity. The Charter shall also determine the time and scope of action on behalf of the Fund by members of the Committee, as well as the conditions under which members may authorize others to act on behalf of the

Fund. Members of the Committee authorized to act on behalf of the Fund shall be registered in the Business Register.

(3) The stipulations of § 33, Section 1 hereto apply similarly.

§ 35
Composition of the Committee

(1) The Committee consists of eleven members.

(2) The function of the Chairman of the Committee shall be executed by the Vice-President of the Presidium. The remaining Committee members shall be appointed and recalled by the Presidium.

(3) Members of the Committee shall elect from among themselves two Vice-Chairmen at most.

(4) Members of the Committee are employees of the Fund.

The Board of Supervisors

§ 36
Jurisdiction of the Board of Supervisors

(1) The Board of Supervisors of the Fund (hereinafter referred to as the "Board of Supervisors") executes supervision over activities and management of the Fund, its Presidium and Committee from viewpoints of conformity to this law, to other generally binding legislation and to the Charter of the Fund. For this purpose members of the Board of Supervisors shall be entitled to inspect all documents related to Fund activities. The Board of Supervisors shall notify the Presidium, the government, the National Council of the Slovak republic and in justified cases also other relevant authorities on any detected deficiencies.

(2) The Presidium shall, prior to submission to the government, submit the budget proposal, annual closing of books and annual statement for discussion in the Board of Supervisors.

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§ 37
Composition of the Board of Supervisors

(1) The Board of Supervisors consists of seven members. The Chairman and further six members shall be elected and recalled by the National Council of the Slovak Republic, upon proposal by a committee of the National Council of the Slovak Republic, by secret ballot.

(2) The Board of Supervisors shall elect its Vice-Chairman from among its members. Execution of membership functions in the Board of Supervisors shall be subject to remuneration within the range specified in the Charter.

(3) Employees of the Fund are not eligible for membership in the Board of Supervisors.

(4) The stipulations of § 33, Section 1 shall similarly apply.

§ 38
Incompatibility of functions

(1) Membership in the Presidium, the Committee and the Board of Supervisors is mutually incompatible, with exception of the function of Vice-President of the Presidium.

(2) Members of the government of the Slovak Republic and of the National Council of the Slovak Republic are not eligible for membership in the Presidium, the Committee and the Board of Supervisors.

(3) Members of the Presidium, the Committee, the Board of Supervisors and employees of the Fund shall not perform activities contrary to Fund interests, particularly accept membership in official bodies of business companies whose business the Fund has property participation in, with exception of Fund employees appointed by the Fund for membership in supervisory bodies of such companies. Members of the Presidium, Committee and Board of Supervisors shall not acquire Fund property, with the exception of stock acquired against investment coupons (§ 22)..

(4) Members of supervisory bodies of business companies nominated by the Presidium shall inform the Presidium on their activities. Details shall be determined by the Charter of the Fund.

§ 39

Members of the Presidium, the Committee and the Board of Supervisors may resign on their respective functions by written notification addressed to the body which had appointed them. In such cases membership shall cease by the date of delivery of such written notification.

§ 40

(1) The Fund shall upon request supply information and data on its activities to the government and to the Ministry, and if so specified by special legislation, to other authorities.

(2) The Fund shall supply information and data on its activities in any case when requested accordingly by the National Council of the Slovak Republic or a committee of the National Council of the Slovak Republic.

§ 40a
Termination of Fund activities

Decisions on the termination of Fund activities, liquidation of the Fund and the method of use of the Fund account balance shall be made by the National Council of the Slovak Republic in the form of a law.

PART SIX

SPECIAL, TEMPORARY AND CONCLUDING STIPULATIONS

§ 41

(1) The state administration bodies of jurisdiction, and the municipalities shall submit for governmental approval within the deadline determined by the government lists of enterprises, and lists of state property participations in businesses of other legal entities which shall be privatized after the date of effectivity of this law. At the same time lists of those enterprises, and lists of those state property participations in businesses of other legal entities which shall not be privatized shall be submitted. The lists shall be presented by the government to debate in the National Council of the Slovak Republic.

(2) Lists of enterprises submitted for approval shall contain, in particular, the name and site of the enterprise, its founder, book value of its property and number of employees. Lists of state property participations in businesses of other legal entities submitted for approval shall, in particular, contain the name and legal form of the legal entity, subject of its business and scope of the state participation in such business.

(3) The Ministry shall determine deadlines for preparation of draft privatization projects.

§ 42
deleted

§ 43

The stipulations of this law applicable to central state administration bodies shall be similarly applied to the Slovak National Bank.

§ 44

Valuation of the property of the enterprise included in the privatization decision shall substitute the appraisal of non-financial deposits in the share capital of joint-stock companies accompanied by expert estimates, as required by special legislation[9].

§ 45

(1) Enterprises shall not sign ownership transfer contracts related to property used by them to perform business or other economic activities or to meet cultural or social requirements which they have the right of management to, dispose of their property participations in businesses of other legal entities or establish such entities or deposit their assets in the property of such entities. This shall however not apply to cases of contracts on association of financial resources in construction projects where such contracts stipulate transfer of property into trade union ownership.

(2) The stipulations of Section 1 above shall similarly apply to the Slovak Land Fund as the administrator of special parts of state-owned property.

(3) Enterprises may sign lease agreements and other contracts related to the use of property as stipulated by Section (1) above with other persons only for the time until discontinuance of the enterprise without liquidation, or extraction of part of the enterprise pursuant to § 11, Section 1 hereto. In case such contracts were closed for an extended period of time, the right of use of such property shall cease by the day of discontinuance of the enterprise without liquidation or extraction of part of the enterprise. This shall however not apply to lease agreements of non-residential premises closed in accordance with special legislation[3], to lease agreements of apartments, and to land lease agreements closed with owners of buildings erected on such land.

(4) Enterprises as lessors shall not enter into purchase contracts of rented objects according to special legislation[10], related to property pursuant to Section 1 above.

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9) § 163, Section 1, Subsection (e) of the Business Code.

10) §§ 489 through 496 of the Business Code.

(5) The government may permit exceptions from stipulations of Sections 1 and 4 above in justified cases. The government may determine by decree those cases where acts pursuant to Sections 1 and 4 may be performed without governmental permit and/or determine conditions necessary to meet before a permit may be granted by a central state administration body of the Slovak Republic.

(6) State property participation in businesses of other legal entities may only be disposed of in accordance with the privatization decision on such property participation.

(7) Stipulations of Sections 1, 4 and 5 above shall not apply to legal entities specified in § 1, Section 2 hereto and to budgetary and subsidized organizations.

(8) The right of first option[11)] cannot be applied to the Fund or the Slovak Land Fund with respect to property of the enterprise and state property participation in the business of other legal entities in accordance with this law.

§ 46

The government shall determine by decree the contents of the coupon book, acquisition price of the coupon book and coupon, details on the registration and substitute registration of the coupon book, individual stages of the privatization round, the method of ordering shares, par value of shares offered against coupons, procedures related to utilization, loss, misappropriation, damage or destruction of coupon pages and publishing methods of information.

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11) § 140 of the Business Code.

§ 47

(1) If divestment of ownership rights linked to the privatized property or parts thereof had occurred by a method as stipulated by § 2, Section 3 of the Extra-Judicial Rehabilitation Act (87:1991 /Digest/), persons qualified pursuant to the Act shall have acquired title whose method of fulfilment shall be determined by the privatization decision related to such property; the Ministry shall, upon issuance of the privatization decision, inform in writing without undue delay those qualified persons who had claimed their title pursuant to Section 2 hereto on the approved method and scope of such fulfilment.

(2) Qualified persons shall claim their title at the Ministry within six months from the date of effectivity of this law or such title shall be forfeited; such persons shall at the same time inform the Ministry on the identity of the enterprise holding such property. The Fund shall fulfill titles pursuant to Section 1 above in accordance with the implementation schedule of the privatization project but in any case within one year latest from the date of approval of the privatization project.

(3) The scope, method of claiming and fulfilment of title pursuant to Sections 1 and 2 above shall otherwise be determined by appropriate use of stipulations of the Extra-Judicial Rehabilitation Act (87:1991 /Digest/). Qualified persons disagreeing with the valuation of their title in the approved privatization project may take legal action at court within 15 days from the date of notification on the method of such fulfilment.

(4) In case the title of qualified persons cannot be fulfilled by methods pursuant to Sections 1 through 3 above due to non - issuance of the respective privatization decision until December 31, 1995, such title shall be fulfilled in accordance with stipulations of the Extra-Judiciary Rehabilitation Act (87:1991 /Digest/). Such title may be claimed until June 30, 1996; should the liable person fail to observe the invitation to surrender the respective property, the qualified person may take legal action at court until December 31, 1996.

(5) If claims of qualified persons can be fulfilled by surrendering of the respective property, such claims shall be settled using stipulations of the Extra-Judiciary Rehabilitation Act (87:1991 /Digest/); Section 4 above shall not be applied. Should the liable person fail to observe the invitation to surrender the respective property, the qualified person may take legal action at court.

§ 47a

In case a legal entity specified by § 1 of this law has no rights of management or ownership rights related to property divested by methods pursuant to § 2,Section 3 of the Extra-Judicial Rehabilitation Act (87:1991 /Digest/), then this 87:1991 (Digest) law shall be applied with the purpose to mitigate such property-related cases of hardship. Such title may be claimed until July 31, 1992; should the liable person fail to observe the invitation to surrender the applicable property, the qualified person may take legal action at court until December 31, 1992.

§ 47b

(1) In case of liquidation of organizations specified by § 1 hereto, with exception of budgetary and subsidized organizations, the liquidator shall convert the property into money by sales at a public auction. Other methods may only be used by the liquidator with approval of the Ministry after negotiations with the founder.

(2) Proceedings at public auctions shall be governed by appropriate use of stipulations of the No. 427:1990 (Digest) law on the transfer of state ownership of certain things to other legal entities and natural persons, as amended by later legislation.

SCHEDULE TWO

Legal relations commenced prior to effectivity of this law pursuant to stipulations of Part Four of the 92:1991 (Digest) law on conditions of transfer of state property to other persons, and to stipulations of the No. 383:1991 (Digest) Decree of the government of the Czech and Slovak Federative Republic on the issuance and use of investment coupons, as amended by the No. 69:1992 (Digest) Decree of the government of the Czech and Slovak Federative Republic shall be ruled by legislation currently in force.

SCHEDULE THREE

The term of function of members of the Presidium and the Board of Supervisors as stipulated by the wording presently in force of the 253:1991 (Digest) law of the Slovak National Council on the jurisdiction of authorities of the Slovak Republic in matters of transfer of state property to other persons and on the Fund of National Property of the Slovak Republic as amended by later legislation shall terminate by the date of effectivity of this law. Members of the Presidium and the Board of Supervisors shall perform their respective functions until election of new members of these bodies was accomplished in accordance with this law.

SCHEDULE FOUR

The No. 265:1992 (Digest) law on the registration of real-estate ownership and other material rights is amended and supplemented as follows below:

1. In § 2, Section 3 the second sentence is deleted.

2. § 2 is supplemented with Sections 4 and 5 of the following wording, including footnote No.1:

"(4) Legal effects of the deposit in cases of transfer of state property to other persons in compliance with special legislation[1)] arise on the basis of a valid decision on its permission to the date specified in the deposit proposal. Such proposal shall be submitted on the day preceding the proposed inception date of ownership latest.

(5) Each person is entitled to review the file of submitted proposals."

The footnote No. 1 is worded as follows:

"1) The No. 92:1991 (Digest) on the conditions of transfer of state property to other persons, as amended by the laws No. 92:1992 (Digest), 264:1992 (Digest), the constitutional law No. 541:1992 (Digest), 544:1992 (Digest), the No.17:1993 (Digest) law of the National Council of the Slovak Republic, the No.172:1993 (Digest) law of the National Council of the Slovak Republic, the No. 278:1993 (Digest) law of the National Council of the Slovak Republic and the No.60:1994 (Digest) law of the National Council of the Slovak Republic."

3. The wording of the present § 4 shall be designated Section 1 and supplemented with a Section 2, worded as follows including footnote No. 2:

"(2) Proceedings on the permission of deposits in transfers of state property to other persons in compliance with special legislation[1)] shall be commenced by the Republic authority of jurisdiction upon proposal of the Fund of National Property of the Slovak Republic. In cases of proceedings in compliance with special legislation[2)] the Republic authority of jurisdiction shall commence proceedings on the permission of deposit upon proposal of the Fund of National Property of the Slovak Republic, and of the Slovak Land Fund."

The footnote No. 2 is worded as follows:

"2) § 12, Section 2, Subsection (e) of the No. 92:1991 (Digest) law as amended by later legislation."

4. A new § 5a shall be written after § 5, having the following wording:

" § 5a

Proposals submitted pursuant to § 2, Section 4 and § 4, Section 2 shall be decided upon by the Republic authority of jurisdiction within 15 days from delivery of the deposit proposal."

5. § 16, Section 3 is deleted.

SCHEDULE FIVE

The following laws are cancelled: No. 253:1991 (Digest) law of the Slovak National Council on the jurisdiction of authorities of the Slovak Republic in matters of transfer of state property to other persons and on the Fund of National Property of the Slovak Republic, as amended by the No.29:1992 (Digest) law of the Slovak National Council, and by the No.17:1993 (Digest) law of the Slovak National Council.

SCHEDULE SIX

The Chairman of the National Council of the Slovak Republic is authorized to promulgate the full wording of the No. 92:1991 (Digest) law on conditions of transfer of state property to other persons, as amended and supplemented by the laws No. 92:1992 (Digest), 264:1992 (Digest), the constitutional law No. 541:1992 (Digest), 544:1992 (Digest), the No.17:1993 (Digest) law of the National Council of the Slovak Republic, the No.172:1993 (Digest) law of the National Council of the Slovak Republic, the No. 278:1993 (Digest) law of the National Council of the Slovak Republic and by this law, in the Digest of the Slovak Republic.

The Slovak Republic - Large Scale Privatisation

Draft Inception Report

24 February 1994

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1. OVERVIEW OF TASKS PERFORMED

1.1 Introduction and Objectives of the Assignment

The Ministry of Administration and Privatisation of National property (MAPNP) of the Slovak Republic has requested technical assistance from the United States Agency for International Development (USAID) for the development of a Privatisation Plan encompassing all institutions involved in the Large Scale Privatisation Process and developed in conjunction with the MAPNP and the Fund National Property of the Slovak Republic (FNPSR), as stated in the Terms of Reference for this assignment. The objectives include the development of a plan that will enable the privatisation of 33% of the value of all state owned enterprises, which will identify the bottlenecks in the privatisation process, and which will provide concrete action plans for alleviating the bottlenecks.

This inception report has been drafted two weeks following the commencement of the technical assistance by Deloitte & Touche Management Consultants.

1.2 Institutions Where Interviews Have Been Conducted

- Ministry of Administration and Privatisation of National Property
- Fund National Property of the Slovak Republic
- Ministry of the Economy
- Ministry of Finance
- Centre of Coupon Privatisation
- VuB Bank (Bank and Private Investment Fund)
- Ministry of the Interior
- Ministry of Health
- Ministry of Culture
- Ministry of Transportation, Communications, and Public Works
- USAID - Bratislava
- The World Bank

As a general rule, all representatives of these institutions which we have had the opportunity to meet have been co-operative and supportive of the privatisation process, and it is our opinion that interviews have been conducted in a rather open manner. It has also been relatively easy to arrange meetings on a short notice.

By means of the interviews conducted as well as short analysis of documents obtained from the above institutions, we have developed an insight into the:

- Process of Privatisation;
- Organisational structure of the various institutions involved in the privatisation process;
- Legal framework; and the
- Political environment with respect to privatisation;

On the basis of our initial analysis we have identified several major issues which need to be addressed in order to speed and support the privatisation process in the Slovak Republic and which strongly influence the drafting of a Privatisation Plan that meets the Terms of Reference for the assignment. These issues are briefly outlined in the following section.

2. KEY ISSUES AND CHALLENGES FOR THE LARGE SCALE PRIVATISATION PROGRAMME IN THE SLOVAK REPUBLIC

2.1 Current Political Uncertainty Surrounding the Privatisation Policy

- Privatisation policy has been high on the political agenda for some time in the Slovak Republic, and although there seems to be wide support for the privatisation process in general, there is currently much discussion regarding the specifics of the policy.

- The current policy is to privatise a maximum of 47% of any enterprise using the voucher privatisation method (non-standard method). The policy focuses on relying on standard methods (direct sales, public auction and public tender) in order to ensure a majority owner with a significant share in any company and in the hope of attracting foreign investment.

- There has also been much debate regarding the possibility of having any official hold posts in various institutions at the same time versus ensuring complete independence of each of the institutions involved in the privatisation process. This issue has particularly affected the relationship between the MAPNP and the FNPSR

- There is also much debate regarding the role of the private investment funds. After the first wave, many of these funds obtained a major ownership position in many companies and therefore proceeded to exercise their ownership rights, at times replacing management. This has not been viewed positively by some sectors and currently there is a Fund Regulatory Law being developed which would limit the amount of shares that any private investment fund can control in any one company.

- This week, an amendment to the Privatisation Law has been approved by parliament which may change the overall process of privatisation (we have not yet had the chance to analyse the new amendment).

- Finally, there is currently much speculation regarding the possibility of early elections and a possible new Government.

- All these uncertainties at the political level have translated into inactivity at the privatisation implementation level. It is therefore critical that a clear mandate is communicated from the policy makers to the implementing officials.

2.2 Large Enterprise Restructuring and Privatisation

- Given the structure of the State Owned Enterprises, the successful privatisation of some 10 to 15 of the largest 50 enterprises will need to be privatised in 1994 in order to achieve the target of privatising 33% of the value of all State Owned Enterprises.

- Large enterprise privatisation is difficult due to the current financial and operational conditions of these enterprises combined with the difficulty of identifying single investors interested in the enterprises. One solution is to allow a majority stake of these enterprises to be privatised by the non-standard voucher privatisation method rather than limit this privatisation method to 47%. Following this privatisation strategy, any required restructuring will be performed after the privatisation, and it is at this stage that international lending agencies can support the restructuring studies.

- Alternatively, successful large scale privatisation will, in our opinion, require the undertaking of restructuring prior to privatisation. This will result in the development of a more attractive enterprise or enterprises in the event of a splitting of assets, and greater potential for attracting investors for standard methods of privatisation. This, however, requires time if restructuring is to be undertaken successfully. USAID and EC PHARE have supported technical assistance for restructuring studies prior to privatisation.

- In order to privatise 33% of State Property by the end of 1994, it will be necessary to solve the problems of several of the large enterprises and also find interested investors; and we are concerned about the possibility of accomplishing such a task within the time frame.

2.3 Absorption Capacity of the Slovak Financial System

- Like many other former centralised economies currently undergoing major privatisation programmes, the Slovak financial system is not able to provide adequate financing alternatives to entrepreneurs or firms interested in acquiring State enterprises. The banking system simply does not have the funds to lend for these projects.

- This lack of absorption capacity is a major problem for the Slovak privatisation process and the ability to meet the privatisation targets for 1994, especially considering the Government's policy of focusing primarily on standard privatisation methods.

2.4 Financial Structure of Privatisation Projects

- In order to address the absorption capacity problem affecting the Slovak privatisation programme, favourable terms of payment have been approved where as little as 15% of the price needs to be paid (to the FNPSR) in order to acquire control of an enterprise.

- Such a financial structure, however, raises the question as to the real status of the privatised firm. In these cases the FNPSR still holds some 85% of the value of the enterprise in the form of debt. Furthermore, it is still not clear if the FNPSR holds the 85% in the form of debt or in the form of an equity stake.

- This problem is highlighted because we have perceived a recent trend towards privatisation projects with this type of financing for management buy-outs. Technically, it seems that such enterprises may be classified as privatised enterprise, but the issue is not entirely clear and a decision must be made regarding the official status of such transactions.

2.5 A Significant Number of Companies Have Not Developed Privatisation Projects

- In our estimation, there are about 100 enterprises for which privatisation projects are being re-developed at the enterprise and Founding Ministry level. The main reasons for this development include the changes that have occurred at the enterprise since the time of submission of the original project proposal. Delays in the privatisation process have, in essence, made many project proposals obsolete and therefore they have gone back to the initial stages of the privatisation process. Again, such developments put pressure on meeting the privatisation targets.

2.6 The Fund National Property of the Slovak Republic

- The FNPSR has recently undergone major staffing problems, primarily resulting from a mass resignation of members of its Executive Board. The major problems cited for the resignation include the lack of a strong and clear mandate and support from the policy makers of the body.

- Following the staffing crisis, a major re-organisation of the structure of the FNPSR has been developed and new Sections Heads have recently been hired.

- There is currently gross under-staffing at the FNPSR and there are plans for the increase in staff of some 100 employees.

- Although the organisational and leadership problems are being confronted (e.g. the recent appointment of Mr. Kato as Director as well as the re-organisation), we estimate that delays in the privatisation process are inevitable as the new organisation is in its embryonic stage and the staffing still needs to be more than doubled. Qualified employees and consultants need to be recruited and informal organisational processes need to be established.

2.7 General Staffing Problems

- There exist staffing problems at both the MAPNP and the FNPSR in the way of a relatively high turnover rate, insufficient staff levels, as well as the skill base of the staff.

- The high turnover rate is due to both the salary level offered at these institutions relative to opportunities in other sectors of the economy and morale problems due to the slow activity that has characterised the privatisation process for the last year. Clear examples are the Legal Section of the MAPNP where the Section Director as well as the Heads of its two departments recently resigned and the mentioned resignation of Section Directors of the FNPSR.

- At the MAPNP, there is insufficient staff at the Legal Section as well as at the three Sections responsible for privatisation project approvals. For example, each Privatisation officer at the Section for the Privatisation for Industrial Branches handles some 25 to 40 enterprises.

- High turnover delays the privatisation process as much of the analytical work and negotiations is performed with insufficient documentation making the staff transition difficult. Furthermore, turnover has affected the higher levels of the institutions creating an important skills gap.

2.8 The Role of External Advisors

- External advisors are not utilised to their maximum potential. In fact, it is our understanding that they are to a certain degree excluded from a significant advisory role.

- Some of the problems which have been identified include the lack of a clear role, mandate or area of responsibility for the advisors and the language barrier which could be solved by means of providing full-time qualified interpreter services.

- The future use of external advisor, particularly long term advisors, must be structured in a way as to account for the current problems.

2.9 Restitution Claims and Resolution of Property Rights

- Of all the activities undertaken at the MAPNP, the most time consuming area is the resolution of restitution claims and other property issues. Resolving these issues requires the participation of the enterprises, the Founding Ministries, the MAPNP, and other institutions such as the Cadastral Office. Once the privatisation project reaches the MAPNP, it takes anywhere from one month to six months to resolve these issues.

- Part of the problem includes under-staffing at the Legal Section of the MAPNP and the bureaucratic process of verifying all property questions with other Government institutions.

- A second major problem is the use of this process by uncooperative enterprise managers to delay the entire privatisation process. In this respect the MAPNP has drafted a list of uncooperative enterprises to be submitted to the Founding Ministries with the hope that some pressure can be exercised on these managers.

2.10 Management Reporting and Control System

- Currently, it is very difficult, if not impossible, to provide quick information regarding the privatisation programme and to track the status of any one company in the process. There is no integration between the information systems of the main Government institutions involved in the privatisation process (Founding Ministries, MAPNP, and FNPSR).

- At the Founding Ministries, consolidated information is usually maintained in a rather informal way by officials within a Section or Department responsible for privatisation. In our view such a system is adequate for Ministries that overview a relatively small number of enterprises (Health, Culture, etc.).

  The Ministry of Economy, on the other hand, is responsible for developing privatisation projects for some 350 companies. They are currently not capable of providing information on the exact status of the enterprises under their supervision. We received an indication that some 80 to 90 enterprises have not yet had their privatisation projects reach the MAPNP.

- The Information system at the MAPNP provides the list of companies for which it has received projects, and it is able to indicate at which stage in the process of evaluation (within the MAPNP) the project is currently at. The database information system is connected via network and is accessible to MAPNP employees.

  The MAPNP works from the notion that it expects privatisation projects for 519 wave 2 companies from the Founding Ministries (it has received 468 as of 2 February 1994). However, the 519 number may not be accurate due to liquidations of enterprises prior to the submission of privatisation projects and situations where Founding Ministries are developing or developed privatisation projects for enterprises not listed as part of the official Wave 2 list.

- The information system at the FNPSR is not connected to that of the MAPNP in any way. The FNPSR has no way of forecasting the number of privatisation projects it can expect to receive or when it can expect to receive these.

  Furthermore, the database system is based on stand-alone PC's where information is forwarded to the central Information Technology Department by means of diskettes. Such a systems is unreliable.

  The information system at the FNPSR contains data for projects once they have been forwarded by the MAPNP. Generally, FNPSR information is based on approved projects (which differs from the number of enterprises as some of these have been split) which makes it difficult to compare to the number of enterprise.

- Developing an integrated information system that crosses all relevant institutions will be costly and time consuming. At this stage, we do not recommend that such a system is developed since most of the privatisation projects are out of the Founder Ministry stage.

  However, we believe that it is important to establish an information flow between the MAPNP and the FNPSR. This can be performed either by developing an integrated system for both institutions or by establishing a formal reporting (paper) system by which the MAPNP provides the FNPSR with a list of all its privatisation projects and their current status. The first solution would be better but more expensive to implement. The later idea could be implemented easily using the current database system at the MAPNP.

The information system at the FNPSR needs to be upgraded urgently. An improved database system is required as well as the development of a network. This will become critical as wave two projects reach the FNPSR and as staff increases rapidly. It is also important to upgrade the information system at the FNPSR in order to provide accurate information to interested investors in a rather quick manner.

2.11 Voucher Privatisation Process

- As it was communicated to the World Bank, the voucher privatisation programme can be fully implemented in some 7 to 8 months after the preliminary list of companies is drafted. This means that assuming no delays in approving the privatisation projects and preparing such a preliminary list, the voucher privatisation can be completed at the earliest well into 1995. The World Bank, however, has agreed to consider the voucher privatisation as complete for 1994 if there is evidence that the programme is well underway within 1994 and will be completed within a reasonable time frame.

- It is our estimation that technical assistance will be required to implement the voucher privatisation programme successfully and within the estimated timetable. The Slovak voucher privatisation programme for the second wave will be very similar to that undertaken under wave one; however, much of the know-how has been lost due to the loss of Czech officials participating in the implementation of wave one. Technical assistance will be required both at the management level as well as in modifying the application software utilised during wave one to adjust to new conditions.

- At a policy level, voucher privatisation is the preferred method if speed of privatisation is an important objective. This method, however, has been given a secondary role where a maximum of 47% of the shares in any enterprise can be privatised via the voucher. Hence, to meet the definition of a privatised enterprise (more than 51%), other methods must also be utilised for all enterprises, making the process slower. Consequently, if this policy decision is changed, meeting privatisation targets will be much easier.

3. AREAS OF ASSISTANCE

3.1 Project Implementation Teams for the FNPSR

- The FNPSR has recently undergone an organisational re-designed and has developed plans to increase its staff substantively. This presents an opportunity to offer assistance in the way of Project Implementation Technical Specialists. Each project team would consist of an Investment Banker, a Business Analyst, a Lawyer and a Financial Analyst/Accountant. Each team would then be assigned a number of privatisation projects which it would have implementation responsibility.

- This approach is consistent with the new organisational structure where Implementation Sections are organised according to privatisation method. Each section would be organised on the basis of one or more of these Project Implementation Teams.

- Such a scheme would also solve the problems that the current technical advisors are facing as it would provide advisors with a clear mandate and scope of responsibility, and it would provide them with the opportunity to demonstrate their value with some successes.

3.2 Legal Staffing Support for the MAPNP and the State Owned Enterprises

- A major bottleneck in the privatisation process is the settlement of property rights and restitution claims. The Legal Section of the MAPNP requires technical assistance in the way of experience Slovak lawyers. The World Bank has offered to finance 15 Slovak lawyers on a long term consultancy basis. This offer, however, has not yet been accepted on the basis of the salary differentials which will exist between consultant lawyers and the permanent staff of the MAPNP.

- Manpower assistance may also be offered to Government Offices involved in the property rights issues such as the Cadastral Office and to State Owned Enterprises in the form of assigning lawyers to a specific number of enterprises.

3.3 Large Enterprise Restructuring and Privatisation Support

- The EC PHARE programme and the USAID have financed technical assistance projects for the restructuring of large scale enterprises in the Slovak Republic.

- The EC PHARE programme expects to obtain a significant budget for the period to 1998 from which it can support such assistance. In the very short term (within 1994), it does not seem likely that the EC PHARE will begin new major projects.

- Such assistance, however, is critical for the overall success of the privatisation programme. And, it is critical for large scale privatisation projects to be implemented in order to meet privatisation targets.

3.4 Technical Assistance for the Voucher Privatisation Programme

- Technical assistance will be required in order to implement a smooth running voucher privatisation programme for the second wave companies.

- We estimate that sometime in April - May, assistance will be needed in order to modify the application software used during the first wave of voucher privatisation in order to account for changes in the privatisation law and to incorporate lessons learned from the first wave and the second wave of the Czech voucher programme.

- Technical assistance in the form of long term advisor(s) (one year), will also be needed in order to manage the entire process. These technical advisors should have experience in the voucher privatisation programme of the Czech Republic as it closely resembles that to be undertaken in the Slovak Republic.

3.5 Management Reporting and Control Development and Implementation

- Within the scope of the present assignment, it is possible to develop a relatively accurate list of all the companies in waves one and two and determine their exact status with respect to privatisation at a given point in time, and then use this data to develop the privatisation plan, its targets and its performance measures. Given the current state of the information system at the Founder Ministries, the MAPNP and the FNPSR, this will require an estimated additional 30 man-days of input.

  Alternatively, we could develop a privatisation plan with targets and performance measures based on the current status of the holdings of the FNPSR given by its information system, the current privatisation projects that have reached the MAPNP given by its information system, and a rough estimate of the privatisation projects which have not yet reached the MAPNP.

This second alternative may result in some controversy regarding the achievement of the 33% target for 1994; however, if the targets are developed in terms of an absolute Book Value figure which estimates the 33% and which both the Government of the Slovak Republic and the World Bank agree upon, the second alternative is feasible. A decision on which alternative to follow needs to be taken as soon as possible.

- Technical assistance will also be required for the development of an information system for the FNPSR in order to address the problems described in section 2. We have been in close contact with the information technology staff at the FNPSR which has indicated a strong need for such a project.

  We estimate the project will require both information technology technical assistance as well as the purchase of hardware and software, and we estimate the scope of the project to be some 70 man-days to analyse and design the system, and some 120 man-days to assist in the procurement of hardware and software, and in the implementation and testing of the system as well.

  We recommend that the technical assistance for the design of such a system be undertaken as soon as possible in order to conclude implementation by the time the second wave of voucher privatisation begins. If such assistance will be considered, we will provide a much more detailed project description and input estimate which we would develop in conjunction with the Information Technology staff of the FNPSR.

- Again, it is important to note that we do not believe it is critical to develop an integrated information system across all institutions involved in the privatisation process. The cost would be much higher than that estimated for the project at the FNPSR. Furthermore, the FNPSR will require a quality information system which it will utilise into the future; while the other institution's role in the privatisation process will theoretically diminish quickly.

3.6 Injection of Capital into Local Banks for Local Entrepreneurs

- In order to address the problem of the absorption capacity of the Slovak financial system, a programme consisting of injecting capital into selected local Slovak banks for the purpose of financing local entrepreneurs pursuing sound privatisation projects should be established along the lines of the Venture Capital programmes and Small and Medium Enterprise assistance programmes undertaken by several international lending agencies.

- Under such a programme, a due diligence of a few targeted banks will be conducted prior to depositing funds or assuming an equity stake in the banks which pass the due diligence. Certain conditions will then be placed on the lending of these funds to ensure that they are provided only to entities interested in participating in the privatisation process. Furthermore, the lending policies should also be strict in order to ensure that the funds support feasible projects and that the Funding Agency obtains a return.

4. CONCLUSIONS

4.1 Likelihood of Meeting Privatisation Plan Objectives

- Our initial assessment of the privatisation process and its policies flow naturally from the discussion presented in section 2. At this point in time, we are concerned with the feasibility of developing a Privatisation Plan that can achieve the target of privatising 33% of the value of State Owned Enterprises within 1994. The concerns derive from our present understanding of the current financial, legal, political, and economic environment under which the privatisation programme is being implemented.

- In our initial assessment, we believe that to develop a Privatisation Plan that meets the required 33% target, it will be necessary to exclude a number of large scale enterprises from the pool from which the 33% target is derived. This is due to special restructuring projects that are taking place or will take place at these enterprises prior to privatisation and which will not be concluded until after 1994. Alternatively, the methods of privatisation could change allowing more than 47% of an enterprise to be privatised utilising the non-standard method.

4.2 Future Steps for the Project

- With this inception report, we conclude the initial assessment of the feasibility of developing an achievable Privatisation Plan that will result in the privatisation of 33% of the value of state enterprises.

- The next phase of the assignment will encompass developing a detailed privatisation implementation plan for all companies. This will include a forecast for the timing each enterprise will have its privatisation project approved by the MAPNP and when the FNPSR will accomplish the sale of over 51% of the enterprise.

  A decision will have to be made regarding the level of detail that will be required for the status of the companies. As mentioned in section 3, developing a highly accurate list of all companies and their privatisation status, will require a higher man-days input.

- Following the development of the privatisation forecast, we will review a selected sample of privatisation projects to ensure that the forecasts are realistic. We will specifically ensure that the privatisation projects for large enterprises forecasted to be implemented in 1994 will be carefully reviewed.

- Once the forecasting and reviewing tasks are completed, the final phase of the assignment will encompass ensuring the acceptance of the targets at all levels of the institutions involved in the privatisation process.

- We will also continue to explore the issues listed and discussed in section 2, and we will refine and develop specific proposals to address the problems identified. These solutions will be incorporated into the Privatisation Plan, but they will also be discussed with relevant institutions so as to begin the implementation of some of the recommendations prior to the presentation of the Privatisation Plan.

- Regarding the development of the information technology system at the FNPSR, we believe that the study should commence as soon as possible and should be attached to this study in order to ensure implementation is completed prior to the commencement of the second wave voucher privatisation..

The Slovak Republic
Large Scale Privatisation Plan

Volume I
Description and Analysis of the Privatisation Process

Claus Frost-Hansen
Robert Antonides
David Kochav
11 May 1994

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INTRODUCTION

This document is the result of an examination of the privatisation process in the Slovak Republic performed during February through April of 1994 with the objective of identifying problem areas, bottlenecks and potential areas of assistance, and to serve as an instrument for the development of a concrete action plan (Privatisation Plan - Volume II) in conjunction with the Ministry of Administration and Privatisation of National Property (MAPNP) and the Fund of National Property of the Slovak Republic (FNP).

During the period the study was undertaken and the Privatisation Plan developed, the Slovak Republic experienced a change in Government and in privatisation policy in mid-March 1994. This study reflects the privatisation process both before and after the change in Government, and identifies the key privatisation issues and procedural bottlenecks both before and after the change in Government and policy. The Privatisation Plan Action Plan (Volume II), reflects the privatisation strategy and implementation objectives of the current MAPNP.

We would like to express our depest gratitude to the staff of the MAPNP, particularly our counterparts Mr. Jan Porvaznik, Ms. Iva Kurtanova, and Mr. David Frankel, for their assistance in preparing this study and providing introductions to key individuals and institutions involved in the privatisation process. Likewise w
e express our thanks to the many individuals interviewed (see following list) and who provided us with their insights into the privatisation process, the bottlenecks and the key issues of privatisation in the Slovak Republic. Finally, we would like to thank USAID for its support of this study.

11 May 1994,
Claus Frost-Hansen
Robert Antonides
David Kochav

List of People Met

Ministry of Administration and Privatisation of National Property (MAPNP)

- Milan Janicina, Minister
- Bariel Palacka, State Secretary
- Mr. Lexa, Former State Secretary
- M. Kozlik, Director, Legal Section
- M. Novakova, Legal Section
- F. Doktor, Legal Section
- Jan Porvaznik, Director, Privatisation Industrial Enterprises
- Ludovit Zachar, Privatisation Industrial Enterprises
- Marta Bogdanova, Privatisation Industrial Enterprises
- J. Janik, Director, Privatisation Agriculture
- Dezider Mosny, Deputy, Privatisation Agriculture
- Rastislav Zboril, Director, Privatisation Non Productive Enterprises
- Peter Rosa, Director
- M. Prutzerova, Director, Finance and Personnel
- Dusan Kasan, Deputy, Finance and Personnel
- M. Kuchta, Head, Database Section
- Igor Uhrik, Advisor to the Minister
- Mr. Michalko, Voucher Privatisation
- David Frankel, Advisor
- Iva Kutarnova, International Relations
- Mirko Turcan, International Relations

Fund for National Property (FNP)

- Mr. Kato, Former Chairman of the Executive Committee
- Dusan Fiala, Director, EC Phare PMU
- Mr. Pinkava, Director
- Lubomir Melicharak, Management Information System
- Karol Danys, Director
- Ivan Gondas, Director
- Galajda, Deputy
- Michal Dirga, Director
- Vrbova, Deputy
- Pavol Kendra, Director
- Mr. Sumichrast, Deputy
- Jaroslav Bilik, Director
- Mr. Hudakova, Deputy
- Dusan Svantner, Director
- Mr. Karaffa, Director
- Mr. Ukropec, Deputy
- Mr. Lachkovic, Director
- Danica Dvorakova
- David Douglas, Advisor
- Simon C. Hawken, Advisor
- Volker Hillebrandt, Advisor

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Ministry of Economy
- Jozef Petras, Director, Department of Financial Policy
- Darina Volfova
- Ms. Novemska

Ministry of Land Ressources (Agriculture)
- Vadim Haraj, Director

Ministry of Finance
- Jozef Magula, Head of Section

Ministry of Culture
- Ivan Izakovic, Vice Minister

Ministry of Health
- Eduard Simko, Former Director

Ministry of the Interior
- Vladimir Belo-Caban, Director, Ministry Office
- Jozef Liska, Director, Internal Administration

Ministry of Transport, Communication and Public Works
- Jan Ricotti
- Marian Stefanek

Center of Coupon Privatisation
- Matus Sramek, Director
- Jan Filipek

RM System Slovakia a.s.
- Darina Huttova, Deputy Director

Supreme Audit Office
- Marian Vrabec, Managing Director
- Peter Sokol, Deputy

Slovak Antimonopoly Office
- Eugen Jurzyca, Director

Slovak National Agency for Foreign Investment and Development (SNAFID)
- Jana Cekanova, Sales Executive
- Lenka Jasencakova, Public Relations

European Bank for Reconstruction and Development
- Igor Tham, Resident Representative

VUB Invest i.a.s.
- Ladislav Vaskovic, General Director
- Jozef Oravkin, Manager

Creditanstalt Securities a.s.
- Peter Foltion, Chief Executive Officer
- Ivan Benda, Managing Director

Creditanstalt Investment Company a.s.
- Martin Cabadaj, Managing Director

Centurion East European Mining Plc, UK
- Michael J. E. Foster, Managing Director

Overseas Private Investment Corporation
- Barbara F. Brereton, Investment Services Officer

The World Bank
- Yves Duvivier
- Robert E. Anderson

US Embassy
- Ted Russell, Ambassador
- Chris Sandrolini

U.S.A.I.D.
- Patricia J. Lerner, Representative to Slovakia
- Marian Krsko, Project Advisor

UNIDO
- Paul Wiedemann, Senior Industrial Development Officer

Deloitte & Touche
- Bob Wood, Partner in Charge
- Lubomir Haluska, Partner

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1.0 Background

The privatisation programme in the Slovak Republic is a key element of the transformation from a centrally planned economy to an efficient and internationally competitive, market oriented economy. The goal of the privatisation programme is to ensure that the largest number of viable, state owned enterprises and entities are successfully converted to privately-held enterprises in the shortest possible time frame.

The Slovak Ministry of Administration and Privatisation of National Property has requested technical assistance from the United States Agency for International Development (USAID) to assist in the development of a Privatisation Plan. The privatisation Plan is presented as part of the actions to be undertaken by the Government of the Slovak Republic to comply with the conditionalities of the World Bank Economic Recovery Loan, approved on 2 December 1993. The plan has also been developed in order to simplify and clarify procedures and decision-making for the privatisation process, and to develop a specific internal action plan that will allow the acceleration of the privatisation process.

The privatisation plan focuses on the implementation of the MAPNP's privatisation strategy. As such it addresses, specific action plans for each of the components of the privatisation strategy (voucher privatisation programme, privatisation through standard methods, restructuring prior to privatisation programmes, and privatisation of strategic enterprises). The plan also presents plans for institution building programmes at the MAPNP the FNP, and the Ministry of Economy, and identifies support programmes from external agencies.

2.0 OVERVIEW OF PRIVATISATION IN THE SLOVAK REPUBLIC

The programme of privatisation was adopted by the former Federal Parliament in 1989 as part of an economic programme aimed at ensuring the economic transition from the previous centrally planned economy to a market based economy. The former Czech and Slovak Federal Parliament also approved privatisation legislation and this legislation remains currently in vigor in the Slovak Republic with some modifications to ensure its validity in the Slovak Republic.

The privatisation process was divided from a legal and implementation point of view into small scale and large scale privatisation. Small scale privatisation was initiated in 1991 and has currently been completed. During this process nearly 10,000 enterprises were sold to citizens of the Slovak Republic mainly through public auctions for an estimated CSK 14.5 Billion.

Large scale privatisation encompases an estimated 1,300 of the largest enterprises, and this privatisation programme has been divided into two broad waves for which the Government has identified the specific companies that will participate in each wave.

In Wave One, 751 companies with a book value of equity of some SK 170 Billion were identified. Wave One privatisation included directly selling property, and transfering enterprises into joint stock companies and privatising the shares (directly or through the voucher method). All First Wave enterprises were divided within the process into some 1,010 output units which were privatised using the privatisation methods presented in the tables below:

Wave One Privatisation

Privatisation Method	Number of Units	Book Value of Equity SK mill
Direct Sale of State Property	330	12.4
Transfer to Municipalities (at no cost)	116	2.1
Transfer of Property into Restitution Fund	7	0.0
Joint Stock Company Founded	557	154.6
Total	1,010	169.1

Source: MAPNP, November 1993

The above table clearly reflects that most state property was first transfered into joint stock companies, and then the shares of these were privatised using various methods or maintained by the Fund of National Property. The distribution of the shares of joint stock companies for the first wave is presented below.

Wave One - Distribution of Shares of Joint Stock Companies

	Book Value of Equity(SK mill)
Total Book Value Transfer	154.6
- As Shares	134.7
- As Reserves and Other Funds	19.9
Distribution of Shares:	
Shares Sold in Voucher Privatisation	79.8
Shares Sold through Standard Methods	3.4
Shares for Restitution Claims	3.8
Shares held by FNP SR	47.7
Total Shares	134.7

Source: MAPNP, November 1993.

The above figures clearly reflect the dominance of voucher privatisation as the primary method of privatisation utilised in Wave One, and this is the most significant factor explaining the success in the speed of implementation.

Currently and officially, Wave One has been completed. However, the Fund National Property currently holds a majority stake (as of October 1993) in 118 Wave One enterprises with an estimated share value of some SK 40 Billion (in the table, part of the SK 47.7 billion currently held by the FNP). Furthermore, privatisation projects for 87 Wave One enterprises with an estimated book value of equity of some SK 10 Billion were not yet approved by the MAPNP and passed to the FNP for implementation. These figures for these 87 companies are not included in either of the two tables above.

Wave Two Large Scale Privatisation was initiated as early as the summer of 1992. In October 1993, the list of Wave Two enterprises included 514 enterprises with a book value of equity of SK 223 Billion and included some of the largest enterprises in the fields of heavy industry, building industry, transport and telecommunications, and the energy sector. Currently (February 1994). Most Wave Two privatisation projects have reached the MAPNP and are currently being processed; while some 80 have been approved and sent to the FNP for implementation (most during February-March 1994 during the last days of the previous Government). There are also a significant number of privatisation projects which are currently being processed at the Founding Ministries and have not yet reached the MAPNP. The Ministry of Economy has an estimated 50 projects which have not reached the MAPNP and the Ministry of Land Resources has some 100 projects.

The remainder of this analysis and the scope of the privatisation plan will focus on Wave Two enterprises, Wave One enterprises where the FNP holds more than 50% of the shares, and the 87 Wave One companies; and on the environment under which these enterprises are being privatised.

3.0 PRIVATE SECTOR DEVELOPMENT AND FINANCIAL MARKETS

3.1 Private Sector Development

The private sector in the Slovak Republic represents an estimated 30% of the economy. Key factors in the growth of the private sector include:

- The effects of small scale privatisation where nearly all retail outlets and small firms were auctioned in 1991-92;
- Rising foreign investment; and,
- The establishment of new private enterprises (the number of private enterprises has increased from 11,813 in mid-1992 to 18,913 by August 1993, mostly due to start-ups, and the number of private enterprises with foreign capital has risen from 2,063 to 4,320 during the same period).

Economic Sector	% Private
Industrial Production	18%
Road Freight Transport	47%
Construction	51%
Retail Sales	84%

As the table reflects, the private sector has grown primarily in the service sector; while the idustrial sector, which comprises many of the large state owned enterprises of Wave Two, is still primarily in state hands.

Besides the privatisation programme, the National Agency for the Development of Small and Medium Enterprises has been established with assistance from various international donors to promote the growth of this important sector. Furthermore, the Agency is implementing entrepreneurial training and assistance in business management and finance, commercial law and trade transactions, and marketing.

Another important aspect which is being addressed as part of a programme to facilitate the growth of the private sector, includes amending the Commercial Law in order to speed the establishment and registration of private enterprises. It currently can take up to six months to register a joint stock company.

2.2 Financial Markets

Like many other former centralised economies currently undergoing major privatisation programmes, the Slovak financial system is not able to provide adequate financing alternatives to entrepreneurs or firms interested in acquiring State enterprises. It is also very difficult for investors to obtain credits to implement major restructuring

programmes following the acquisition of enterprises. The banking system simply does not have the funds to lend for these projects at rates which make the investments feasible.

The Slovak Banking System

The banking system in the Slovak Republic is characterized by a shortage of funds and has a number of banks with significant poor performing loan portfolios. Many of the problem loans of the banking sector are with companies undergoing privatisation. As the following table presents, the banking sector continues to be dominated by the public sector, but there is a shift towards growth of the private commercial banking sector.

The Slovak Banking System	Founded	Paid Capital SK mill.
The Central Bank	1-1-93	**1,816**
State Financial Institutions		**3,977**
Konsolidacna Banka, spu	30-11-92	1,471
Slovenska Statna soritel'na, spu	1-1-69	2,130
Slovenska Zarucna Banka, spu	15-3-93	376
Banks With Majority State Participation		**2,947**
Investicna a Rozvojov Banka, as	24-2-92	500
Vseobecna Uverova Banka, as	1-1-90	2,039
Slovenska Kreditna Banka, as	6-4-92	408
Banks With Majority Private Participation		**1,117**
Istrobanka, as	22-6-92	597
Priemyselna Banka, as	1-1-90	330
Prva Komunalna Banka, as	6-4-92	190
Joint Venture Banks		**2,827**
Credit Lyonnaise Bank Slovakia	22-6-92	3
Deven Banka, as	27-1-92	609
Lúdova Banka, as	29-4-91	300
Postova Banka, as	14-12-92	303
Prva Stavebna Sporitel'na, as	1-10-92	227
Slovenska Pol'nohospodarska Banka, as	21-6-90	684
Stavebna Sporitel'na VUB-Wustenrot, as	17-5-93	300
Tatra Banka, as	1-10-90	402
Foreign Bank Branches		
Agrobanka, as	22-1-93	
Banka Bohemia, as	17-2-93	
Banka Hana, as	3-2-93	
COOP Banka, as	1-1-93	
Ceskoslovenska Obchodna Banka, as	22-3-93	
Ekoarobanka, as	2-2-93	
Interbanka, as	24-3-93	
Internationale Nederlanden Bank, as	16-6-93	
Moravia Banka, as	17-2-93	

Source: National Bank of Slovakia; November 1993.

Bad debts are a major problem of the banking sector. Many banks, such as Vseobecna Uverova Banka (VUB), have taken steps in making western practice provisions for bad

loans which have impacted their income statements, balance sheets, and shown a need for further capitalization. Provisions are also expected to be higher in the next year(s) due to the expected weakness in the industrial sector.

Financial Markets

- The legislative framework required for the smooth running of a market economy and the establishment of efficient and transparent financial markets was developed within the integrated structure of the Czech and Slovak Federal Republic, and it includes the Bond Act, the Commercial Code, the Act on Investment Companies and Investment Funds, the Stock Exchange Act, and the Act on Securities.

- In connection with the first wave of privatisation and the development of the legislative framework, there has been an explosion in the number of private investment funds established in Slovakia. In the first wave of voucher privatisation, the private investment funds obtained an estimated 75% of all vouchers. However, only about 30 of these funds have significant portfolios and are important players in the financial markets: VUB Fund obtained some 20% of all the vouchers issued in Wave One and is the largest of these funds.

- Capital markets in the Slovak Republic are developing slowly; there is a relatively low trading volume in all markets and the markets would likely become energized with the added volume resulting from a successful second wave of voucher privatisation. The following are brief descriptions of the four main trading mechanisms in the Slovak Republic:

  i. *The Bratislava Stock Exchange* - The official stock exchange has a very low trading volume, and is dominated by the largest shares, few bonds, and some fund certificates In general, the settlements system requires improvement and the private investment funds do not use the exchange to a great extent.

  ii. *The Bratislava Options Exchange* (BOB) - There has been a growth in the importance of the options exchange due to its good settlements system and the role of the one-day-forward contract. In practice, the one day forward instrument combined with a relatively efficient settlements system has taken over the role of the spot market. Private Funds and banks primarily use the BOB and its volume has surpassed that of the official stock exchange.

  The transparency level of the BOB is also good; of the 40 to 70 shares traded actively, prices for some 20 - 30 shares are traded and quoted daily and available on the teletext system of Slovak television.

  The trading volume is relatively small at some USD 2-5 million per day.

iii. *The RM System* - The RM System originally was designed as a network for registration and market for voucher points used in the implementation of the voucher privatisation programme for Wave One. The system continues to be used primarily by private citizens and small funds to buy and sell shares of enterprises (504) and shares of private investment funds (86) on an auction basis. The auction/trading volume is much larger than that of the official Bratislava Stock Exchange and is growing. The system primarily provides prices and auctions on a bi-weekly basis and price quotations are not instant, and sometimes there are price differentials with shares quoted on the Bratislava Stock Exchange. In March 1994, a market for continuous auctions with instant prices was initiated.

iv. *Over The Counter (OTC)* - There is some informal trading between selected banks and private investment funds which is basically done over the telephone lines.

The capital markets in the Slovak Republic are small and thus still in the early stages of development. The low activity level is in part due to the small capitalisation in the system which in turn has limited the opportunities of foreign passive financial investments. One solution to envigorating the capital markets and educating the public as to their mechanisms is to enlarge the market through a significant second wave of voucher privatisation.

Although the capital markets and investment fund legislative framework is basically in place, further regulation of the private investment funds is under consideration at the Ministry of Finance. Furthermore, there is a need to focus regulation on increasing the disclosure of transactions (particularly those under the informal Over The Counter market), and on establishing a transparent system to licence private investment funds and brokarage houses.

Privatisation Financial Terms

In order to speed up the privatisation process and to address the issue of the lack of funds available, the previous Government eased up the payment conditions for standard method transactions to Slovak citizens and enterprises. Previously the sale of SOE's were based on 30% down payment and the remaining payments over a 5 year period.

The payment policy changed offering SOEs and state property under conditions of low down payments (some 10% to 15% due within one year) and the rest to be paid in equal installments up to 15 years (quarterly, bi-yearly or yearly), with a below market interest rate.

If the new owner is not able to pay, the interest rate is increased to 20% p.a.. Often this is combined with a requirement that the new owner is committed to carry out specific investments (financed out of the retained profits or by external sources). If the new owner does not fulfill planned investments, the price to be paid for the shares/property

will typically increase according to a formula defined in the sales contract. Other obligations in the contract deal with guarantees concerning employment levels and environmental protection.

This deferred payment system is financed by FNP, which thus in this respect acts as a banker. Huge problems are arising due to these payment structures as newly privatised enterprises are not generating the cash or financing sources to meet payments and investment obligations. The result is a large and growing portfolio of "non-performing" contracts held by the FNP which could potentially lead to re-nationalization of state property if the FNP decides to force bankruptcy proceedings.

3.0 PRIVATISATION POLICY

Policy Environment

It is clear that there is strong support at all the major political entities in the Slovak Republic for the continuation of the transformation of the economy into a market economy; and as such, for a vigorous privatisation policy as a critical component that will enable the transformation.

Since the dissolusion of the Czech and Slovak Federation and the creation of the independent Slovak Republic on 1-1-93, there have been various Government cabinets. During this same period there have also been various Privatisation Ministers and one Acting Privatisation Minister. This level of political instability, including changes in privatisation policy has had the effect of delaying the implementation of Wave Two privatisation, even at a time when there is wide consensus that implementing privatisation is a pivotal component of the transition towards a market economy.

Policy Declarations

There have been two important shifts in privatisation policy between the conclusion of Wave One and the present. The first wave relied primarily on the voucher privatisation method which permitted the quick implementation of the programme. A policy shift placing a preference on standard methods (direct sales, public tenders and public auctions) over non-standard methods (the voucher method) with the objective of ensuring capital injections into the privatised enterprises was presented in the summer of 1992. The policy relagated voucher privatisation to a residual method under which a maximum of 47% of an enterprise's shares may be privatised. Implementing privatisation by standard methods is more complex and time-consuming, and this policy shift placed a significant time constraint on the privatisation process.

Under the newly established Government (March 1994) and the newly appointed Minister of Privatisation, there has been a strong policy declaration to re-vive the privatisation process and to both speed and envigorate the second wave of voucher privatisation by not limiting the method to a maximum of 47% on the share of any single enterprise. The new Government has declared as its privatisation objectives to speed the process, to make it more transparent, and to fortify voucher privatisation as the cornerstone of a quick and transparent privatisation policy.

A second major policy objective is the recently adopted target of privatising 33% of remaining state property by the end of 1994 This is an objective agreed upon by the previous Government with the World Bank and which the new Government will honor. In fact in its policy declaration, the Government has stated it hopes to privatise up to 50% of state property by 1994.

This Study and Privatisation Plan has the objective of identifying areas of assistance and developing an action plan to assist the Government of the Slovak Republic in achieving such an objective, and the leadership of the MAPNP has shown its commitment to achieving the goal by participating in developing the Privatisation Plan for 1994.

4.0 OVERVIEW OF PRIVATISATION LEGISLATION

Current privatisation legislation is extensive and well defined.

- Small scale privatisation was implemented according to Act No. 427/90 Law on the Transfer of State Ownership of Certain Things to Other Legal Entities or Natural Persons, drafted and approved in late 1990 by the former Federal Parliament of the Czech and Slovak Federation.

- Large scale privatisation is defined by Act No 92/91 on the Conditions for the transfer of State Property to Other Persons, and by Act of the Slovak National Council No. 253/91 on the Authorization Concerning the Transfer of State Property to Other Persons and the Fund National Property of the Slovak Republic. These laws clearly specify the privatisation methods to be used, the implementation process based on the privatisation project, the project approval institutions (MAPNP and Government), and the implementation institution (FNP).

- An amendment to the above mentioned privatisation laws has been drafted, debated and approved by the Parliament. The amendment will enable the MAPNP to change the privatisation method and the percent of shares in any one enterprise that may be privatised through the voucher method. This will greatly speed the approval of projects by the MAPNP in time to meet the voucher implementation deadlines presented in the Privatisation Plan for 1994.

Besides these major laws which define the privatisation process, other critical legislation supporting both privatisation and the transition to a market economy are in place (the Bond Act, the Commercial Code, the Act on Investment Companies and Investment Funds, the Stock Exchange Act, and the Act on Securities).

Legislation aimed at regulating private investment funds in order to prevent monopolistic behavior by preventing funds from obtaining significant holdings in firms competing in the same industry. According to the proposals, funds owning 20% or more of a "market" will be required to report this to the Office of Anti-Monopoly which will then take a position on the legality of the holding.

Legislation (combined with business incentives) may also need to be passed in order to ensure that the management of the SOEs acts in accordance with the interests of the present and future owners during the time period under which the voucher privatisation programme is undertaken. This may take the form of requiring approvals of the Board of Directors before major transactions are processed.

5.0 THE METHODS OF PRIVATISATION

According to privatisation legislation, privatisation can be implemented either by the sale of SOE property or by the transformation of the SOEs into Joint Stock Companies followed by a divestiture of the shares:

- Sales of SOE property can be achieved either through:

  ① Direct sales;
  ② Public tenders;
  ③ Public auctions; or
  ④ Transfers to municipalities with no payment.

- Sales of enterprise shares following the transformation of the SOEs into joint stock companies can be achieved through the following methods:

  ① Direct sales of shares;
  ② Public tenders of shares;
  ③ Public auctions of shares;
  ④ Voucher privatisation;
  ⑤ Transfers to municipalities, health and pension funds, etc. with no payment, and/or
  ⑥ Maintain shares at FNP.

Clearly, methods 5 & 6 are not defined as privatisation but as transfers of property ownership from one Government institution to another.

Standard Methods
The advantages of using standard methods, defined as direct sales and public tenders and auctions, over voucher privatisation are clear:

- These methods facilitate a clear majority owner that can provide a clear vision for the newly privatised enterprise. Furthermore, because their own capital is at risk, the management decisions concerning the enterprise's future can be expected to be both in the interest of the firm and the Slovak Republic.

- Standard methods provide an easy process by which both foreign and domestic capital can be invested directly into the operations of target enterprises. This, however is only true when there is in fact an interested investor willing to invest fresh capital into the SOE.

The complications and drawbacks related with privatising through standard methods include the following:

- The methods are more complicated and time consuming to implement than privatisation via the voucher method. Standard methods require developing complex auction procedures or direct negotiations on a case by case basis. To

address this problem, project transaction teams stationed at the FNP can be used in order to facilitate and speed the process;

- A second major problem affecting the Slovak privatisation process includes the lack of transparency of many direct sales transactions. The approval of several direct sales projects in February and March of 1994, have had some serious transparency problems which have been reported in the press and which have tarnished the image of the privatisation process both domestically and internationally. An investigation is expected into these transactions in order to repair the public relations damage and find ways to make the process more transparent;

- Another major complication is identifying investors that are interested in building the enterprises for their long term financial viability and economic returns. There is evidence that in the absence of investors with solid business plans and investment commitments, privatisation projects are being designed as management buy-out with very favourable payment structures and investment commitments in the form of re-investment of future profits rather than the investment of fresh capital into the enterprises. In these cases, standard methods are not achieving their primary goal which is that of attracting investors that will inject capital into the SOE;

- In cases of privatisation through standard methods, it is critical to ensure that contract obligations are enforced. This means that for cases of direct sales in which payments are due for up to 15 years and where investors have commited specific investment and employment levels, these will have to be monitored and enforced. The FNP is currently facing tremendous problems of unmet contract (payment) obligations from standard method sales. If it decides to take the cases to court in order to re-gain the property or shares, it will in effect re-nationalize the property and will have to re-privatise at a future date property which is in worse shape than at a previous point in time;

- A key challenge for direct sales is ensuring the transparency of the process with clear evaluation criteria.

Non-Standard (Voucher) Privatisation Methods

The advantages of voucher privatisation include the following:

- It is a relatively quick way to privatise a large number of SOEs in an efficient and cost effective way;

- Non-Standard methods do not require cash in order to privatise as the equity are given to Slovak citizens for a token fee aimed only at covering the expenses of voucher implementation;

- The restructuring of enterprises will take place after privatisation by owners whose primary objective includes ensuring the highest return on investment;

- After the voucher implementation, it will also be possible for domestic and foreign investors to take controlling interests in enterprises via the capital markets by making public bids for the shares of enterprises. Such a process may prove to be an easier process of acquiring an enterprise than participating through direct negotiations;

- In the Slovak Republic, Wave One resulted in both wide public participation and sufficient controlling interest in the enterprises by the private investment funds to ensure that proper management control and corporate governance is exercised. It must be stated that in western economies, it is not uncommon for enterprises to be efficiently managed even though there is wide spread ownership and the largest single investor may only control as little as 10% of the enterprise;

- Voucher privatisation is a catalyst to capital markets development which is critical for the introduction of passive financial investment of foreign capital into the Slovak economy. Discussions with private investment funds have revealed that there is a strong interest by major foreign investment firms to invest in shares of Slovak enterprises as part of their East European, Emerging Markets, or Slovak mutual funds which they can then offer to investors. Such financial investments do not result in direct capital for specific enterprises, but in an injection of foreign capital into the Slovak economy in general;

- Voucher privatisation is generally viewed as fair and transparent.

Negative aspects of voucher privatisation include:

- It does not result in an immediate injection of capital into the enterprises which in many cases is critical in order to ensure operations can be maintained and future growth ensured;

- Standard methods are much more attractive to a strategic investor interested in injecting capital and developing and implementing a strategic direction for the enterprise in terms of production strategy and markets. It is therefore important to ensure that potential foreign investors who will inject capital into the enterprises will be given a chance to invest in enterprises prior to the voucher programme.

  The alternative for these investors is to purchase majority ownership from private investment funds after the voucher programme. But, as the experience from Wave I reveals, it may take up to one year before shares are distributed to citizens and private investment funds, and from which foreign investors can acquire them through the capital markets;

- Voucher privatisation may result in an investor with a small ownership interest controlling the enterprise. Potentially, this situation could result in policies of

asset stripping, unbeneficial transfer pricing policies, or implementing liquidation in order to eliminate competition;

- Successful mass privatisation through the voucher requires the development of a capital market that is relatively efficient, transparent and liquid for the public, the private investment funds, and foreign financial investors to trade shares. Such capital markets have not reached such a level of development yet; however, implementing a large Wave Two voucher programme will contribute towards the development of Slovak capital markets.

- Voucher privatisation may take up to one year until shares are actually in the hands of the new owners and control can be exercised. During this time it will be critical to both exercise ownership control over the enterprises and to provide incentives to the management to ensure it maximises its value and it abstains from carrying out policies of asset stripping, etc. Such policies should not be permitted and in order to address this issue, but incentives should be provided to management and employees (e.g. stock options or a percentage of the total shares of the enterprise), and penalties should be enforced upon managers that pursue such policies.

Conclusions

In practice, which method to implement depends on both the objectives of the privatisation (speed, transparency, fairness, developing capital markets, capital injection into enterprises, etc.) and on the specific conditions of each specific enterprise (operational and financial conditions, proposals and profile of potential investors, etc.). It is therefore impractible to force or limit the use of certain privatisation methods on enterprises in general policy statements.

To limit voucher privatisation in order to attract immediate capital slows the privatisation process, but is a sensible policy in situations where there exist investors with access to cash and interested in acquiring enterprises and making capital investments. However, to impose this policy to all enterprises does not consider the reality that there is seldom in the Slovak Republic an investor with fresh capital to invest in the enterprises privatised.

For example, a recent number of privatisation projects have been approved in February and March 1994. Most of these projects were management/employee buy-outs in which favourable terms of payment were developed and in which investment commitments took the form of promises of re-investment of future profits and not of injecting fresh capital into the enterprises. This form of privatisation does not result in attracting capital which is the primary argument for standard methods. Furthermore, such methods may result in future problems if re-investment commitments or if future payments are not met. Indeed, if such enterprises fail, they may be effectively re-nationalized.

In such cases, voucher privatisation is a better alternative as it ensures quick privatisation, avoids future potential contract obligation problems, and yet also provides

a strong incentive for the enterprise to operate according to profit maximinsing concepts.

The Privatisation Plan for 1994 is based on the current Government's privatisation policy whereby voucher privatisation will not be a residual privatisation method, and therefore assumes that any one enterprise may be privatised through a voucher privatisation programme or through standard privatisation methods or a combination. Therefore the privatisation strategy will allow up to 97% of an SOE to be privatised through the voucher programme, but in situations where investors with cash or access to credit needed in order to improve the enterprise, are identified, standard methods will be used. There will therefore be a need to be a number of transaction groups established at the FNP to speed the implementation of standard privatisation methods and to identify and assist potential foreign investors in the privatisation process. Following such a policy will facilitate the achievement to the Privatisation Plan target objectives.

7.0 LARGE ENTERPRISE RESTRUCTURING

There is much debate as to the appropriateness of restructuring prior to privatisation or restructuring after privatisation by investors which will ensure restructuring will be done in order to maximise their investment. This study will not enter a theoretical discussion of the positives and negatives of each point of view; the perspective under which the Privatisation Plan has been developed is that the restructuring decision depends on the specific conditions of the state owned enterprise and that there are in fact enterprises requiring restructuring prior to privatisation in order to attract investors or in order to develop constructive liquidation programmes.

In order to identify restructuring candidates, the Ministry of Economy has drafted a preliminary list of some 30 enterprises with the largest amount on non-performing loans with the banking system. This list will serve as the enterprise target for short Diagnostic Studies which will be performed by independent consultants and financed by international donors such as USAID and the EC PHARE programme.

The outcome of the diagnostic studies will be proposed restructuring plans which may take the form of operational restructuring programmes such as downsizing or breaking up enterprises into units some of which may be liquidated, and/or financial restructuring such as negotiating debt for equity swaps with creditors. The proposed restructuring plans will also include a plan for privatisation of the assets.

A Restructuring Committee will be established composed of representatives of the Ministry of Economy, the MAPNP, the FNP, and major creditors (eg VUB). This Committee will be responsible for overseeing the entire restructuring and privatisation of the selected enterprises. Its main force will be the gathering of all interested parties in the restructuring and privatisation process for each of the selected enterprises in order to facilitate proceedings (liquidation, credit extensions, debt for equity swaps, etc.).

In order to further facilitate enterprise restructuring, the bankruptcy law has been approved which makes it possible to terminate non-viable enterprises. Nearly 100 enterprises have been liquidated since the commencement of the large scale privatisation programme. Although the legislation has been approved, liquidation court proceedings, on the other hand are lengthy, and it would be positive to develop fast track proceedings for SOEs or special debt concilliatory and arbitration proceedings.

The Special Restructuring Programme (SRP) of the European Bank for Reconstruction and Development (EBRD) is an important programme to both privatise and restructure large enterprises. Under this programme, a holding company is established and several SOEs are "sold" to the holding company which will then take the enterprises through a restructuring programme with the objective of divesting at a future date and earning a return. The holding company is established with equity holdings from EBRD, the FNP, and other interested investors.

The SRP is currently at the begining stages. There is a memorandum of understanding between the FNP and the EBRD but only at a concept level. There has also been some

work carried out with respect to identifying enterprises which will be transfered to the SPR Holding Company. The future steps will be addressed in the Privatisation Plan for 1994.

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8.0 RESTITUTION CLAIMS

As of February 1994, there exists an estimated 12,000 unresolved restitution claims. The processing of these claims is slow and is overwelming the Courts. Unresolved restitution claims, however, do not seriously delay the privatisation process:

- Enterprises may be privatised even though restitution claims on the property are outstanding since by law 3% of the value of the enterprises and property is placed in the official restitution fund from which claims will be met;

- The deadline for the presentation of restitution claims has been passed and therefore no more new claims are expected.

Resolving restitution claims is a task which will require much resources and better court proceedings, and which is critical in order to maintain a positive image for the privatisation process. However, they do not represent a serious delay factor.

Regarding the restitution issue, it is important to note that what slows the privatisation process is identifying the current property ownership (e.g. establishing the State's ownership of the property to be privatised). Once this is established, privatisation projects may be approved and State property privatised. Resolving restitution claims on the State property is a separate issue which may be resolved at a later stage, and this is the role for which the Restitution Fund has been established.

9.0 ATTRACTING FOREIGN INVESTMENT

Attracting foreign investments into the Slovak Republic is a major objective of the privatisation programme and a contributor towards the development of the economy. Foreign investment may be made by financial institutions (e.g. foreign mutual funds and the like acquiring shares in newly privatised companies) or strategic/industrial investors (e.g. foreign industrial companies taking a controlling share in a former SOE and managing the company). Either form of foreign investment will bring in new capital to the country, and in order to attract such investment the Slovak Republic is competing with other countries.

Slovak National Agency for Foreign Investment and Development (SNAFID) is an agency with the objective of attracting foreign investors to the Slovak Republic. As of 1 January 1994, the agency is organised as a joint stock company wholly owned by FNP. The agency is funded by FNP and EC Phare. The staff consists of 20 employees. The main activities of the agency are to promote the Slovak Republic internationally through participation in trade fairs, arranging investment seminars, and providing initial guidance to foreign investors coming to the Slovak Republic on how to do business in the Slovak Republic.

Most potential foreign investors contacting the agency seek business opportunities in the private sector. The agency publishes general information about the business environment, a monthly bulletin as well as reports on the structure of various sectors. The agency does not have any special services related to foreign investors interested in participating in the privatisation process, and it is not an institution that can play an important role in assisting foreign investors in understanding the privatisation process or guiding them through the entire process.

In general, there are public relations problems with promoting the Slovak Republic internationally and facilitating the role of foreign investors in the process. At the MAPNP the International Relations function has suffered from the tight budget and currently comprises only one employee assisted by an advisor. This is clearly insufficient manpower to manage the querries from potential foreign investors as well as all relations with foreign institutions. At the FNP, there currently is no department or section devoted to facilitating relations with foreign investors. There is also a language problem at these two institutions as very few professionals speak English or German, making relations with potential foreign investors difficult.

Other important problems in attracting foreign investment include the difficulty to understand the privatisation process as seen from the point of view of a potential foreign industrial investor:

- There is no clear overview of the enterprises for sale. Profiles of each of the enterprises including product line, markets served, plants/factories and real estate owned by the company, organisation structure and employment, location(s), financial position (profit and loss account; balance sheet) is not readily available;

- The negotiating process is not clear. It is not clear for potential foreign investors who are the decision makers and therefore whom they should negotiate with: the management of the SOE, the Founding Ministry, the MAPNP, or the FNP?

- There is a lack of transparency. It is not clear which criteria are applied when deciding on a potential foreign investment.

On the other hand, the Slovak Republic has attractive enterprises and has established incentives such as tax holidays in order to attract foreign investment.

To solve the foreign investment problem, more qualified (language and business skills) resources need to be developed internally at the MAPNP and FNP through focused training sessions aimed at understanding the privatisation process better, gaining an insight into the perspective of the foreign investor, developing better business skills, developing a better insight into the Slovak economy its SOE's, and gaining better language skills. Such training could be part of a wide programme financed by international donors. Also, resource strengthening in the international relations function may include foreign advisors.

Organisationally, the Fund is the institution in which to place the main responsibility for attracting and servicing foreign investors throughout the process, even though according to the privatisation legislation foreign investors have to negotiate with other parties (SOE management, Founding Ministry, MAPNP). A major organisational strengthening of the Fund is needed in this area in order to be able to fulfil such a commitment. Such a strenghtening may also take the form of placing transaction teams with access to potential international investors.

10.0 THE PROCESS OF PRIVATISATION IN THE SLOVAK REPUBLIC

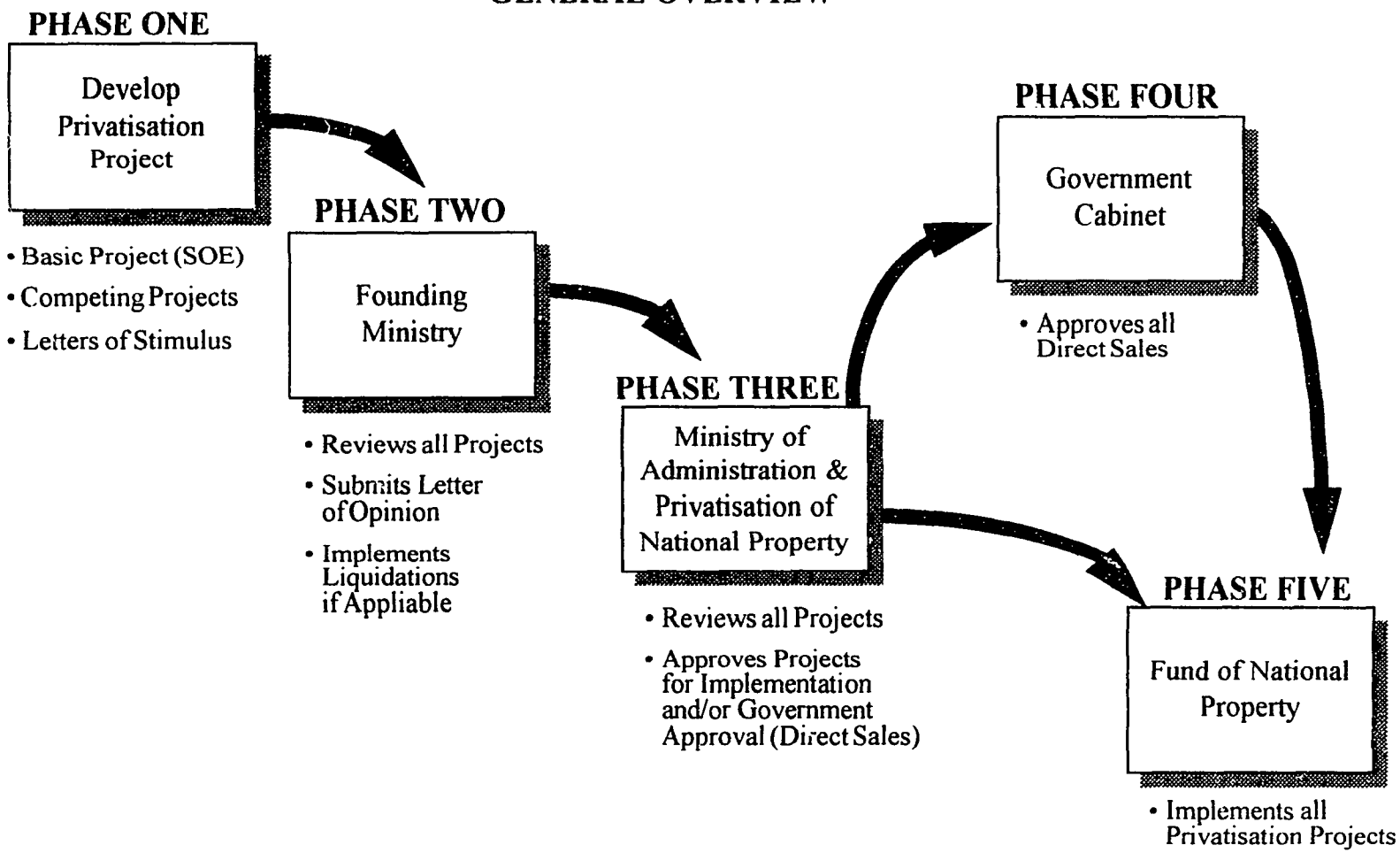
10.1 Overview of the Privatisation Process

The objective of this section is to provide an overview of the process of privatisation and specific bottlenecks will be identified and discussed.

Privatisation in the Slovak Republic entails the participation of various Government and private institutions in a rather complex process. The process is defined and shaped by legislation in great detail. In its basic form and according to the current privatisation legislation the process in its broad phases is depicted in the diagram below.

The Privatisation Process - The Slovak Republic

GENERAL OVERVIEW



In the first phase of the privatisation process, privatisation projects are developed by: a) the State Owned Enterprise in conjunction with its Founding Ministry (the Basic Privatisation Project which is required by law); b) physical or legal persons submitting projects prior to a June 1992 deadline (Competing Privatisation Projects); and c) physical or legal persons submitting letters of interest after the June 1992 deadline (Letters of Stimulus).

In the second phase of the process, the Basic Projects, Competing Projects, and Letters of Stimulus are evaluated by the Founding Ministries of the respective enterprise, and an opinion letter is drafted by the Founding Ministry identifying the prefered privatisation project. At this stage interested investors, including the management of the state owned enterprises, if applicable, negotiate and propose the terms of sale, including price and other commitments such as employment level and investment guarantees. The Founding Ministry also considers the effects of the privatisation project on the structure of the specific business sector.

In the third phase, the MAPNP further evaluates the privatisation projects and approves them before submitting them to the Government for approval in the case of a direct sale or to the Fund of National Property for implementation. The MAPNP analyses the project proposals from an economic perspective, ensures property and restitution questions are properly documented, and continues negotiations with potential investors. Under the previous Government, the MAPNP also obtained the perspective/opinion of the Government Anti-Monopoly Office, the Supreme Audit Office, local councils, and relevant trade and professional unions. Under the current Government, the MAPNP is only required to obtain an opinion from the Anti-Monopoly Office, and only informs the other bodies of its decisions.

According to the amendment to the Privatisation Law, the MAPNP may change the method of privatisation from that proposed by the respective Founding Ministry.

The fourth Phase involves the approval of the Government Cabinet for direct sale privatisation projects. This phase is not required for Auctions, Public Tenders or Voucher privatisation methods.

The fifth and final phase includes the implementation of the privatisation by the FNP. The FNP, transforms state owned enterprises into Joint Stock Companies, legally obtains ownership of the property and shares of state owned enterprises, and finally passes ownership to private entities according to the privatisation projects approved by the Government and the MAPNP. The FNP also manages a substantial amount of shares and has a Section responsible for exercising ownership rights. The FNP also has supervisory responsibility over the contracts enacted with purchasers of property or shares in order to ensure contractual and payment obligations are met. The FNP, however, does not have the competency to change privatisation projects, and if any changes need to be made (including of a contractual nature), these need return to the MAPNP.

This general overview of the Slovak privatisation process is the system in its theoretical form and as defined by the Privatisation Law. As a live system, the process is characterized by the following:

- The process is complex with many institutions involved and procedures that need to take place before a project is processed. The privatisation process is particularly not clear to many foreign and domestic investors with no established ties to the SOE. The complex procedure can also be utilized by parties interested in delaying the privatisation process, and there are cases where managers of SOE's not interested in fast privatisation, delay the process by not submitting adequate or complete basic privatisation project proposals or delay the submition of property related documentation.

- Legally, the decision making authority (approvals) over the privatisation projects is the MAPNP and the Government (direct sales). However, in practice the decision maker is unclear because although all involved institutions do not, legally, need to agree on the specifics of the approved privatisation project, in practice, the approval of a given privatisation project implicitly requires the green light of all interested parties.

  If there is a disagreement, if new negotiations need to take place due to changing factors, if a privatisation method is to be modified, etc. then the project needs to be re-evaluated by all institutions in the privatisation process. As stated in the above point, this results in a very confusing picture to foreign investors who are not certain with whom they should conduct negotiations with (SOE management, Founding Ministry, MAPNP, or the FNP);

  However, the recently approved amendment to the privatisation law provides the MAPNP with the authority to change the privatisation project (method of privatisation, etc.), and therefore if the MAPNP exercises this authority, the privatisation process will be quickened and the point of entry into the privatisation process will also be clearer for foreign investors.

- The privatisation process is time-consuming with the consequence that many projects defined at a given point in time become obsolete by the time they are approved and forwarded to the FNP for implementation. This factor combined with the rigidity of the process and the unclear decison making competencies, results in having to re-develpop privatisation projects and obtain new sets of opinions and approvals. In fact, we estimate that over 33% of the privatisation projects currently held at the MAPNP and the FNP are non-implementable, and that these companies will require either liquidation, or restructuring prior to the development of a new privatisation project;

- The information systems of the institutions involved in the privatisation process do not have the capability of providing an accurate statement of the status of the companies that have been identified as privatisation candidates. In general, the information systems at the MAPNP and the FNP are adequate to obtain current

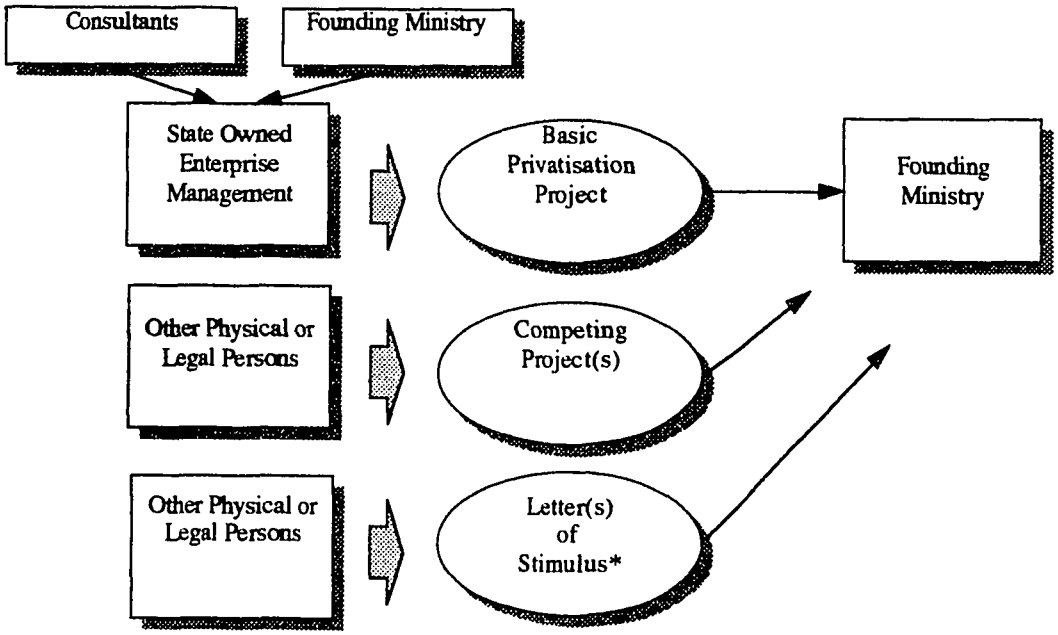
information on the status of the projects (MAPNP) or share holdings (FNP) at each of these institutions in isolation.

The information systems, however, are not integrated, and it is therefore impossible to quickly obtain information on the status of the overall privatisation programme without conducting an audit. There exists no system to track companies that have been liquidated or split into different enterprises. The consequence is that it is difficult for any institutions such as the MAPNP or the FNP to estimate the project workload that can be expected. Furthermore, it is difficult to accurately track the performance of the privatisation process as a whole;

- There is major understaffing at the MAPNP and FNP in order to implement the privatisation process quickly.

The following sections and diagrams describe and depict the privatisation process in detail at each of the main phases presented.

10.2 Phase One - Develop Privatisation Project



* Note: Letter(s) of Stimulus may also be sent directly to the MAPNP or the FNP.

Basic Privatisation Projects
According to the Privatisation Law, all SOEs were required to submit Basic Privatisation Projects by the summer of 1992. These projects were developed according to a special format prepared by the Government. To complete the Basic Project, SOE management submitted basic accounting data (including a book value valuation), property ownership documentation (including restitution claims and the legal status of the property), and a very basic business plan. Expert valuations conducted by approved valuation experts were required for direct sales project proposals. The SOE management usually worked closely with its Founding Ministry and also could obtain assistance from an official list of authorized valuators with licenses from the Ministry of Justice and the Ministry of the Interior.

All SOE's have completed the Basic Privatisation Projects. Problems at this level of the privatisation chain reflect poorly completed project proposals where the property ownership and restitution documentation is not adequate, and where even though the project has moved further in the chain, the issues have not yet been resolved. Other problems include outdated data (particularly valuation data), as projects submitted in 1992 and which are today far from implementation, are simply outdated due to drastic changes (usually for the worse) within the SOE and its economic sector. A final problem includes delays in the submition of requied documentation by SOE managers which seem not to support the privatisation process.

Competing Privatisation Projects
Any physical or legal person (domestic or foreign) may have submitted a competing privatisation project. As with the Basic Project, the Government approved guidelines and requirements for developing Competing Projects and instituted a June 1992 deadline for submission. On average for the whole of Wave 2 companies there are approximately two competing projects for each enterprise; however, there exist many enterprises with more than five competing projects and one case with 33 competing projects.

Letters of Stimulus
Any physical or legal person (domestic or foreign) may submit a Letter of Stimulus. These are basically letters of intent including a basic business plan. It is through the Letter of Stimulus that foreign and domestic investors are able to participate in the privatisation process at this point in time These letters may be submitted to the Founding Ministries, the MAPNP, or the FNP The letters of stimulus function as a procedure to enter the privatisation process, they do not affect the structure of the official privatisation project.

The problem facing new potential investors is the catch up game that has to be played as negotiations need to be conducted with all institutions involved in the privatisation chain (SOE, Founding Ministry, MAPNP, and FNP). Furthermore, some potential foreign investors have identified project evaluation transparency problems and a potential conflict of interest problems.

- Firstly, new investors must negotiate with SOE management which may have submitted a management buy-out (direct sale) proposal.

- Secondly, it is not clear what the evaluation criteria is for selecting the winning project proposal.

10.3 Phase Two - The Founding Ministries

The role of the Founding Ministries is to assist the SOE's in drafting the Basic Privatisation Project, to evaluate all privatisation projects and letters of stimulus, to prepare a report on each of the projects including the proposed method of privatisation, and to draft an opinion document on the recommended method of privatisation for the SOE. This opinion letter and all documentation is then forwarded to the MAPNP.

In theory, all aspects of the privatisation project should be settled at this point: method of privatisation, identification of investor, contractual agreements (price, investment and employment commitments, etc.), restitution claims, property ownership, etc. In practice this is seldom, if ever, the case, and most of these issues are settled while the project is at the MAPNP and the FNP.

At the level of the Founding Ministries the main problems include:

- Resolving legal questions regarding property ownership. Again, uncooperative management can greatly delay the process with these issues;

- Implementing restructuring plans for some of the enterprises, particularly the large SOE's. In some instances, the restructuring merely means separating the SOE's social assets from its productive assets; and in other cases, it means the splitting of enterprises into several privatisation projects. The most complicated problem relates to enterprises with severe need for operational and/or financial restructuring before an investor can be attracted; and,

- Implementing liquidations for cases where the restructuring study, or the current financial and operational performance is extremely poor and clearly indicates that liquidation is the best privatisation alternative. Although nearly 100 liquidations have been completed or are in the process of being implemented, more of these cases will be expected. It is particularly some of the large enterprises whose liquidations will cause serious social problems that are being delayed with the hope that through restructuring they will be saved. The privatisation of these enterprises will not be feasible in 1994.

Less serious problems include:

- The Founding Ministries also evaluate the effect from implementing the privatisation project on the competitive structure of the economic sector in question. We have come accross several cases where this question has blocked the privatisation project;

- The information systems tracking the privatisation process are highly inadequate at the level of the Founding Ministries. Generally, information is tracked manually or is dependent on one key individual. This is not a serious problem at the Founding Ministries which handle a small number of cases, but it is a serious problem at the Ministry of Economy and the Ministry of Land Resources where the majority of the cases are handled.

As the two tables below clearly indicate, the most important Founding Ministry is the Ministry of Economy with over 57% of all Wave Two enterprises and with some 70% of the book value of equity (SK 135 Billion) of the enterprises (according to a list drafted by the MAPNP as of 31-12-92). The other important ministry is the Ministry of Land Resources with over some 189 (35%) enterprises and some 18% of book value (SK 35 Billion).

Founding Ministries and Enterprises for the 2nd Wave
Number of Enterprises and Aggregate Book Value of Equity as of 31-12-92

	0 - 250		250 - 1,000		+ 1,000		Total	Total
	#	BV	#	BV	#	BV	#	BV
Ministry of Economy								
a. Economy	43	4,424	26	14,535	8	49,327	77	68,286
b. Industry	20	1,732	17	8,471	11	25,786	48	35,989
c. Wood and Paper	5	411	4	1,352	2	6,804	11	8,567
d. Trade & Tourism	12	1,596	10	4,989	0	0	22	6,585
e. Construction	131	8,929	12	5,578	1	1,278	144	15,785
Total	211	17,092	69	34,925	22	83,195	302	135212
Ministry of Land Resources								
a. Forestry	7	575	0	0	0	0	7	575
b. Agriculture & Food	130	9,836	50	19,678	2	4,486	182	34,000
Total	137	10,411	50	19,678	2	4,486	189	34,575
Ministry of Transport	10	685	0	0	6	20,723	16	21,208
Ministry of Culture	8	102	0	0	0	0	8	102
Ministry of Health	10	1,437	0	0	0	0	10	1,437
Ministry of Finance	0	0	1	883	0	0	1	883
Ministry of the Interior	4	324	0	0	0	0	4	324
Totals	**380**	**30,051**	**120**	**55,486**	**30**	**108,404**	**530**	**193,941**

Source: Ministry of Administration and Privatisation of National Property

* All figures in SK Millions as of 31-12-92.

Summary of Founding Ministries and Enterprises for the 2nd Wave
Number of Enterprises and Aggregate Book Value as of 31-12-92

	Number	Percent	Value	Percent
Ministry of Economy	302	57.0%	135,212	69.7%
Ministry of Land Resources	189	35.7%	34,575	17.8%
Ministry of Transportation, Comm. and Public Works	16	3.0%	21,408	11.0%
Ministry of Culture	8	1.5%	102	0.1%
Ministry of Health	10	1.9%	1,437	0.7%
Ministry of Finance	1	0.2%	883	0.5%
Ministry of the Interior	4	0.8%	324	0.2%
Total	**530**	**100%**	**193,941**	**100%**

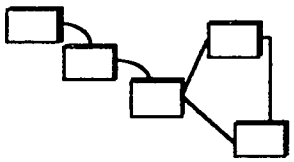
Source: Ministry of Administration and Privatisation of National Property
* All figures in SK Millions as of 31-12-92.

Given the relative size and importance for the privatisation process of these two ministries, we provide detailed discussions of the formal privatisation procedures at these ministries. It must be understood that following the submission of the formal project and opinion report to the MAPNP, there is still much interaction between the Founding Ministries and the MAPNP regarding incomplete and outdated documentation.

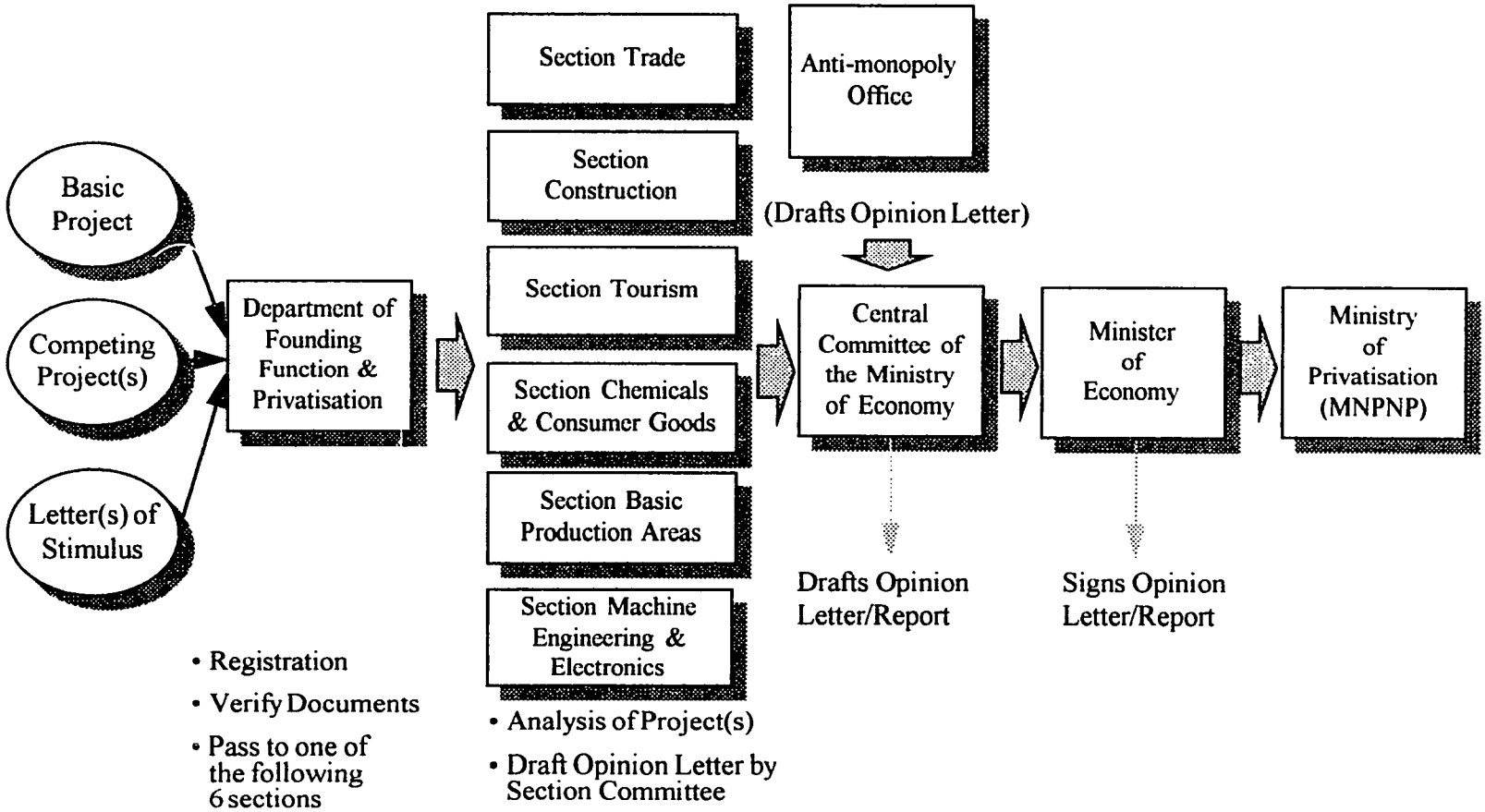
The remaining Founding Ministries have relatively few SOE's for which to prepare and forward privatisation proposals to the MAPNP. Generally, these ministries have a Department devoted to analysing the privatisation projects and interacting with the MAPNP and potential investors, and have a formal Privatisation Committee to approve the Recommendations before the respective Minister signs the opinion report.

The Ministry of Economy

The Privatisation Process - The Slovak Republic



PHASE TWO - FOUNDING MINISTRIES
The Ministry of Economy



The diagram depicts the official work flow to analyze and process a privatisation project and forward it to the MAPNP with an opinion report. In practice, there is much interaction with the SOE prior to passing the project and with the objective of completing the project documentation. Once the project has been forwarded to the MAPNP there is usually still much interaction with the SOE and the MAPNP due to incomplete documentation, (especially concerning property), restructuring proposals, liquidation proposals, and dealing with inadequate proposals due to changes in the condition of the SOE.

At the Ministry of Economy, the main privatisation bottlenecks include:

- Finalizing privatisation proposals for some 50 enterprises for which projects have not yet been forwarded to the MAPNP. The Ministry expects these to be finalized by the end of May 1994, but to do so, would require a major effort;
- Implementing liquidations for enterprises in poor financial and operational condition;
- Conducting and implementing restructuring studies, particularly for large enterprises;
- Redeveloping/assessing new privatisation projects for enterprises for which original projects have become outdated or where un-implementable.

Ministry of Land Resources

The SOE's responsible to the Ministry of Land Resources are either Food Processing Companies, State Owned Farms, or Breeding Stations. In general, the size of these enterprises is rather small in terms of book value, even though the Ministry handles some 190 enterprises. Currently, there are many complications in processing these companies at the Ministry of Land Resources where only about 50% of the enterprises have reached the MAPNP.

The complications in privatising agricultural enterprises are mainly due to both the question of settling the property ownership status and identifying restitution claims, and that of selling parts of the assets of the enterprises prior to privatisation.

In the first case, the property and restitution problems are clearly larger in scope than for an industrial enterprise. The structure of agriculture land ownership in Slovakia prior to the Communist regime was characterized by many small plots which tended to be rather narrow strips of land. Collectivisation of land was firmly enforced during the prior regime. The collective farms today, therefore, are composed of an aggregate of very large numbers of individual plots for which the legal ownership right and the status of restitution claims must be identified. This task of identifying and clarifying the legal status of the property is being carried out by the Ministry of Land Resources in conjunction with the management of the SOE's.

The second major problem delaying the privatisation process includes the issue of exempting property from the SOE after the submition of the privatisation project. SOE management and potential investors are able to identify any property (except land which is not privatised but placed in the Slovak Agriculture Land Fund) and declare that they prefer to sell it outside of the privatisation project. Exempt property is generally sold through an auction or directly by SOE management and usually for cash. The management then uses the cash to reduce SOE liabilities. However, every time that this occurs the privatisation project needs to be re-defined and re-negotiated, delaying the privatisation process.

On the positive side, one might declare this selling of exempt property as a form of privatisation. It is, however, not clear wether the bad assets are being sold in order to reduce SOE liabilities and make it more attractive, or whether the SOE's best assets are being striped leaving SOE's in very poor financial structure conditions and with few good assets. We have heard that both the decision to sell exempt property as well as the process of divestiture is not entirely transparent.

The current privatisation policy regarding agricultural land is that all agricultural land is not to be privatised but transfered to the Slovak Agricultural Land Fund. The Privatisation Plan for 1994 will assume the maintenance of this policy.

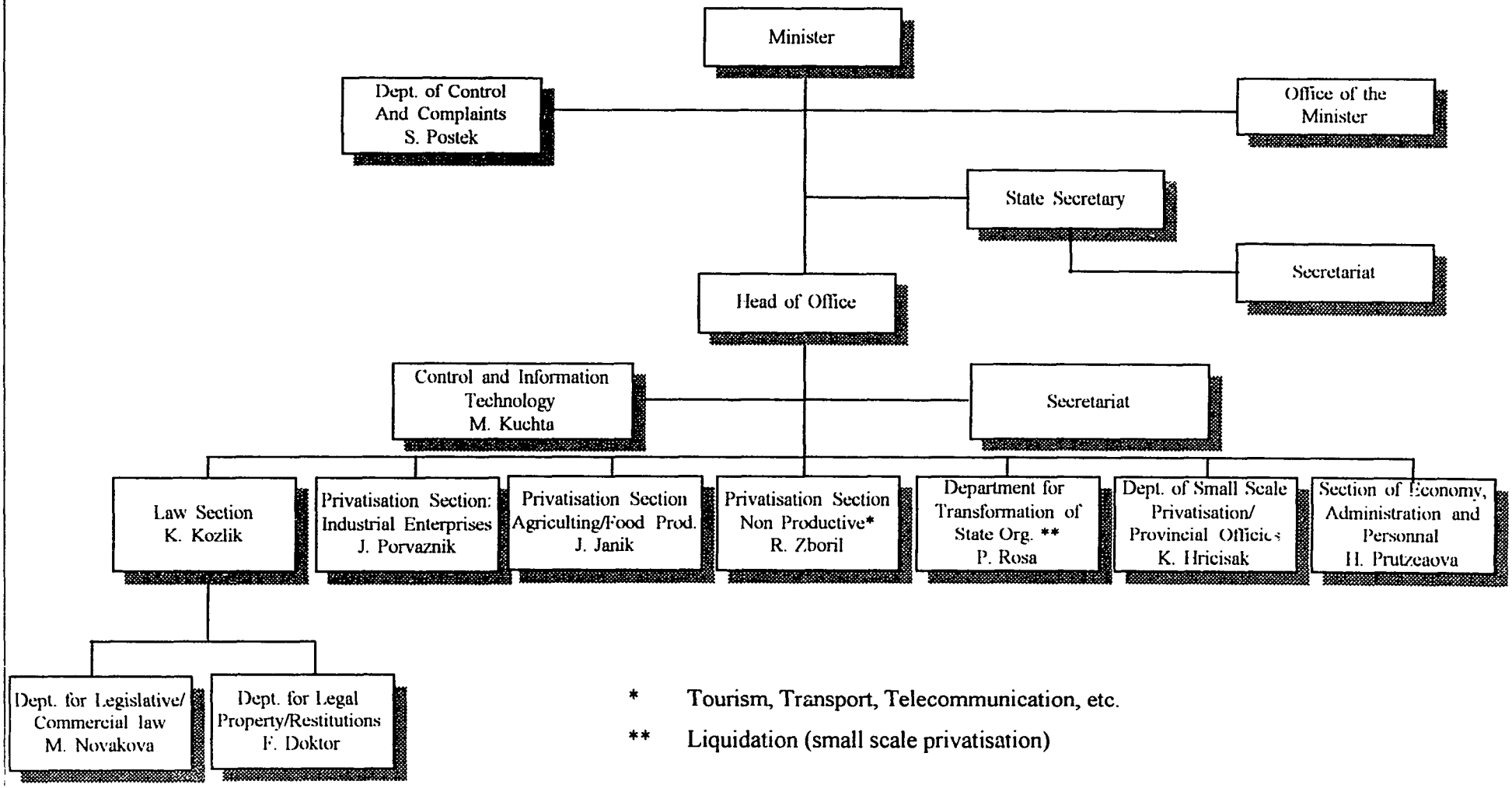
10.4 Phase Three - The Ministry of Administration and Privatisation of National Property

MAPNP has recently changed structure from a functional structure into a more sector oriented structure and has now the following main sections:

- Mr. PORVAZNIK, Privatisation Section/Industrial Enterprises, dealing with all the larger manufacturing SOE;
- Mr. JANIK, Privatisation Section/Agriculture and Food Processing;
- Mr. ZBORIL, Privatisation Section/Tourism, Transport, Telecommunication.
- Mr. KOZLIK, Legal Section, dealing with ownership issues and restitution claims (Mr. DOKTOR's department) and commercial legislative issues (Ms. NOVÁKOVÁs department);

The Privatisation Process - The Slovak Republic

MINISTRY OF ADMINISTRATION AND PRIVATISATION OF NATIONAL PROPERTY (MAPNP)



* Tourism, Transport, Telecommunication, etc.

** Liquidation (small scale privatisation)

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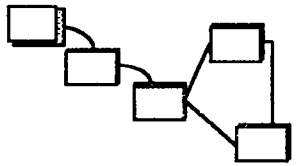
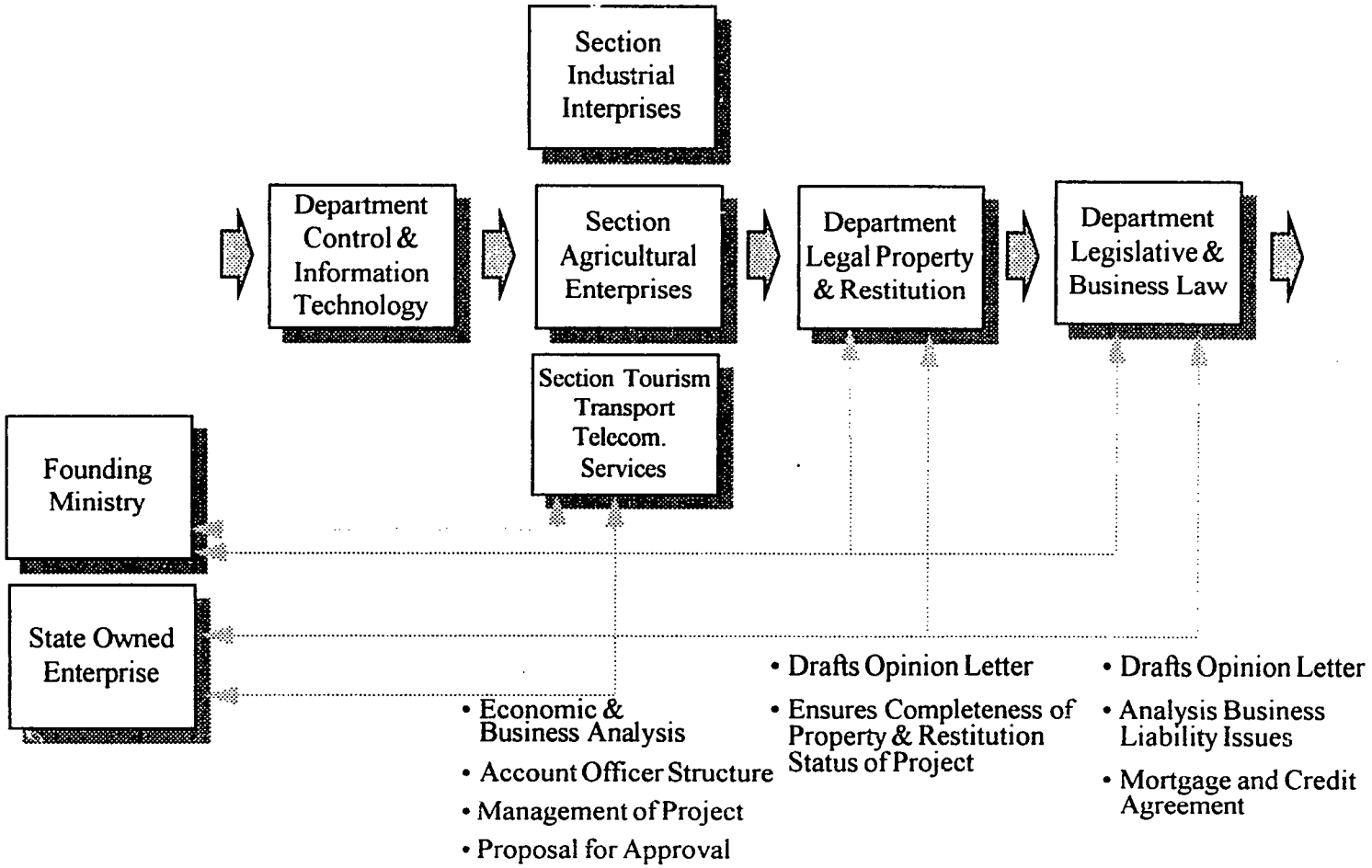
The Privatisation Process - The Slovak Republic

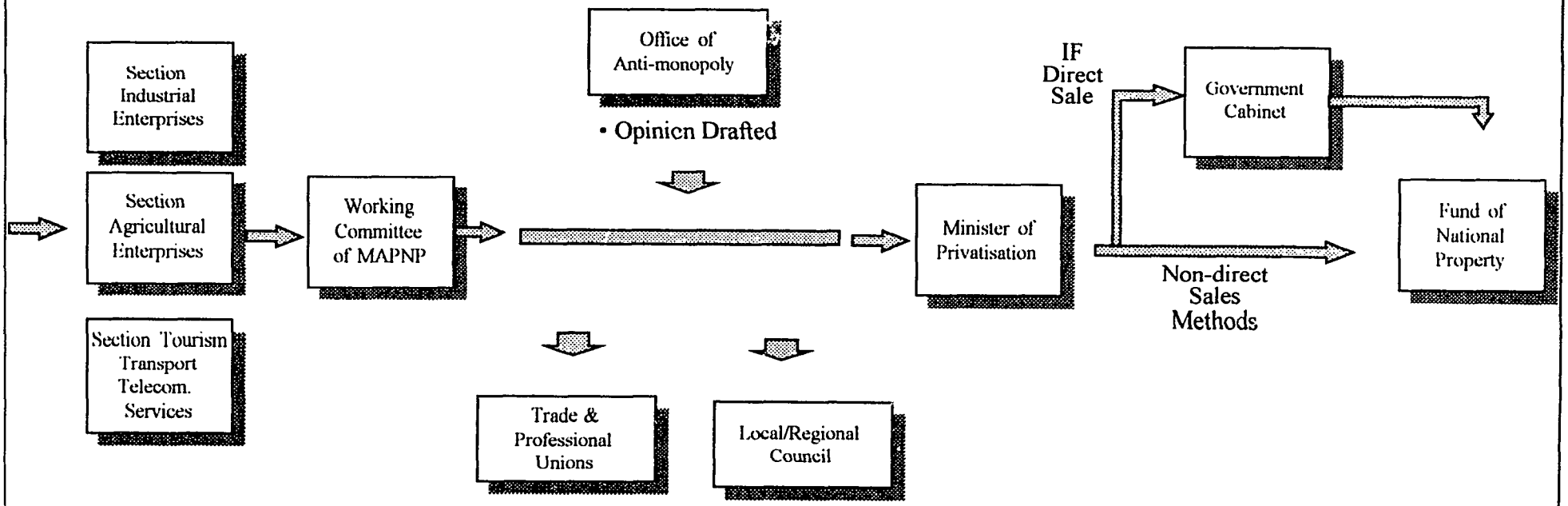


PHASE THREE
The Ministry of Administration & Privatisation of National Property



The Privatisation Process - The Slovak Republic

PHASE THREE
The Ministry of Administration & Privatisation of National Property



- Report on the Economic Analysis
- Decision About Method Proposed forPrivatisation
- Signs Project Proposal
- Approves Direct Sales
- Publicy Declares Transaction
- Implements Privatisation Projects

The diagrams show that the process at the MAPNP is complex with many parties analysing each project and providing an opinion. Although formal project approvals are only required by the Approval Committee of the MAPNP and the Government Cabinet in the case of direct sales, informally, much time is spent at the MAPNP ensuring consensus of opinion between the Founding Ministries, the MAPNP, and the Anti-Monopoly Office. Furthermore, trade and professional labour unions, and the Local Government where the enterprise is located is informed of the privatisation project opinion.

It is important to note that the process has been simplified under the new Government. Under the previous Government policy, a consensus also had to be reached with labour and professional unions and with the local councils.

The work flow at the MAPNP is clearly organised according to three project privatisation implementation Sections each organized according to economic sector and with an account officer internal structure. Economic analysis and overall control of the processing takes place at any one of these main Sections. Besides these, the Legal Department plays a critical role in the approval process as all projects need to pass through its two departments prior to approval. The Legal Section is organised according to two Departments each internally organised on an account officer basis.

Problem areas which need to be addressed in order to speed the processing of privatisation projects include the following:

- The main botttleneck at the MAPNP is identifying the state as the legal owner of the property and identifying restitution claims. Within the Legal Section, the Department of Legal Property and Restitution is responsible for ensuring all these issues are documented. Upon analysing the status of the projects currently in process at the MAPNP, we verified that over 60% (over 250 cases) were currently held at this Department. The property ownership problem is clearly more difficult for processing projects for agricultural enterprises.

  One reason for this situation is the incomplete property and restitution documentation received from the SOE's and the Founding Ministries. It can take over six months for the MAPNP to obtain all legal documentation required by un-cooperative SOE's management and SOEs with a limited or no legal capacity.

  A second reason is staffing. The Department of Legal Property and Restitution is understaffed relative to the case workload. Currently an account officer is required to overview and process over 50 cases on average. During Wave One, the Legal Section had more lawyers than those currently employed (the reduction being a consequence of budgetary constraints).

  The Legal Section has also suffered from the resignation of its Director as well as its two Department Directors (Director for the Department of Legal Property and Restitution and the Director of the Department for Legislative and Business

Law), and this has widened a skills gap at the Section. The reasons for the turnover point to inadequate salary levels relative to the private sector combined with an unclear mandate.

Dealings with the cadastral offices which are understaffed and therefore cannot forward the needed property ownership documentation quickly is another important bottleneck in completing the property documentation.

- The staffing at the three privatisation implementation Sections (Section Industrial Enterprises, Section Agricultural Enterprises, and Section Tourism, Transport, Telecommunications, and Services) is also understaffed as each account officer is responsible for between 25 and 40 enterprises. Generally, the account officers do not have time to visit the enterprises and are therefore only familiar with the companies from the perspective of the project documentation which is not adequate to gain an insight into the key issues that the enterprises face.

  In our opinion, the staff of the implementation sections should also enhance their business skill level from training programmes in the fields of financial analysis, accounting, marketing, and business planning and forecasting.

  It is clear also that training should also be complemented with a recruiting policy aimed at attracting better qualified employees by providing higher compensation (a major reason for the relatively high turnover). This however, can only be done by either increasing the budget allocation to the MAPNP or by International Lending Agencies financing a pool of very well qualified Slovak professionals to assist the MAPNP for a defined period of time.

- Incomplete and outdated data is a common problem in nearly all privatisation project files. Much of the work done by the MAPNP is completing documentation which should have been sent by the SOE and the Founding Ministries, and updating financial and accounting data.

- Delays generally occur in the attempt to ensure that there is consensus between the MAPNP and the Founding Ministires with regard to all important aspects of the privatisation project such as the privatisation method, contract terms, target investor(s), etc.

- Restructuring of the largest enterprises is necessary in order to ensure the approval of realistic projects that can be implemented effectively by the FNP. Currently, there exist large enterprise projects that cannot be approved given the financial and operational restructuring needs, and hence, these project files merely gather dust while solutions are sought. Furthermore, these enterprises constitute a severe problem to the Government budget as they require subsidies to continue operations.

- Some unresolved conflicts between public institutions have also been identified. For example, many SOE's have significant tax liabilities, and we have been informed of cases where the tax authorities blocked privatisation projects by demanding the tax liabilities be met prior to privatisation.

Anti-Monopoly Office

The Anti-Monopoly Office is a Government institution developed in order to overview the competitive structure of different economic sectors in order to identify and eliminate monopolistic structures and ensure an adequate competitive structure in each industry. The Office develops and provides industrial structure strategy opinions to the Government, and participates in the privatisation process by forming an opinion on every privatisation project as to how the implementation of the project will affect the competitive structure of the relevant industry.

According to the Competitive Protection Act, the Anti-Monopoly Office can force the Founding Ministry to break-up an enterprise in the interest of maintaining an adequate competitive structure within the industry. In general, the Founding Ministries have agreed with the Office's opinions and recommendations and only in a few instances have they actually forced the split of enterprises prior to developing privatisation plans.

The Anti-Monopoly Officeis well staffed and can process an opinion on a privatisation project rather quickly (days). The Office forms an independent opinion on each privatisation project. In nearly all cases, the opinion has been drafted quickly and in agreement with the MAPNP analysis of the project. In cases where the Anti-Monopoly Office does not provide a supporting opinion, the Government receives the complete project proposal and makes a decision. In the few instances that the Anti-Monopoly Office has submitted a non-concording opinion, the Government has overruled it.

The role of the Anti-Monopoly Office does not delay the process of privatisation in any form.

The Supreme Audit Office

The role of the Supreme Audit Office is to review the valuation of property and enterprises performed as part of the privatisation project. Its primary role relates to the valuation of land and buildings which must be done according to specified rules. Furthermore, the Supreme Audit Office only reviews valuations when Parliament requires it, when the MAPNP requests it or upon its own initiative. Its role is therefore not a requirement of the privatisation process. In those cases where the Office participates in the process, it writes a Protocol which provides an opinion on the value of the land and buildings.

10.5 Phase Four - The Government Cabinet

The Government Cabinet is required to approve all direct sales privatisation projects. As recent events have clearly shown with the approval of 29 direct sales projects in a

period of some two weeks in February 1994 and again of some 30 projects in March 1994, this phase is not a procedural bottleneck as long as the political will to approve the projects is there. In other words the role of the Government Cabinet is only a bottleneck when the approval process becomes highly politicized.

10.6 Phase Five - The Fund of National Property

The FNP is a self contained and independent legal entity (Joint Stock Company) governed by its Presidium which is appointed by the Parliament.

The FNP has recently undergone a major organisational change. In February 1994, Mr. Kato took over the position as Chairman of the Executive Committee of the Fund. Almost all Directors have joined the FNP recently (appointed in early 1994) and the entire organisation is in a process of redefining their roles, responsibilities and procedures. The Fund has a staff of 74 (February 1994), and plans to increase substantially in the next months to 170; however, new premises have to be found before recruitment can take place.

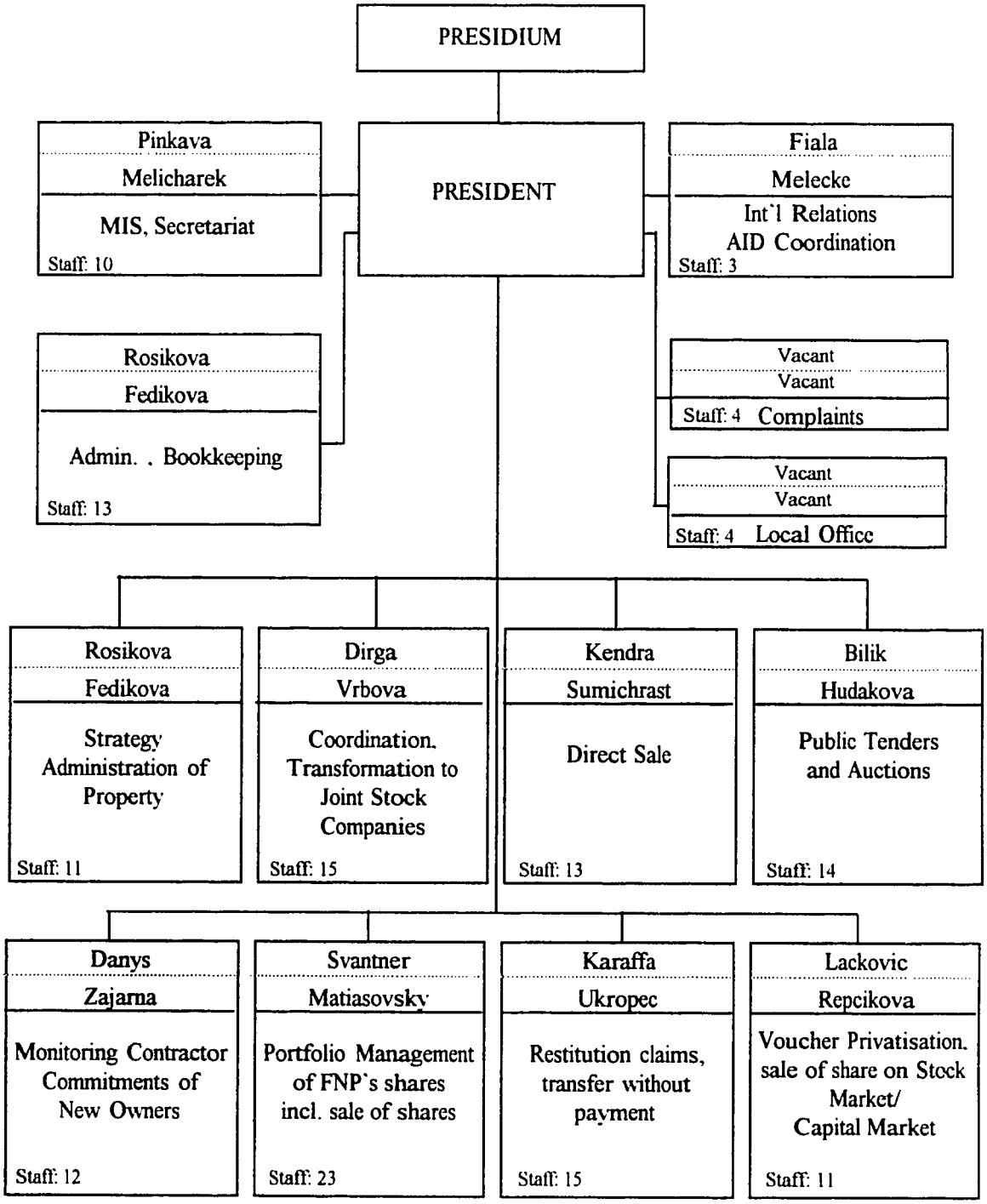
In April 1994, as a result of the transition to a new Government, parliament elected a new Presidium and appointed a new Chairman of the Executive Committee. At the time this report was written, no new changes have been made at the level of the Section and Department Directors.

The new structure implies that 13 functions (sections/departments/offices) report to the Chairman of the Fund. The organisational structure is presented in the following diagram.

The Privatisation Process

The Slovak Republic

FUND of NATIONAL PROPERTY



Staff: Planned Staff (excluding directors/deputies)

Planned staff, including directors/deputies: 170

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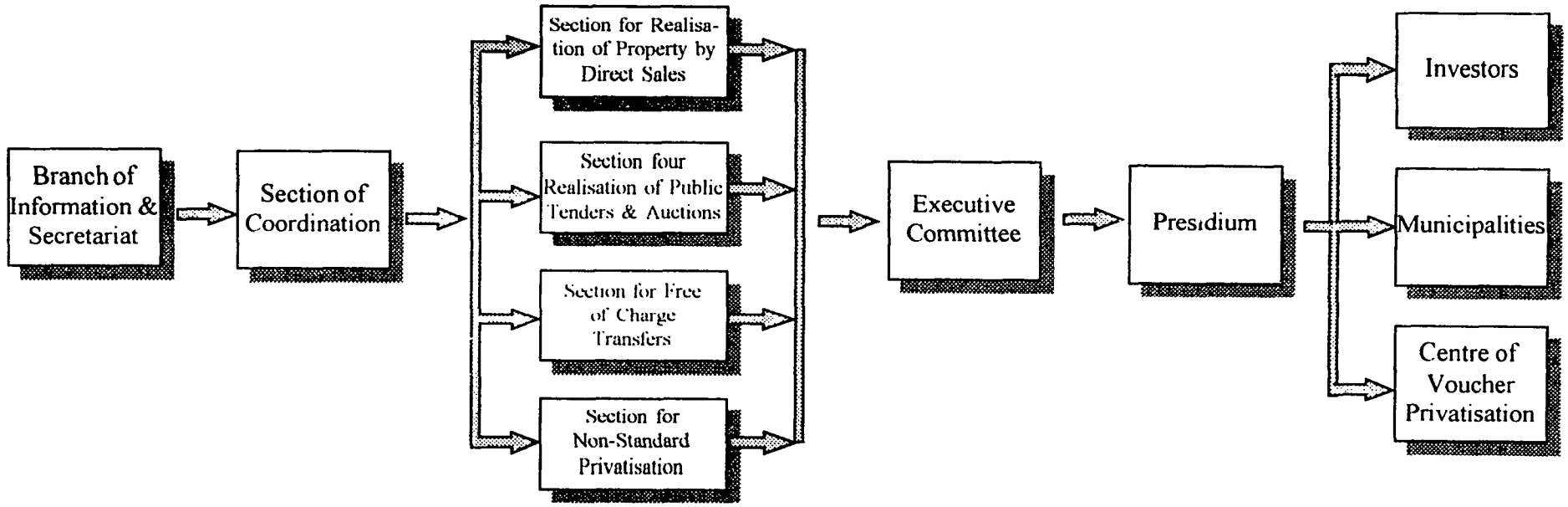
The Privatisation Process - The Slovak Republic

PHASE FOUR
The Fund of National Property



- Registers Project Data in Information System

- Established Joint Stock Enterprises
- Takes legal Prosession of Property

- Implements Privatisation according to Privatisation Method

- Approval

- Approval

- Divestiture

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Privatisation projects reach the FNP only after they are approved by the MAPNP and the Government in the case of direct sales. When the privatisation projects reach the FNP, the projects should be well defined. The FNP does not have the authority to change any aspect of the project such as the method of privatisation or the contract specifications without the re-approval of the MAPNP.

Currently there exist some problems at the FNP which greatly affect the overall privatisation process:

- There are currently major organisational and leadership problems at the FNP. The FNP has recently undergone major staffing problems, primarily resulting from a mass resignation of members of its Executive Board. Furthermore, in February 1994, a new organisational structure was designed and approved; and we estimate that delays in getting the FNP up to speed are inevitable as the new organisation is in its embryonic stage, leadership needs to be consolidated, the staff increased, and roles clearly defined;

- Decision making at the FNP is very centralized with many Section Directors not yet confident to make decisions of substance. The consequence is that all important decisions need to pass through the Chairman of the FNP and that becomes an organisational bottleneck;

- There is mass understaffing relative to the expected work load as the second wave speeds up. There are currently plans to increase staff by over 100 employees to 170. We estimate that recruiting a highly qualified staff will be dificult and time-consuming given the salary levels offered and the recent turmoil at the FNP. Furthermore, there is the need for project implementation teams to be placed, and these teams may include investment banking experts and business analysts with extensive transaction experience;

- Our analysis of the role of the FNP reveals focus towards a strong corporate governance role and a push away from a sales role. The FNP has substantial holdings in a variety of enterprises; but rather than focusing on selling the enterprises, the FNP's new organisational structures devotes significant resources to managing its portfolio rather than selling it. In general, there seems to be a weak sales orientation at the FNP, and yet, sales should be its primary objective;

  However, as a result of the change in Government, there are strong indication that the FNP will become sales oriented. The new Government has indicated that a policy on portfolio divestiture will be drafted and that transaction implementation teams may be soon incorporated into the FNP. Furthermore, there is indication that the FNP will take a passive corporate Governance role in enterprises where a strong private investor is identified, and there is only interest in exercising strong control in a limited number of strategic enterprises. A policy statement on corporate governance on the part of the FNP has not yet been developed.

- Combined with its corporate governance role, the FNP is also involved in a process of overviewing and enforcing an estimated 580 contract obligations. Many contract obligations are not being met as investors who purchased state property or enterprises have not been able to generate enough profits and cash to meet payment and investment obligations. The FNP has recently commenced legal procedings to reposess assets which were previously privatised.

- There is currently no policy for share divestiture at the FNP. Such a policy is, however, being developed.

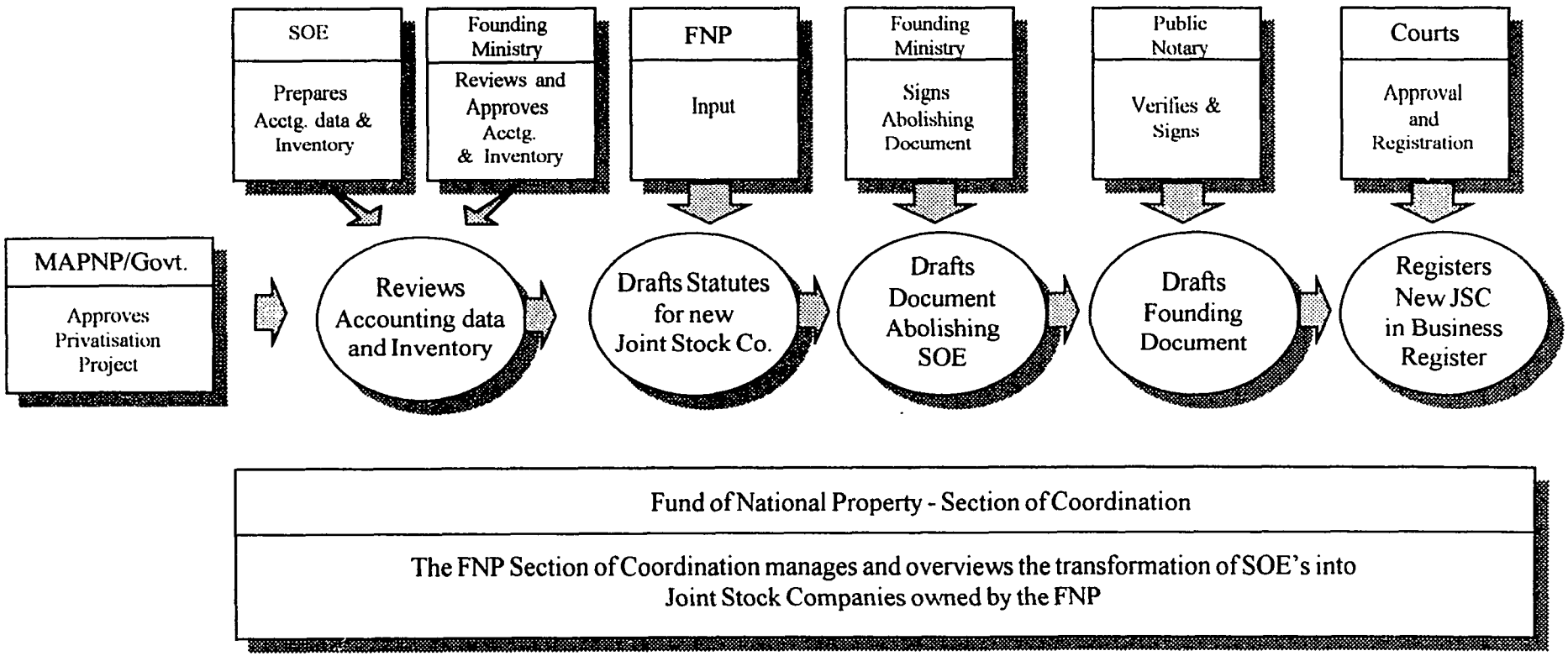
Branch of Information and Secretariat

The first step when a project reaches the FNP is to record specific information about the privatisation project in the FNP's information system. This is done at the Branch of Information and Secretariat and it is done quickly and efficiently. However, the current information system is based on stand alone computers in which information is transfered via diskettes. The FNP has plans to enhance its information system and implement a network based database system to which all professionals will have access. Implementation plans have been delayed until the FNP moves to a larger building.

Section for Coordination - Establishing Joint Stock Companies

The Privatisation Process - The Slovak Republic

ESTABLISHING A JOINT STOCK COMPANY



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Under the best circumstances, the abolishment of an SOE and subsequent transformation into a Joint Stock Company whose shares are owned by the FNP and the Restitution Fund (3%) takes from 30 to 45 days. Although the above diagram shows several stages in the transformation, the main potential bottleneck that needs to be addressed is the registration of the Joint Stock Company.

To register a Joint Stock Company requires the approval of the Judicial Courts and the signature of a Judge. Under normal circumstances, it takes an estimated six months to register a Joint Stock Company. For Wave One, this bottleneck was avoided by the establishment of a "fast lane" Court approval agreement for companies participating in the first wave. Given this fast lane, it was possible to corporatise all enterprises participating in Wave One Voucher Privatisation within a period of some two months. Without such a fast lane, it will be impossible to corporatise a significant number of Wave Two companies in time for voucher privatisation. Hence, an agreement for quick corporatising between the FNP and the Ministry of Justice is critically required as soon as possible.

Other problems at this stage include, potential delays on the part of the management of SOE's in preparing the required financial and accounting data and the current inventory in an adequate manner. There is a legal obligation to submit such data within one month of the request.

Currently, there is a major staff shortage at the Section of Coordination, and given the current staff, it will be very difficult to corporatise a large number of SOE's quickly and in time to participate in the Wave Two Voucher privatisation programme within the current deadlines. This department would gain much from having access to a pool of external Slovak lawyers financed by international lending agencies.

Section for Realisation of Property by Direct Sales

The role of the FNP in implementing direct sales projects is relatively easy and straight forward from a procedural point. All contract negotiations are conducted prior to the projects arriving at the FNP. In essence, the role of the Section for Realisation of Property by Direct Sales is to draft the contract for sale according to specifications in the privatisation project (for both direct sales of property or shares). This role can be completed in one month at most if there are no major problems with the project.

Problems affecting the speed of implementation arise in projects which are outdated due to delays since the original terms of the transaction where established (e.g. price and other commitments on the part of the purchaser have become inadequate due to changes within the enterprise between the time the agreements were made and the present).

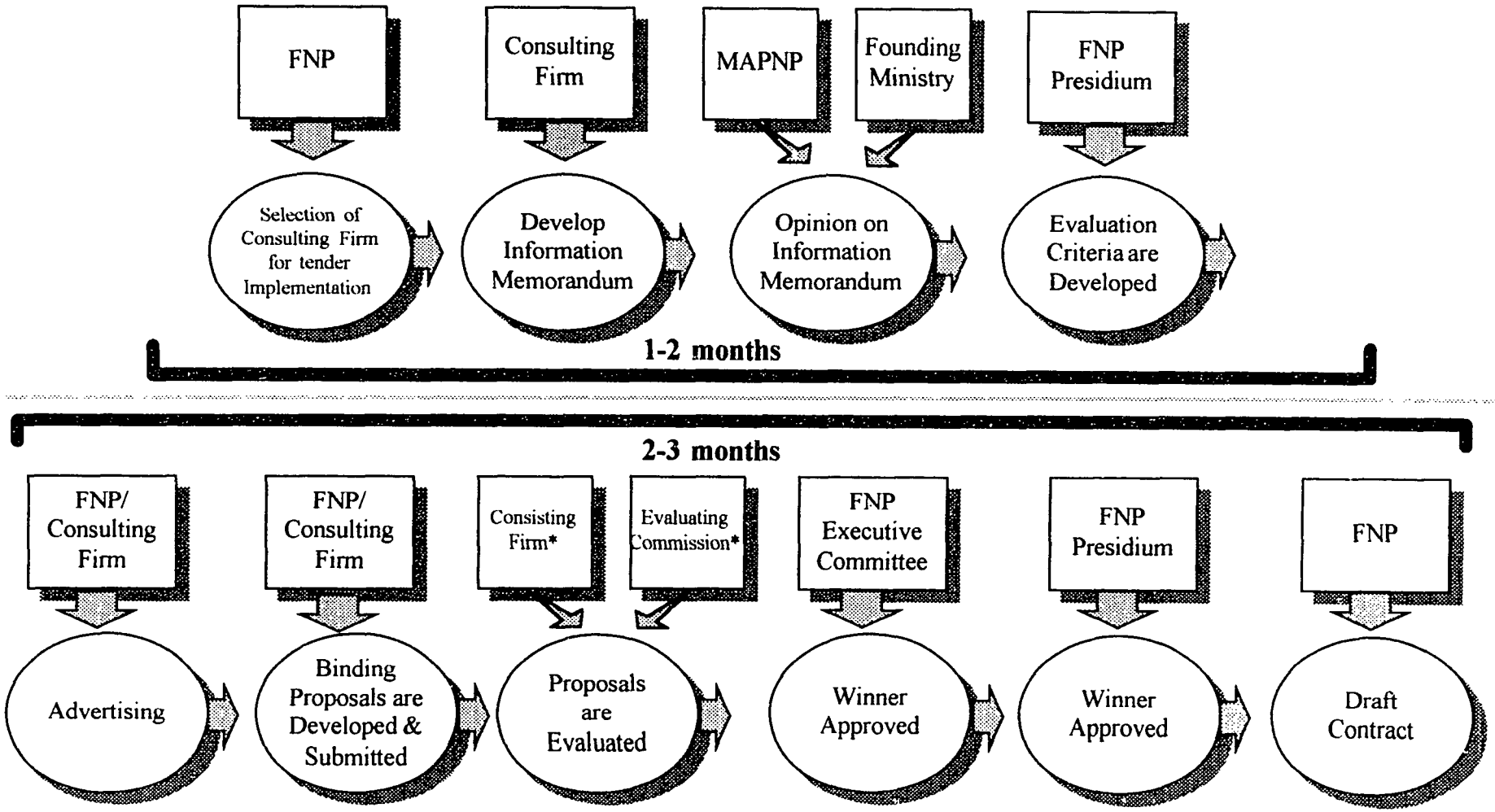
A second problem of direct sales includes the flexible and favourable terms of payment where, according to some contracts, a direct sale transaction can be signed with as little as 10 to 15% of the price up front and the remainder in installments of up to 15 years. These terms were established in order to facilitate the quick implementation of this method of privatisation. However, such highly leveraged direct sales are resulting in

investors not being able to meet payments and thus the FNP is faced with the dilema of taking these investors into bankruptcy proceedings with the possibility of re-caliming the assets previously privatised, or not enforcing contractual obligations.

Section for the Realisation of Public Tenders and Auctions

The Privatisation Process - The Slovak Republic

PUBLIC TENDER PROCEDURE



* Evaluating Commission may including representatives of: MAPNP, FNP, Founding Ministry, Ministry of Finance, Anti-monopoly Office, Local Government, and Chamber of Commerce. The Consulting Firm makes a recommendation to the Evaluation Committee

Although the diagram above depicts many steps required to implement a public tender, the tender procedures are needed in order to ensure a transparent process. The complete process requires at a minimum some three months to implement, but more realistically, each public tender will take some 5 to 6 months to complete.

As of February 1994, there are some 100 public tenders in the process of implementation. Most of these cases, however, are currently far from being executed due to a halt in the decision making process on the part of the Presidium of the FNP.

The main implementation problem relates to the Presidium whose role it is to approve the evaluation criteria for the tender and ultimately to approve the public tender winner. Decisions should be made faster at this level and this could be done by ensuring the Presidium meets on a regular basis and public tenders are included in its work agenda.

Examining the diagram, it is clear that the winner needs to be approved by the Evaluating Commission, the FNP Executive Committee, and the FNP Presidium. This three level approval process lengthens the processing time and may be viewed as overkill.

Section for Non-Standard Privatisation

The role of the FNP in coupon privatisation is not extensive. The Section for Non-Standard Privatisation and Capital Markets simply ensures that the shares of enterprises identified as candidates for participation in voucher privatisation are corporatised and ready for participation in the voucher programme.

The difficult task of the FNP with regards to voucher privatisation is the corporatisation of the enterprises which takes place at the Coordination Department and has already been described.

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11.0 BUDGETS

11.1 Ministry of Administration and Privatisation of National Property

The annual budget of the MAPNP is a part of the State budget approved by Parliament. Most of the Ministries have had substantial budget reductions from 1993 to 1994, including the MAPNP with 50% reductions in the budget for office expenses (rent, repair, office material, etc.) and 50% reduction in the investment budget. The figures in the tables are presented in nominal terms; hence, the real reductions are greater due to inflation.

Budget for MAPNP

SK 1,000	**1990**	**1991**	**1992**	**1993**	**1994**
Salary Expenses	2,104	7,965	13,027	16,282	16,223
Office Expenses	1,903	9,077	13,882	14,965	9,563
Investments	1,273	8,446	2,700	1,000	500
Expenses and Investments	5,280	25,488	29,609	32,247	26,286
# of Employees	32	104	133	140	160
Salary/Employee (SK per Month)		6,382	8,162	9,692	8,449

The budget for salary is at the same level as for 1993, but assuming an increase in staff of 20 professionals. However, the actual number of employees is still around 140, and the salary budget does not allow for increasing the staff to the planned level of 160.

The salary policy is rigid and follows that of other Ministries. Consequently the Ministry has problems in maintaining its present staff due to an uncompetitive compensation policy, attracting new professionals, and even finding funding for having the present staff working overtime and on weekends in order to reduce the present backlog of work. Additionally the Ministry cannot obtain an increase in the salary budget for 1994 without the Ministry of Finance finding budget reductions in other Ministries, according to a Law that passed Parliament together with the State Budget for 1994. In practice this is almost impossible, unless it is raised as an urgent need at the highest level (Government/Cabinet issue).

In October 1993, the budget constraints were discussed with representatives of The World Bank. Our understanding is that The World Bank has identified the Japanese Grant Fund to fund Technical Assistance to MAPNP as follows.

Technical Assistance to MAPNP. Budget as of 27 October 1993, The World Bank

	Number	Salary/Month - Unit Price (SK)	# of Months	Total SK
Lawyers	10	31,500	12	4,500,000
Professionals	15	12,000	12	2,160,000
Computers	25	40,000	--	1,000,000
Printers	15	30,000	--	450,000
Total	--	-------		8,110,000

There seems to be some confusion about the nature of the assistance. It is our understanding that the funds available may be used to finance short term non-ministerial assistance provided by Slovak lawyers and professionals (and not by foreign experts without knowledge about the Slovak legislation and language). Some in the Ministry argue that the privatisation process and legislation is so complicated, that it will take up to six month to train new professionals, and during this period the present staff will have to provide the on the job training, thus making their work less efficient. Instead it is argued that it would be a better solution to use the funds for financing the present staff working overtime.

There also seems to be some confusion about how the MAPNP should proceed in order to obtain the assistance that was offered by the World Bank and the Japanese Fund.

11.2 Fund of National Property of the Slovak Republic

According to the Law, the FNP has to submit a budget to Parliament for approval no later than 30 April. The budget procedure is as follows:

- Control Board of the FNP approval;
- Presidium approval;
- Government's Economic Council approval;
- Parliament approval.

As of the end of March 1994 the budget for 1994 has only been approved by the Control Board of FNP. Although a new Presidium of the FNP will be appointed in the near future, the present Presidium formally has the authority to approve the proposed budget.

The key assumptions under which the 1994 budget for the FNP has been drafted are:

- The FNP will move to new premises (in May) to a building next to the present premises. The building is presently being renovated, has offices for some 170 people, and is being cabled for connecting all work stations via a computer network.

- The recruitment process and its objective of increasing the staff to the planned level of 170 has begun. Each section director is responsible for the recruitment in his own area.

- An IT committee has been formed and each director has submitted need specifications. A public tender with the objective of acquiring a new network, etc. is likely to be carried out in near future in order to have the system in operation in connection with moving to the new premises.

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- The salary budget reflects the target staff of 170.

The following table summarized the proposed 1994 budget for the FNP:

Fund National Property
Operating Budget for 1994
Million Slovak Crowns

Costs of Privatisation Expenses	
Cost of Public Tenders and Auctions	600.00
Cost of Sales of Shares on Capital Market	2.00
Expenses for Computer and Information Systems	1.00
Other Support of Privatisation	20.00
Expenses for Payments Connected with the Issuing of Bonds	100.00
Budget Reserve	50.00
Subtotal	773.00
Operational Expenses	
Office materials	1.60
Petrol - Cars	3.00
Energy and Water	1.90
Repairs	1.20
Telecommunication and Postal Services	3.50
Office Rent	6.00
Storage, Transportation, Building Equipment	1.70
Purchase of Miscellaneous Office Equipment	15.00
Travel Expenses, Cleaning, Translation, Software, Etc.	10.00
Other Expenses	0.30
Salaries, and Other Personel Expenses	38.18
Social Fund, Insurance, Health Care, etc.	16.65
Subtotal	99.03
Investments	
Administrative Building	180.00
Housing	90.00
Cars	5.00
Phtocopying Machines, etc.	5.00
Computer Network and Computers	25.00
Communication (Eurotel)	1.00
Subtotal	306.00
Expenses and Investments	1,178.03

12.0 IMPLEMENTATION OF VOUCHER PRIVATISATION

Implementing the Voucher Privatisation Programme for Wave Two requires complex procedures and much work in order to ensure the implemention is well underway by the end of 1994. On the other hand the procedures to be followed are basically the same as for Wave One, the legislative framework is already in place, and all the institutions that participated in the first wave are in place and should benefit from the experience of the first wave.

Although the institutions and the implementation procedures will closely resemble those of Wave One, many of the key individuals who made the Wave One work, will not participate in Wave Two.

In essense, the voucher programme can be divided into two broad activities: the supply of enterprises for the programme and the demand for shares in the enterprises. Coordinating the supply of enterprises is the primary responsibility of the MAPNP who will work closely with the Founding Ministries, the FNP, and the Ministry of Justice. Ultimately, the Government approves the list of enterprises that will participate in the voucher programme.

The Ministry of Finance is responsible for implementing all aspects of the voucher programme that entail ensuring the participants (citizens and private investment funds) will obtain the shares of the participating enterprises, according to the voucher programme legislation. The Ministry of Finance co-operates with the Centre of Coupon Privatisation, the Post office, and the RM System.

The following points present the key institutions and their roles:

- *Coordination Group for Voucher Privatisation* - This Group is comprised of representatives of the the Ministry of Finance, MAPNP, FNP, Centre of Coupon Privatisation, and the RM System. Its role is to develop and coordinate the plan for the implementation of the voucher privatisation programme that will be presented to Government for approval. This group was established at the initiative of the MAPNP and will overview the voucher privatisation programme throughout its implementation.

- *MAPNP* - The MAPNP is responsible for selecting and approving companies to be privatised via voucher privatisation including deciding the percentage of each enterprise to be privatised via the voucher. In order to perform the selection task, the MAPNP will co-operate with the Founding Ministries in drafting the preliminary list of State Owned Enterprises. This list of enterprises is then presented to the Government Cabinet for approval.

  The MAPNP is also responsible for ensuring that the privatisation projects for the identified enterprises are approved and forwarded to the FNP for transformation into Joint Stock Companies in time so that they may participate in the programme. Under current circumstances (the amendment to the

privatisation law), the MAPNP is permitted to change privatisation projects on its own authority. However, it is expected that some compromises will have to be made with the Founding Ministries before projects are changed.

- *Fund of National Property* - The FNP is responsible for transfering the SOE's into joint stock companies. This process is performed in co-operation with the Ministry of Justice whose job it is to process and register the Joint Stock Companies in the commercial register of the Slovak Republic;

- *Ministry of Finance and Centre for Coupon Privatisation* - This Ministry is responsible for the implementation of the voucher programme on the demand side (the citizens). The Ministry of Finance's Centre for Coupon Privatisation overviews all practical aspects of the implementation such as the printing of coupons, the establishment of the transaction centres, the distribution of the coupons, the points pricing mechanisms during the various rounds, etc.

  The Ministry of Finance is also responsible for publishing the preliminary list of enterprises that will participate in the programme and the definitive list of enterprises which contains detailed financial information on each of the participating enterprises.

  Finally, the Ministry of Finance is also involved in approving new private investment funds that wish to participate in the voucher programme.

- *Slovak Post Office* - The post office with its over 3,000 outlets serves as the point of sale for the coupon books as well as a point for collecting bids from the citizens;

- *RM System (100% owned by Podnik Vypoctovej Techniky)* - The RM System is both the "market" that is used for the interaction of points bidding during the different rounds, the point of entry for processing bids, and the information system to record and control participants and their point bids. The RM System was established during Wave One privatisation to fullfill the same role as it will under the second wave.

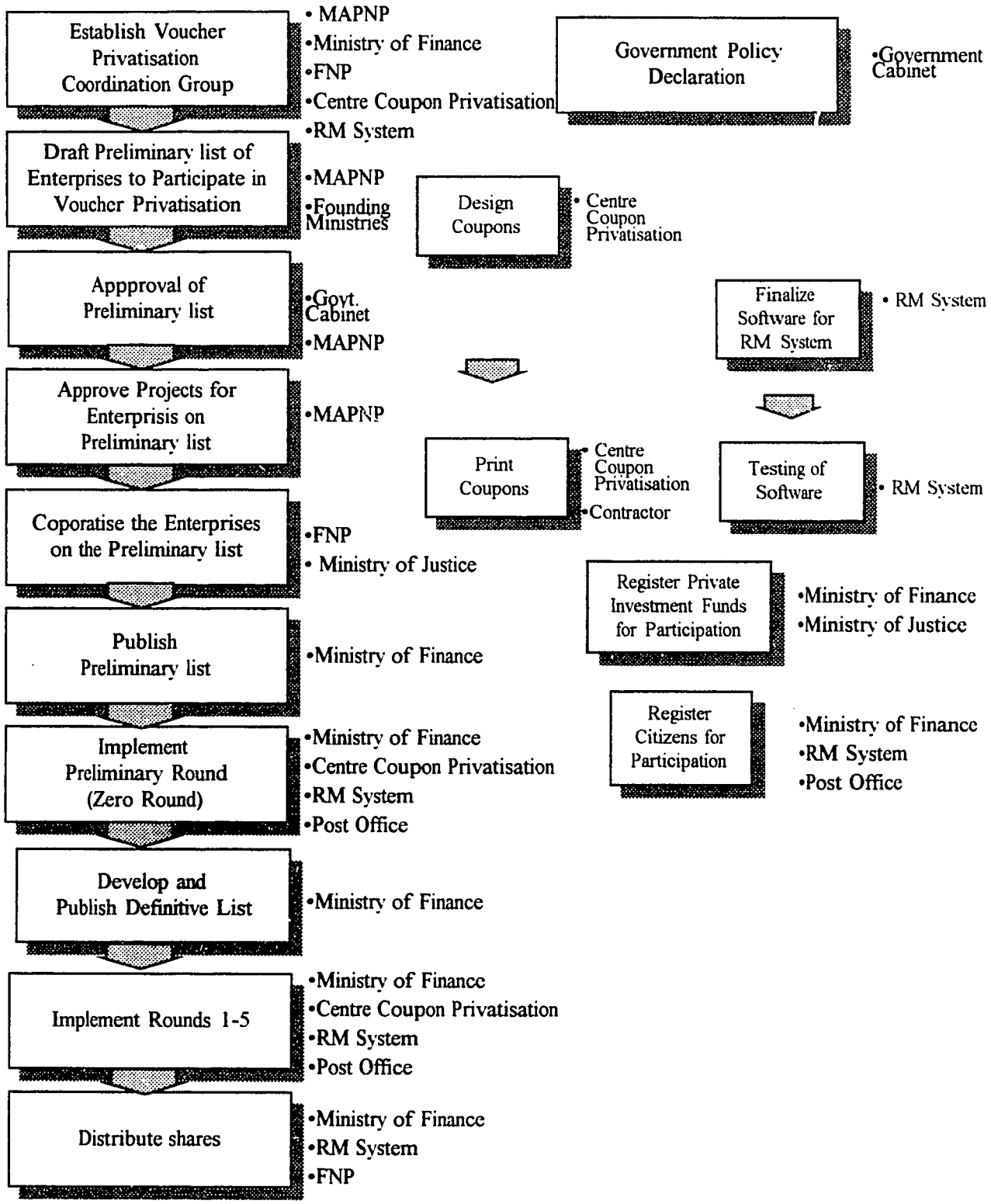
  The RM System has survived after Wave One to become an important and active "exchange" or auctioning board under basically the same auctioning principles that will be followed by the second wave of voucher privatisation. The RM-System has 160 trading locations, 52 District Computing Centres, 10 large centres, and one mainframe located in Bratislava. It currently employs a staff of some 1,600 employees.

Many practical tasks have to be carried out in order to implement voucher privatisation. Key steps are presented in the diagram below.

The Privatisation Process

The Slovak Republic

VOUCHER PRIVATISATION IMPLEMENTATION



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The critical steps that need to be taken include:

- The Government must develop its voucher privatisation policy and present it publicly in an official Government Programme declaration in order to provide a clear mandate to all institutions involved in the voucher implementation.

- The Voucher Privatisation Coordination Group must be established in order to develop and approve the voucher implementation plan and its target dates, and declare the responsibilities and competencies of the different institutions. It is critical that this group is established quickly and works closely together as it will be the heart and the catalyst for a quick and successful implementation;

- The MAPNP must draft a preliminary list of candidate enterprises for the voucher programme together with the amount of each of the enterprise's shares that will be privatised through vouchers. This must be done in co-operation with the Founding Ministries and it must be approved by the Government. Expert Technical Assistance may be provided in developing selection criteria.

- The MAPNP must also ensure that these projects are quickly approved and forwarded to the FNP. This will require hard work and much overtime on the part of the staff of the MAPNP. It is estimated that the MAPNP will require man-power input in the form of technical assistance from both expert Slovak lawyers and financial analysts familiar with the privatisation project approval process in order to approve the projects quickly.

- The FNP and the Ministry of Justice must work together and develop a fast lane for corporatising the enterprises. Otherwise, the process may take up to six months per company.

  The Ministry of Finance and the Ministry of Justice must also find a fast-lane solution for register new private investment funds in time to participate in the voucher programme.

- Planning and implementing a marketing and public relations campaign targeting Slovak citizens in order to create a broad understanding and support of the voucher programme as a critical component of the transition to a market economy. This is particularly critical given the recent turmoil sorrounding the privatisation programme.

The other steps in the process depend heavilly on the above points. Implementing the voucher programme at the level of the Ministry of Finance, the Centre of Coupon Privatisation, and the RM System do not present serious obstacles:

- The Centre of Coupon Privatisation has already designed the coupon books and has negotiated a printing contract. All that is required is the setting of a target date and a mandate;

- The RM System is currently in operation and representatives have stated that it will have no capacity problems in implementing the second wave voucher programme. The only obstacle prior to implementation includes the modification of database software, but this should be accomplished within two months of it receiving a mandate.

Slovenská republika

PLÁN VEĽKEJ PRIVATIZÁCIE

1.časť
Popis a analýza privatizačného procesu

Claus Frost Hansen
Robert Antonides
David Kochav
11. máj 1994

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ÚVOD

Tento dokument je výsledkom skúmania procesu privatizácie v Slovenskej republike, ktorý sa konal v priebehu februára a marca 1994 s cieľom identifikovať problematické oblasti, "úzke profily", ako aj potenciálne oblasti pomoci a za účelom toho, aby slúžil ako nástroj pre vypracovanie konkrétneho akčného plánu /privatizačného plánu - 2.časť/ v spolupráci s Ministerstvom pre správu a privatizáciu národného majetku a Fondom národného majetku Slovenskej republiky.

Počas obdobia spracovávania tejto štúdie a vypracovávania privatizačného plánu, v strede marca 1994 sa v Slovenskej republike udiali vo vláde a jej privatizačnej politike podstatné zmeny.
Naša štúdia odráža obidva procesy privatizácie pred a po zmenách vo vláde a identifikuje kľúčové otázky a procedurálne "úzke profily" taktiež pred a po zmenách vo vláde a jej politike. Akčný privatizačný plán /2.časť/, odráža privatizačnú stratégiu a ciele súčasného MSPNM.

Chceli by sme vyjadriť našu hlbokú vďaku zamestnancom MSPNM, obzvlášť našim úzkym spolupracovníkom pánovi Jánovi Porvazníkovi, pani Ive Kutarňovej a pánovi Dávidovi Frankelovi za ich pomoc pri príprave tejto štúdie a sprostredkovávaní stykov s najdôležitejšími pracovníkmi inštitúcií, ktoré sú začlenené do procesu privatizácie. Okrem toho by sme chceli vyjadriť našu vďaku mnohým ďalším pracovníkom, s ktorými sme jednali /viď. nasledujúci zoznam/ , ktorí nám umožnili vniknúť do procesu privatizácie v Slovenskej republike,do jej najdôležitejších oblastí a "úzkych profilov". A na záver by sme chceli poďakovať USAID za jej podporu pri vypracovávaní tejto štúdie.

11.mája 1994
Claus Frost-Hansen
Robert Antonides
David Kochav

Zonam pracovníkov s ktorými sme jednali:

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* Gabriel Palacka, štátny tajomník
* Ivan Lexa, bývalý štátny tajomník
* Michal Kozlík, riaditeľ právnej sekcie
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* Dušan Kasan, zástupca riaditeľa
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* David Frankel, poradca
* Iva Kutarňová, zahraničné vzťahy
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* Ivan Gondáš, riaditeľ
* Galajda, zástupca
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* Vrbová, zástupkyňa
* Pavol Kendra, riaditeľ
* Šumichrast, zástupca
* Jaroslav Bílik, riaditeľ
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* Jozef Oravkin, menežér

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* Peter Foltýn, vedúci výkonný úradník
* Ivan Benda, výkonný riaditeľ

Creditanstalt Investičná spoločnosť a.s.
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Centurion East European Mining Plc.UK
* Michael J.E.Forest, výkonný riaditeľ

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* Paul Wiedemann, referent pre rozvoj priemyslu

Deloite & Touche
* Bob Wood, vedúci spolupracovník
* Lubomír Haluška, spolupracovník

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1.0 Východiská

Program privatizácie v Slovenskej republike je kľúčovým prvkom transformácie z centrálne plánovanej ekonomiky na efektívnu a medzinárodne konkurencieschopnú, trhovo orientovanú ekonomiku. Cieľom programu privatizácie je zabezpečiť, aby sa čo najväčší počet životaschopných štátnych podnikov a výrobní úspešne pretransformoval na súkromné podniky, pokiaľ možno v čo najkratšom čase.

Ministerstvo pre správu a privatizáciu národného majetku SR požiadalo o technickú pomoc Agentúru USA pre medzinárodný rozvoj (USAID) pri vypracovaní plánu privatizácie. Plán privatizácie je spracovaný ako časť podmienok, ktoré musí vláda Slovenskej republiky splniť pre poskytnutie pôžičky na hospodársku obnovu, schválenej 2. decembra 1993 Svetovou bankou. Plán bol vypracovaný tiež kvôli zjednodušeniu a ujasneniu postupov a rozhodnutí v privatizačnom procese a pre vypracovanie plánu vnútorných činností, ktoré by umožnili urýchliť privatizačný proces.

Plán privatizácie sa zameriava na realizáciu privatizačnej stratégie MSPNM a týka sa plánu špecifických činností pre každú zložku privatizačnej stratégie (program kupónovej privatizácie, privatizácia pomocou štandardných metód, reštrukturalizácia pred privatizáciou a privatizácia strategických podnikov). Plán zároveň uvádza plány na vyvinutie inštitucionálnych programov na MSPNM, FNM a na Ministerstve hospodárstva a zahŕňa programy podpory od zahraničných agentúr.

2.0 PREHĽAD PRIVATIZÁCIE V SLOVENSKEJ REPUBLIKE

Program privatizácie bol prijatý federálnym parlamentom r. 1989 ako časť ekonomického programu zameraného na hospodársky prechod z predošlej centrálne plánovanej ekonomiky na trhovo orientovanú ekonomiku. Bývalý parlament Českej a Slovenskej federatívnej republiky schválil tiež legislatívu privatizácie a táto legislatíva zostala doteraz s niekoľkými modifikáciami v Slovenskej republike v platnosti.

Proces privatizácie sa z hľadiska legislatívy a realizácie delí na malú a veľkú privatizáciu. Malá privatizácia sa začala r. 1991 a v súčasnosti je ukončená. Počas malej privatizácie bolo najmä prostredníctvom verejných dražieb predaných občanom Slovenskej republiky asi 10 000 podnikov v účtovnej hodnote cca 14,5 mld Kčs.

Veľká privatizácia zahŕňa asi 1 300 najväčších podnikov a tento privatizačný program bol rozdelený do dvoch veľkých vĺn, kde vláda rozhodla, ktoré podniky budú do ktorej vlny zaradené.

Do prvej vlny bolo zaradených 751 podnikov s účtovnou hodnotou asi 170 mld. Sk. Táto vlna privatizácie zahŕňala podniky na priamy predaj majetku, vytvorenie akciových spoločností a privatizáciu cez akcie (priamo alebo kupónovou metódou). Všetky podniky z prvej vlny boli v rámci procesu rozdelené na 1 010 výstupných jednotiek, ktoré boli privatizované metódami uvedenými v tabuľke:

Prvá vlna privatizácie

Metóda privatizácie	**Počet**	**Účt. hodnota základného imania v mld. Sk**
Priamy predaj	330	12,4
Bezodplatný prevod na obec	116	2,1
Prevod do RIF	7	0,0
Založenie a.s.	557	154,6
Spolu	1 010	169,1

Zdroj: MSPNM SR, november 1993

Z horeuvedenej tabuľky je zrejmé, že väčšina štátneho majetku bola najskôr metód prevedená do akciových spoločností a potom boli akcie týchto spoločností pomocou rôznych metód privatizované alebo ponechané vo Fonde národného majetku. Distribúcia akcií týchto akciových spoločností je uvedená v nasledovnej tabuľke.

Prvá vlna - Distribúcia akcií akciových spoločností

	Účt. hodnota základného imania v mld. Sk
Celková účt. hodnota prevodu	154,6
- akcie	134,7
- rezervné a iné fondy	19,9
Distribúcia akcií:	
v kupónovej privatizácii	79,8
v štandardných metódach	3,4
na reštitučné nároky	3,8
Akcie spolu	134,7

Zdroj: MSPNM SR, november 1993

Horeuvedené tabuľky jasne ukazujú prevahu kupónovej privatizácie ako hlavnej privatizačnej metódy použitej v prvej vlne, čo je tiež najzávažnejším faktorom vysvetľujúcim úspech v rýchlosti realizácie.

V súčasnosti bola prvá vlna oficiálne ukončená. Avšak Fond národného majetku zároveň vlastní majoritný podiel (k októbru 1993) v 118 podnikoch z prvej vlny s hodnotou akcií asi 40 mld. Sk (v tabuľke je časť akcií v hodnote 47.7 mld vo vlastníctve FNM). Okrem toho, 87 privatizačných projektov podnikov z prvej vlny s účtovnou hodnotou základného imania asi 10 mld Sk MSPNM zatiaľ neschválilo a nepredložilo FNM na realizáciu. Týchto 87 podnikov nefiguruje ani v jednej z uvedených tabuliek.

Druhá vlna veľkej privatizácie začala v lete r. 1992. V októbri 1993 zoznam podnikov pre druhú vlnu zahŕňal 514 podnikov s účtovnou hodnotou základného imania 223 mld. Sk, pričom obsahoval niektoré najväčšie podniky z odvetvia ťažkého priemyslu, stavebníctva, dopravy a spojov a energetiky. V súčasnosti (február 1994) je väčšina privatizačných projektov druhej vlny na MSPNM kde sú spracovávané, zatiaľ čo asi 80 bolo schválených a zaslaných na FNM na realizáciu (väčšina v priebehu februára a marca 1994, počas posledných dní predchádzajúcej vlády). Okrem toho je tu značné množstvo projektov, ktoré sú v súčasnosti na zakladateľských ministerstvách a neboli dosiaľ zaslané na MSPNM. Ministerstvo hospodárstva má asi 50 projektov a Ministerstvo pôdohospodárstva má približne 100 projektov, ktoré zatiaľ neboli predložené na MSPNM.

Zostávajúca časť tejto analýzy a rozsah budúceho plánu privatizácie budú zamerané na podniky druhej vlny, na podniky prvej vlny kde FNM vlastní viac než 50% akcií a na 87 podnikov prvej vlny, ktoré sú spracovávané a na prostredie, v ktorom sú tieto podniky privatizované.

3.0 ROZVOJ SÚKROMNÉHO SEKTORA A FINANČNÉ TRHY

3.1 Rozvoj súkromného sektora

Súkromný sektor Slovenskej republiky tvorí asi 30% hospodárstva. Kľúčovými faktormi v raste súkromného sektora sú:

* Účinky malej privatizácie, kde boli v r. 1991-92 vydražené takmer všetky maloobchodné jednotky a malé podniky,

* Rast zahraničných investícií,

* Založenie nových súkromných podnikov (počet súkromných podnikov vzrástol od polovice r. 1992 z 11 813 do augusta 1993 na 18 913 a počet súkromných podnikov s účasťou zahraničného kapitálu vzrástol v tom istom období z 2 063 na 4 320).

Odvetvie hospodárstva	% Súkromné
Priemyselná výroba	18%
Nákladná doprava	47%
Stavebníctvo	51%
Maloobchod	84%

Z tabuľky vidieť, že súkromný sektor dosahuje rast najmä v oblasti služieb, zatiaľ čo sektor priemyslu, ktorý zahŕňa množstvo veľkých štátnych podnikov z druhej vlny, je zatiaľ ešte v rukách štátu.

Okrem programu privatizácie bola na podporu tohto dôležitého sektora, za pomoci rôznych medzinárodných sponzorov, založená Národná agentúra pre rozvoj malého a stredného podnikania. Agentúra okrem toho organizuje školenia podnikateľov, pomoc v oblasti riadenia podnikov, financovania, obchodného práva, obchodných transakcií a marketingu.

Ďalším dôležitým aspektom, na ktorý sa vzťahuje časť programu pre uľahčenie rastu súkromného sektora, je úprava obchodného zákonníka pre urýchlenie zakladania a registrácie súkromných podnikov. V súčasnosti je na založenie akciovej spoločnosti potrebných až šesť mesiacov.

3.2 Finančné trhy

Tak ako mnohé bývalé centrálne riadené ekonomiky, v ktorých v súčasnosti prebiehajú privatizačné programy, tak ani slovenský finančný systém nie je schopný podnikateľom alebo firmám, ktoré sa zaujímajú o získanie štátnych podnikov, poskytnúť primerané finančné alternatívy. Pre investorov je tiež veľmi ťažké dostať úver na väčší program reštrukturalizácie po akvizícii podnikov. Bankový systém jednoducho pre tieto projekty nemá prostriedky na pôžičky s úrokovou mierou, umožňujúcou takéto investície.

Slovenský bankový systém
Bankový systém Slovenskej republiky je charakterizovaný nedostatkom zdrojov a má početné banky s obzvlášť slabým pôžičkovým portfóliom. Na nasledovnej tabuľke je vidieť, že v sektore bankovníctva naďalej prevažuje štátny sektor, ale je tam zároveň viditeľný presun k rastu sektora súkromných komerčných bánk.

Slovenský bankový systém	Dátum založenia	Kapitál v mil. Sk
Národná banka Slovenska	1.1.93	1 816
Štátne finančné inštitúcie		3 977
Konsolidačná banka, š.p.ú.	30.11.92	1 471
Slovenská štátna sporiteľňa, š.p.ú.	1.1.69	2 130
Slovenská záručná banka, š.p.ú.	15.3.93	376
Banky s majoritnou účasťou štátu		2 947
Investičná a rozvojová banka, a.s.	24.2.92	500
Všeobecná úverová banka, a.s.	1.1.90	2 039
Slovenská kreditná banka, a.s.	6.4.92	408
Banky so súkromnou majoritou		1 117
Istrobanka, a.s.	22.6.92	597
Priemyselná banka, a.s.	1.1.90	330
Prvá komunálna banka, a.s.	6.4.92	190
Bankové joint ventures		2 827
Credit Lyonnais Bank Slovakia a.s.	22.6.92	3
Devín banka, a.s.	27.1.92	609
Ľudová banka Bratislava, a.s.	29.4.91	300
Poštová banka, a.s.	14.12.92	303
Prvá stavebná sporiteľňa, a.s.	1.10.92	227
Slovenská poľnohospodárska banka, ú.s.	21.6.90	684
Staveb. sporiteľňa VÚB-Wustenrot, a.s.	17.5.93	300
Tatra banka, a.s.	1.10.90	402
Pobočky zahraničných bánk		
Agrobanka Praha, a.s.	22.1.93	
Banka Bohemia, a.s.	17.2.93	
Banka Haná, a.s.	3.2.93	
COOP banka, a.s.	1.1.93	
Česko-Slovenská obchodná banka, a.s.	22.3.93	
Ekoagrobanka, a.s.	2.2.93	
Interbanka, a.s.	24.3.93	
Internationale Nederlanden Bank, a.s.	16.6.93	
Moravia bank, a.s.	17.2.93	

Zdroj: Národná banka Slovenska, november 1993

Nedobytné pohľadávky sú veľkým problémom sektora bankovníctva. Mnoho bánk ako napr. Všeobecná úverová banka (VÚB), urobilo kroky prostredníctvom využitia západných praktík na nesplatené pôžičky, ktoré vplývajú na výsledovky a súvahy týchto bánk a vykazujú potrebu ďalšej kapitalizácie. V budúcom roku (budúcich rokoch) sa očakávajú tiež ďalšie opatrenia, kvôli predpokladanému oslabeniu priemyselného sektora.

Finančné trhy

* Legislatívny rámec potrebný pre hladký prechod k trhovému hospodárstvu a založenie efektívnych a transparentných finančných trhov bol vypracovaný v rámci integrovanej štruktúry Českej a Slovenskej federatívnej republiky a zahŕňa Zákon o obligáciách, Obchodný zákonník, Zákon o investičných spoločnostiach a investičných fondoch, Zákon o kapitálovom trhu a Zákon o cenných papieroch.

* V súvislosti s prvou vlnou privatizácie a vývojom legislatívy sa na Slovensku explozívne založilo množstvo súkromných investičných fondov. V prvej vlne kupónovej privatizácie získali súkromné privatizačné fondy asi 75% zo všetkých kupónov. Avšak iba asi 30 týchto fondov má významné portfólio a je považované za dôležitých hráčov na finančných trhoch: VÚB fond získal v prvej vlne 20% zo všetkých kupónov a je najväčším z týchto fondov.

* Kapitálové trhy sa v Slovenskej republike rozvíjajú pomaly, je tu pomerne malý objem, s ktorým sa na všetkých trhoch obchoduje a tieto trhy ba sa mali viac rozvinúť s ďalšími akciami z úspešnej druhej vlny kupónovej privatizácie. Uvedieme krátky popis štyroch hlavných kapitálových trhov v Slovenskej republike:

  i. *Burza cenných papierov v Bratislave* - táto oficiálna kapitálová burza má veľmi nízky objem obchodov, kde prevažujú najväčšie akciové podiely, niekoľko obligácií a nejaké fondové certifikáty. Vo všeobecnosti si systém zúčtovania vyžaduje zdokonalenie a súkromné privatizačné fondy burzu vo veľkej miere nevyužívajú.

  ii. *Bratislavská opčná burza* - bol zaznamenaný rast vo význame opčných obchodov z dôvodu dobrého systému zúčtovania a realizovania jednodňových termínových obchodov. Jednodňové termínové obchody kombinované s pomerne efektívnym systémom zúčtovania v podstate prevládajú nad promptnými obchodmi. BOB je využívaná najmä súkromnými fondami a bankami a objem jej obchodov je vyšší než na oficiálnej burze cenných papierov.

Úroveň transparentnosti BOB je tiež dobrá, 40 až 70 rôznych akcií je aktívne obchodovaných, ceny 20 až 30 akcií, ktoré sú denne kótované a obchodované, sú k dispozícii v teletextovom systéme Slovenskej televízie.

Objem obchodov je pomerne malý, asi 2 - 5 mil. USD denne.

iii. *RM-Systém* - bol pôvodne navrhnutý ako sieť pre registráciu a trh pre kupónové body použité pri realizácii programu prvej vlny kupónovej privatizácie. Systém je naďalej využívaný najmä súkromnými osobami a malými fondami na nákup a predaj akcií podnikov (504) a akcií súkromných investičných fondov (86) na princípe aukcií. Objem obchodov/aukcií je oveľa väčší než na oficiálnej Burze cenných papierov Bratislava a naďalej rastie. Systém oznamuje ceny a aukcie každé dva týždne, pričom kótovacie ceny nie sú okamžité a niekedy sú cenové rozdiely v porovnaní s akciami kótovanými na Burze cenných papierov Bratislava. V marci 1994 sa otvoril trh pre kontinuálne aukcie s okamžitými cenami.

iv. *Mimoburzové obchody* - medzi vybranými bankami a súkromnými investičnými fondami funguje neformálny obchod s akciami na báze telefonického obchodovania.

Kapitálové trhy Slovenskej republiky sú malé a iba v počiatočnom štádiu rozvoja. Nízka úroveň aktivity je spôsobená čiastočne malou kapitalizáciou systému, ktorý má zase obmedzené možnosti pre pasívne zahraničné finančné investície. Jedným z riešení ako oživiť kapitálové trhy a oboznámiť verejnosť s ich mechanizmom, je rozšíriť trh prostredníctvom druhej vlny kupónovej privatizácie.
Aj keď legislatívny rámec kapitálových trhov a investičných fondov je v podstate v platnosti, Ministerstvo financií uvažuje o ďalšom usmerňovaní súkromných investičných fondov. Okrem toho je potrebné zamerať pozornosť smerníc na zvýšenie transparentnosti transakcií (najmä tých, ktoré sú vykonávané mimo kapitálového trhu) a na vybudovaní transparentného systému prevádzkovania súkromných investičných fondov a brokerských firiem.

Platobné podmienky v privatizácii
Pre urýchlenie procesu privatizácie a vyriešenie otázky nedostatku dostupných finančných zdrojov zľahčila predchádzajúca vláda platobné podmienky štandardných metód privatizácie. Predtým bol predaj štátneho podniku založený na prvej splátke 30% a zvyšok mohol byť zaplatený do 5 rokov.

Platobná politika predávaných štátnych podnikov a štátneho majetku sa na základe podmienok znížených platieb zmenila (asi 10%-15% je potrebné splatiť do jedného roka) a zvyšok sa má splatiť v rovnakých splátkach do 15 rokov (štvrťročne, raz za dva roky alebo ročne) s nižšou úrokovou sadzbou ako je trhová.

Ak nový majiteľ nie je schopný platiť, úroková sadzba sa zvýši na 20% ročne. Toto je často kombinované s požiadavkou, aby nový majiteľ bol zaviazaný vykonať špecifické investície (financované zo zadržaných ziskov alebo z vonkajších zdrojov). Ak nový majiteľ nesplní plánované investície, vtedy sa cena, ktorá má byť zaplatená za akcie/majetok obyčajne zvýši podľa vzorca uvedeného v kúpnopredajnej zmluve. Ďalšie záväzky v zmluve sa týkajú záruk za zachovanie zamestnanosti a ochranu životného prostredia.

Tento systém odloženej platby je financovaný Fondom národného majetku, ktorý tu vystupuje v úlohe bankára. Kvôli tejto štruktúre platieb vznikli veľké problémy, nakoľko novo privatizované podniky netvoria hotovosť alebo finančné zdroje na úhradu platieb a investičných záväzkov. Výsledkom je veľké a naďalej rastúce portfólio "nesplnených" kúpnopredajných zmlúv s FNM, ktoré by mohlo, v prípade, že sa FNM rozhodne uplatniť konanie o konkurze a vyrovnaní, potenciálne viesť k opätovnému znárodneniu štátneho majetku.

4.0 POLITIKA PRIVATIZÁCIE

Politická situácia
Je zrejmé, že je tu silná podpora zo strany všetkých väčších politických združení Slovenskej republiky pre pokračovanie v transformácii hospodárstva na trhovú ekonomiku a pre živú privatizačnú politiku, ktorá je rozhodujúcim faktorom pre túto transformáciu.

Od rozpadu Českej a Slovenskej federatívnej republiky a vytvorenia nezávislej Slovenskej republiky dňa 1.1.1993 sa tu vystriedalo niekoľko vládnych kabinetov. Počas tohto istého obdobia sa tu vystriedali niekoľkí ministri privatizácie a jeden poverený riadením ministerstva. Táto politická nestabilita a zároveň zmeny v privatizačnej politike mali vplyv na zdržanie realizácie druhej vlny privatizácie, dokonca aj vtedy keď išlo o široký konsenzus, že privatizácia je základnou zložkou prechodu na trhovú ekonomiku.

Politické prehlásenia
V privatizačnej politike tu boli dve dôležité zmeny medzi skončenou prvou vlnou privatizácie a súčasnosťou. Prvá vlna bola založená najmä na metóde kupónovej privatizácie, ktorá umožňovala rýchlu realizáciu programu. Politická zmena, ktorá preferovala štandardné metódy (priame predaje, verejné súťaže a verejné dražby) pred neštandardnými metódami (kupónová metóda) s cieľom zabezpečiť kapitálové injekcie pre privatizované podniky, bola prezentovaná v lete 1992. Táto politika považovala kupónovú privatizáciu za reziduálnu metódu, kde maximálne 47% objemu majetku š.p. môže byť privatizované touto metódou. Privatizácia štandardnými metódami je zložitejšia a trvá dlhšie. Uvedená politická zmena spôsobila značné časové zdržanie privatizačného procesu.

Novovymenovaná vláda (marec 1994) a nový minister privatizácie sa vyslovili za veľkú podporu znovuoživenia privatizačného procesu ako aj za urýchlenie a oživenie druhej vlny kupónovej privatizácie bez obmedzenia tejto metódy na 47% majetku štátneho podniku na kupónovú privatizáciu. Nová vláda stanovila ciele privatizácie: urýchlenie celého procesu, väčšiu transparentnosť a podporu kupónovej privatizácii ako kľúčovému faktoru rýchlej a transparentnej privatizačnej politiky.

Ďalším cieľom tejto politiky je nedávno prijatý cieľ: privatizovať 33% štátneho majetku do konca roka 1994. Uvedený cieľ si stanovila predošlá vláda pre Svetovú banku a nová vláda bude mať česť ho realizovať. V skutočnosti vláda vo svojich politických prehláseniach konštatuje, že má záujem sprivatizovať viac než 50% štátneho majetku do konca r. 1994.

Táto štúdia a plán privatizácie ma za cieľ identifikovať oblasti pomoci a vypracovať plán činnosti, ktorý by pomohol vláde Slovenskej republiky tento cieľ dosiahnuť a prezentoval vedeniu

MSPNM jeho záväzok dosiahnuť tento cieľ prostredníctvom účasti na vypracovaní plánu privatizácie pre r. 1994.

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5.0 PREHĽAD PRIVATIZAČNEJ LEGISLATÍVY

Súčasná privatizačná legislatíva je rozsiahla a dobre vypracovaná.

- Malá privatizácia bola realizovaná na základe zákona č. 427/90 Zb. o prevode vlastníctva štátu k niektorým veciam na iné právnické alebo fyzické osoby, ktorý bol navrhnutý a schválený r. 1990 bývalým federálnym parlamentom ČSFR.

- Veľká privatizácia je vymedzená zákonom č. 92/91 Zb. o podmienkach prevodu majetku štátu na iné osoby a zákonom NR SR č. 253/91 Zb. o pôsobnosti orgánov Slovenskej republiky vo veciach prevodov majetku štátu na iné osoby a o Fonde národného majetku Slovenskej republiky.

Okrem týchto hlavných zákonov, ktoré vymedzujú proces privatizácie, je v platnosti ďalšia dôležitá legislatíva podporujúca tak privatizáciu ako aj prechod na trhovú ekonomiku (zákon o obligáciách, Obchodný zákonník, zákon o investičných spoločnostiach a investičných fondoch, zákon o kapitálovej burze a zákon a cenných papieroch).

Legislatíva, ktorá má za cieľ riadiť súkromné investičné fondy, aby sa zabránilo ich monopolnému správaniu, má zabrániť fondom získať majoritu v podnikoch, ktoré si konkurujú v tom istom odvetví. Podľa návrhov, fondy, ktoré vlastnia 20% "trhu" alebo i viac to budú musieť oznámiť Protimonopolnému úradu, ktorý sa vyjadrí k legálnosti vlastníctva majority.

Môže sa ukázať, že bude treba schváliť takú legislatívu, ktorá by zabezpečovala (v kombinácii s podnikateľskými podnetmi), že management štátnych podnikov bude konať v súlade so záujmami terajších a budúcich vlastníkov počas celého obdobia kupónovej privatizácie. Môže mať tiež formu požadovaného súhlasu zo strany predstavenstva, skôr než sa väčšie transakcie zrealizujú.

6.0 METÓDY PRIVATIZÁCIE

Podľa privatizačnej legislatívy môže byť privatizácia realizovaná buď formou predaja majetku štátneho podniku alebo transformáciou tohto podniku na akciovú spoločnosť s následnou ponukou akcií:

* Predaj štátneho podniku môže byť vykonaný vo forme:

  1. Priameho predaja
  2. Verejnej súťaže
  3. Verejnej dražby
  4. Bezodplatného prevodu na obec

* Predaj akcií vydaných po transformácii štátnych podnikov na akciové spoločnosti môže byť vykonaný pomocou nasledovných metód:

  1. Priamy predaj akcií
  2. Verejná súťaž na predaj akcií
  3. Verejná dražba na predaj akcií
  4. Kupónová privatizácia
  5. Bezodplatný prevod akcií na obce, fondy zdravotného, nemocenského a dôchodkového poistenia
  6. Dočasné ponechanie akcií vo FNM

Je zrejmé, že metódy 5 a 6 nie sú považované za privatizáciu, ale za prevod majetkového vlastníctva z jednej vládnej inštitúcie na inú.

Štandardné metódy
Výhody použitia štandardných metód ako priame predaje, verejné súťaže a dražby sú zrejmé:

* Tieto metódy umožňujú, aby majoritný vlastník mal jasný pohľad na novoprivatizovaný podnik. Okrem toho, nakoľko tu ide o riziko vlastného kapitálu, rozhodnutia managementu ohľadne budúcnosti podniku budú tak v záujme firmy ako aj Slovenskej republiky.

* Štandardné metódy uľahčujú proces, prostredníctvom ktorého môže byť zahraničný a domáci kapitál investovaný priamo do aktivít cieľových podnikov. To je však pravdou iba vtedy ak ide o investora so záujmom a ochotou investovať nový kapitál do štátneho podniku.

Komplikácie a nevýhody spojené so štandardnými privatizačnými metódami sú nasledovné:

* Metódy sú komplikovanejšie a potrebujú viac času na realizáciu než privatizácia kupónovou metódou. Štandardné metódy si vyžadujú vyvinutie zložitých dražobných postupov

alebo priamych rokovaní na báze jednotlivých prípadov. Pre riešenie tohto problému boli na FNM vytvorené tímy projektových transakcií, ktoré môžu byť využité pre uľahčenie a urýchlenie procesu.

- Druhým hlavným problémom, ktorý vplýva na proces privatizácie na Slovensku, je nedostatok transparentnosti mnohých transakcií pri priamych predajoch. Schválenie niekoľkých projektov na priame predaje, vo februári a marci 1994, spôsobilo vážne problémy s transparentnosťou, ktoré sa objavili v tlači a narušili obraz o procese privatizácie tak doma ako aj v zahraničí. Očakáva sa prešetrenie týchto transakcií za účelom vylepšenia nedobrého obrazu a nájdenie spôsobov ako urobiť proces transparentnejším.

- Ďalšou vážnou komplikáciou je nájdenie investorov, ktorí sa zaujímajú o vybudovanie podnikov z hľadiska ich dlhodobej finančnej životaschopnosti a hospodárskej efektívnosti. Je dokázané, že pri nedostatku investorov s kvalitnými podnikateľskými zámermi a investičnými záväzkami sú projekty navrhované radšej na kúpu podniku managementom, s veľmi výhodnou štruktúrou splátok a investičných záväzkov vo forme znovuinvestovania budúcich ziskov než na investovanie nového kapitálu do podnikov. V týchto prípadoch štandardné metódy nedosiahli svoj hlavný cieľ - pritiahnutie investorov, ktorí by investovali kapitál do sprivatizovaných štátnych podnikov.

- V prípade privatizácie štandardnými metódami je rozhodujúce zabezpečiť plnenie zmluvných záväzkov. To znamená, že v prípade priamych predajov, kde je potrebné splátku uhradiť do 15 rokov a kde investori majú záväzok investovať a udržať úroveň zamestnanosti bude potrebné sledovať a vymáhať plnenie týchto záväzkov. FNM má v súčasnosti obrovské problémy s nesplnenými platobnými záväzkami zo štandardných metód predaja. V prípade rozhodnutia postúpiť tieto prípady súdu, za účelom vymáhania majetku alebo akcií, bude to mať vlastne za následok opätovné poštátnenie majetku a jeho neskoršiu reprivatizáciu, pričom majetok bude ešte v horšom stave než bol predtým.

- Kľúčovým problémom priamych predajov bude zabezpečenie transparentnosti celého procesu a jasné vyhodnocovacie kritériá.

Neštandardné metódy privatizácie (kupóny)
Výhody kupónovej privatizácie sú nasledovné:

* Je to pomerne rýchly, účinný a nákladovo efektívny spôsob sprivatizovania veľkého množstva štátnych podnikov.

* Neštandardné metódy si nevyžadujú hotovosť, sprivatizované základné imanie je ponúknuté slovenským občanom za nízky symbolický poplatok, ktorým sa pokryjú iba náklady na vydanie kupónov.

* Reštrukturalizácia podnikov bude po privatizácii vykonaná vlastníkmi, ktorých hlavným cieľom bude zabezpečiť čo najvyššiu rentabilitu investícií.

* Po ukončení kupónovej privatizácie budú mať domáci a zahraniční investori možnosť získať kontrolný podiel v podnikoch prostredníctvom kapitálových trhov, kde môžu zverejniť svoj záujem o akcie podnikov na verejný predaj. Tento proces bude pre získanie podniku jednoduchší než priame rokovania.

* Prvá vlna v Slovenskej republike spočívala v širokej verejnej účasti a dostatočnom kontrolnom podieli v podnikoch cez súkromné investičné fondy, čím je zabezpečené vlastné riadenie managementu a kontrola akciovej spoločnosti. Je treba povedať, že v západných ekonomikách nie je pre podniky neobvyklé, aby boli efektívne riadené, dokonca aj v prípade široko rozptýleného vlastníctva a jedného väčšieho investora, ktorý kontroluje iba 10% podniku.

* Kupónová privatizácia je katalyzátorom rozvoja kapitálových trhov, čo je rozhodujúce pre prísun pasívnych finančných investícií zo zahraničia do slovenskej ekonomiky. Rozhovory so súkromnými investičnými fondami ukázali, že veľké zahraničné investičné firmy majú veľký záujem investovať do akcií slovenských podnikov ako súčasti nových východoeurópskych trhov, alebo slovenské investičné fondy môžu následne vytvárať ponuku pre investorov. Tieto finančné investície nespočívajú v priamom kapitáli pre špecifické podniky, ale v injekcii zahraničného kapitálu do slovenskej ekonomiky ako celku.

* Kupónová privatizácia je vo všeobecnosti považovaná za čestnú a transparentnú.

Negatívne aspekty kupónovej privatizácie:

* Nie je tu okamžitá kapitálová injekcia do podnikov, ktorá je v mnohých prípadoch rozhodujúca, aby zabezpečila prevádzku a budúci rast podniku.

* Štandardné metódy sú oveľa atraktívnejšie pre strategických investorov, ktorí sa zaujímajú o investovanie kapitálu, rozvoj a strategické riadenie podniku v zmysle výrobnej stratégie a trhu. Preto je potrebné zabezpečiť, aby potenciálnym zahraničným investorom bola daná možnosť investovať kapitál do podnikov pred rozbehnutím kupónového programu. Alternatívou pre týchto investorov je kúpiť majoritný podiel od súkromných investičných fondov po ukončení kupónového programu. Avšak, ako ukazujú skúsenosti z 1. vlny, bude možné nadviazať na akcie rozdelené pred rokom medzi občanov a súkromné investičné fondy, ktoré môžu zahraniční investori získať na kapitálovom trhu.

* Kupónová privatizácia môže mať za následok, že investor s malým podielom majetku bude ovládať podnik. Táto situácia môže potenciálne vyústiť do politiky predaja aktív, tvorby nevýnosných transferových cien alebo likvidácie pre odstránenie konkurencie.

* Úspešná masová privatizácia prostredníctvom kupónov si vyžaduje rozvoj kapitálových trhov, ktoré sú pre verejnosť, súkromné investičné fondy a zahraničných investorov pri obchodovaní s akciami pomerne účinné, transparentné a likvidné. Súčasné kapitálové trhy ešte zatiaľ túto úroveň rozvoja nedosiahli, avšak realizácia druhej vlny kupónovej privatizácie k rozvoju slovenských kapitálových trhov prispeje.

* Kupónová privatizácia potrebuje asi rok na to, aby sa akcie dostali do rúk nových vlastníkov a mohla byť vykonávaná kontrola. Počas tohto obdobia bude rozhodujúce riadiť podniky z pozície vlastníka ako aj poskytovať managementu podnety na zabezpečenie ich maximálneho zhodnotenia a obmedzenia predaja aktív atď. Nemalo by byť dovolené použiť takúto politiku na vyriešenie tejto otázky, ale managementu a zamestnancom by mali byť poskytnuté podnety (napr. akciové opcie alebo percentuálny podiel na akciách podniku) a pokuty tým riaditeľom, ktorí by uvedenú politiku využívali.

Závery

Závisí od cieľov privatizácie (rýchlosť, transparentnosť, čestnosť, rozvoj kapitálových trhov, kapitálových injekcií do podnikov atď.) a od špecifických podmienok každého jednotlivého podniku (prevádzkové a finančné podmienky, návrhy a profil potenciálnych investorov atď.), ktorá metóda sa v praxi použije. Z uvedeného dôvodu nie je možné a praktické, na základe všeobecnej politiky privatizácie, podnikom vnucovať alebo vymedzovať použitie určitých privatizačných metód.

Ak obmedzíme kupónovú privatizáciu na to, aby sa okamžite pritiahol kapitál, celý proces privatizácie sa tým spomalí, ale užitočné je robiť citlivú politiku, ak sú tu investori, ktorí majú prístup k hotovosti a záujem o získanie podniku a poskytnutie kapitálových investícií. Aplikovať však takúto politiku na všetky podniky, by znamenalo nebrať do úvahy skutočnosť, že na Slovensku sa sotva nájdu investori, ktorí by investovali nový kapitál do privatizovaných podnikov.

Napríklad posledné privatizačné projekty boli schválené vo februári a marci 1994. Väčšina týchto projektov boli kúpy podnikov zamestnancami a managementom, kde boli výhodné platobné podmienky a kde investičné záväzky mali formu prísľubov znovuinvestovania budúcich ziskov do podnikov a nie injektovanie nového kapitálu. Takouto formou privatizácie sa nový kapitál nepritiahne, čo protirečí základnému argumentu štandardných metód. Okrem toho tieto metódy môžu spôsobiť v budúcnosti problémy, v prípade, že sa nesplnia záväzky znovuinvestovania alebo budúcich platieb. V skutočnosti, ak takéto podniky zbankrotujú, bolo by efektívnejšie ich znovu poštátniť.

V takom prípade je kupónová privatizácia lepšou alternatívou, pretože zabezpečuje rýchlejšie privatizovanie, vyhýba sa problémom s budúcimi potenciálnymi kúpnopredajnými záväzkami a zároveň poskytuje podnikom silný podnet, aby fungovali na princípe maximalizácie zisku.

Plán privatizácie na r. 1994 vyplýva z privatizačnej politiky súčasnej vlády, kde kupónová privatizácia nebude reziduálnou privatizačnou metódou a predpokladá, že každý podnik môže byť privatizovaný kupónovou metódou alebo štandardnými privatizačnými metódami prípadne ich kombináciou. Okrem toho, privatizačná stratégia umožní sprivatizovať 97% štátneho podniku kupónovou metódou, ale ak sa podarí nájsť investorov ochotných zaplatiť v hotovosti alebo formou úveru tak, aby tým pomohli podniku, použije sa štandardná metóda. Z uvedeného dôvodu bude potrebné vytvoriť na FNM niekoľko transakčných skupín, aby sa urýchlila realizácia štandardných privatizačných metód a aby sa v rámci privatizačného procesu poskytla pomoc potenciálnym zahraničným investorom. Aplikácia tejto politiky uľahčí dosiahnutie cieľov plánu privatizácie.

7.0 REŠTRUKTURALIZÁCIA VEĽKÝCH PODNIKOV

Už dlho sa vedú diskusie o vhodnosti reštrukturalizácie pred privatizáciou alebo o reštrukturalizácii po privatizácii prostredníctvom investorov, ktorí zabezpečia, že reštrukturalizácia bude vykonaná tak, aby maximalizovala ich investície. Táto štúdia nemá za cieľ viesť teoretickú diskusiu o pozitívach a negatívach každého stanoviska. Perspektíva, na základe ktorej bol plán privatizácie vypracovaný, je taká, že rozhodnutie o reštrukturalizácii závisí od špecifických podmienok štátneho podniku a že v skutočnosti existujú podniky, ktoré si vyžadujú reštrukturalizáciu pred privatizáciou tak, aby pritiahli investorov alebo pripravili konštruktívny program likvidácie.

Pre identifikovanie kandidátov na reštrukturalizáciu navrhlo Ministerstvo hospodárstva predbežný zoznam asi 30 podnikov, ktoré majú veľké nesplatené dlhy. Tento zoznam podnikov bude slúžiť na vypracovanie diagnostických štúdií, ktoré vypracujú nezávislí konzultanti, financovaní medzinárodnými donátormi ako je US AID a program EC PHARE.

Výsledkom diagnostických štúdií bude návrh plánu reštrukturalizácie, ktorý môže mať formu prevádzkovej reštrukturalizácie ako je napr. zmenšenie alebo rozdelenie podnikov na menšie jednotky, kde môžu byť niektoré likvidované a/alebo finančne reštrukturalizované prostredníctvom rokovania s veriteľmi o swape dlhu za základné imanie. Navrhovaný plán reštrukturalizácie bude tiež obsahovať plán na privatizáciu aktív.

Bude vytvorená Komisia pre reštrukturalizáciu, ktorá sa bude skladať zo zástupcov Ministerstva hospodárstva, MSPNM, FNM a veriteľov (napr. VÚB). Táto komisia bude zodpovedná za dozor nad celkovou reštrukturalizáciou a privatizáciou vybraných podnikov. Jej hlavnou úlohou bude zhromažďovanie všetkých zúčastnených zástupcov v reštrukturalizačnom a privatizačnom procese pre každý z vybraných podnikov, aby sa tým zjednodušili jednotlivé postupy (likvidácia, predĺženie úverov, swap dlhu za základné imanie atď.).

Pre ďalšie uľahčenie reštrukturalizácie podniku bol schválený zákon o bankrote, ktorý umožňuje ukončiť činnosť životaneschopných podnikov. Od začiatku programu veľkej privatizácie bolo zlikvidovaných asi 100 podnikov. Aj keď bola schválená legislatíva, likvidácia prostredníctvom súdov je naďalej zdĺhavá a pre štátne podniky by bolo pozitívne vypracovať rýchlejší postup alebo využiť špeciálne arbitrážne a zmierčie konania ohľadne dlhov.

Špeciálny program reštrukturalizácie (ŠPR) Európskej banky pre obnovu a rozvoj (EBRD) je dôležitým programom tak pre privatizáciu ako aj pre reštrukturalizáciu veľkých podnikov. V

rámci tohto programu bola založená holdingová spoločnosť a niekoľko štátnych podnikov bolo "predaných" tejto holdingovej spoločnosti, ktorá potom v rámci programu reštrukturalizácie prevezme podniky s cieľom predať v budúcnosti ich aktíva a mať z toho zisk. Holdingová spoločnosť bola vytvorená zo základného imania EBRD, FNM a ďalších zainteresovaných investorov.

ŠPR je v súčasnosti vo svojom počiatočnom štádiu. Medzi FNM a EBRD existuje zatiaľ memorandum o porozumení vo forme konceptu. Nejaké práce v súvislosti s výberom podnikov, ktoré budú prevedené do holdingovej spoločnosti ŠPR už boli vykonané. Ďalšie kroky sú popísané v druhej časti tohto materiálu, v stati Plán privatizácie na r. 1994.

8.0 REŠTITUČNÉ NÁROKY

K februáru 1994 je nevyriešených asi 12 000 reštitučných nárokov. Spracovanie týchto nárokov je pomalé a zaťažuje súdy. Nevyriešené reštitučné nároky však vážne privatizačný proces nezdržujú:

* Podniky môžu byť privatizované dokonca aj vtedy, keď reštitučné nároky na navrátenie majetku sú nesplnené, pretože 3% majetku podniku sú prevedené do reštitučného fondu, z ktorého môžu byť tieto nároky uspokojené.

* Pre uplatnenie reštitučných nárokov už termín uplynul a z tohto dôvodu sa žiadne nové reštitučné nároky neočakávajú.

Uspokojovanie reštitučných nárokov je úloha, ktorá si bude vyžadovať viac zdrojov a lepšie fungovanie súdov, čo je rozhodujúce, aby sa udržal pozitívny obraz privatizačného procesu. Nie je to však závažný faktor zdržovania tohto procesu.

Ohľadne otázky reštitúcie je dôležité poznamenať, že to čo spomaľuje privatizačný proces je určenie terajšieho vlastníctva majetku (napr. preukázanie štátneho vlastníctva majetku, ktorý bude privatizovaný). Akonáhle je toto vlastníctvo preukázané, privatizačný projekt môže byť schválený a majetok štátu privatizovaný. Riešenie reštitučných nárokov na majetok štátu je samostatnou otázkou, ktorá bude riešená v ďalšom štádiu a pre plnenie tejto úlohy bol založený reštitučný fond.

9.0 PRITIAHNUTIE ZAHRANIČNÝCH INVESTÍCIÍ

Pritiahnutie zahraničných investícií do Slovenskej republiky je hlavným cieľom programu privatizácie a má prispieť k prechodu na trhovú ekonomiku. Zahraničné investície môžu byť poskytnuté finančnými inštitúciami (napr. zahraničnými investičnými fondami a možnosťou získať akcie v novoprivatizovaných podnikoch) alebo strategickými/priemyselnými investormi (napr. zahraničnými priemyselnými spoločnosťami, ktoré by mali kontrolný balík akcií v bývalých štátnych podnikoch a riadili by akciové spoločnosti). Každá forma zahraničných investícií prinesie nový kapitál do krajiny a v priťahovaní takýchto investícií musí Slovenská republika s ostatnými krajinami súťažiť.

Slovenská národná agentúra pre zahraničné investície a rozvoj (SNAZIR) je agentúrou, ktorá má za úlohu priťahovať zahraničných investorov do Slovenskej republiky. Od 1. januára je agentúra organizovaná ako akciová spoločnosť, v úplnom vlastníctve FNM. Agentúru finančne podporuje FNM a EC PHARE a pracuje v nej 20 zamestnancov. Hlavnou úlohou agentúry je medzinárodná propagácia Slovenskej republiky prostredníctvom účasti na obchodných veľtrhoch, organizovaním investičných seminárov a poskytovaním základných informácií o možnostiach podnikania zahraničným investorom prichádzajúcim do Slovenskej republiky.

Väčšina potenciálnych investorov nadväzuje kontakt s agentúrou, keď hľadá podnikateľské možnosti v oblasti súkromného sektora. Agentúra publikuje všeobecné informácie o oblastiach podnikania v bulletine vydávanom každý mesiac ako aj v správach o štruktúre rôznych odvetví. Agentúra neposkytuje zahraničným investorom, ktorí majú záujem participovať v privatizačnom procese, žiadne špeciálne služby a nie je ani inštitúciou, ktorá by mohla mať rozhodujúcu úlohu v poskytovaní pomoci zahraničným investorom v pochopení privatizačného procesu alebo v ich uvádzaní do tohto procesu.

Vo všeobecnosti sú tu problémy s public relations, týkajúce sa medzinárodnej propagácie Slovenskej republiky a uľahčovania úlohy investorov v tomto procese. Oddelenie zahraničných vzťahov na MSPNM má problémy s rozpočtom a v súčasnosti je obsadené jednou osobou a jedným poradcom. Je to nedostatočný počet pracovných síl na vybavovanie požiadaviek potenciálnych zahraničných investorov ako aj na kontakty so zahraničnými inštitúciami. Na FNM nie je v súčasnosti žiaden odbor alebo oddelenie, ktoré by sa venovalo kontaktom so zahraničnými investormi. Na oboch týchto inštitúciách sú tiež jazykové problémy, nakoľko veľmi málo odborníkov hovorí anglicky alebo nemecky, čo spôsobuje ťažkosti v kontaktoch s potenciálnymi zahraničnými investormi.

Ďalším veľkým problémom v pritiahnutí zahraničných investícií sú ťažkosti v tom, aby potenciálni zahraniční priemyselní investori pochopili privatizačný proces zo svojho vlastného pohľadu:

* Neexistuje jasný prehľad podnikov na predaj. Profil každého z týchto podnikov vrátane výrobného programu, trhov, výrobní/prevádzok a nehnuteľného majetku vlastneného firmou, organizačná štruktúra a zamestnanosť, lokalizácia, finančné postavenie (výkaz ziskov a strát, súvaha) nie je bežne k dispozícii.

* Proces rokovania nie je ujasnený. Potenciálnym zahraničným investorom nie je jasné, kto je oprávnený rozhodovať a teda s kým by mali rokovať: či s managementom štátneho podniku, zakladateľom, MSPNM alebo FNM ?

* Je tu nedostatok transparentnosti. Nie je jasné, ktoré kritériá sú aplikované v prípade rozhodovania o potenciálnych zahraničných investíciách.

Na druhej strane, Slovensko má atraktívne podniky a za účelom pritiahnutia zahraničných investícií stanovilo aj také výhody ako napr. daňové prázdniny.

Pre vyriešenie problému zahraničných investícií, je potrebné rozvinúť kvalifikovanejšie (jazykové a obchodné znalosti) zdroje na MSPNM a FNM prostredníctvom školení zameraných na lepšie pochopenie privatizačného procesu, získanie prehľadu o perspektíve zahraničného investora, rozvoj obchodných schopností a lepšieho prehľadu o slovenskej ekonomike a jej štátnych podnikoch a skvalitnenie jazykových schopností. Toto školenie by mohlo byť časťou širokého programu financovaného medzinárodnými donátormi. Pomoc pri rozvoji fungovania zahraničných vzťahov môžu poskytnúť tiež zahraniční poradcovia.

Organizačne je FNM inštitúciou, ktorá nesie hlavnú zodpovednosť za získanie a obsluhu zahraničných investorov v celom procese, dokonca aj vtedy, keď podľa privatizačnej legislatívy by zahraniční investori mali rokovať s inými partnermi (management štátneho podniku, zakladateľ, MSPNM). Je potrebné, aby FNM bol výrazne organizačne posilnený, lebo iba tak bude schopný túto úlohu splniť. Toto posilnenie by tiež mohlo mať formu zriadenia transakčných skupín s prístupom pre potenciálnych zahraničných investorov.

10.0 PRIVATIZAČNÝ PROCES V SLOVENSKEJ REPUBLIKE

10.1 Prehľad privatizačného procesu

Cieľom tejto časti je poskytnúť prehľad privatizačného procesu a špecifických ťažkostí, ktoré budú identifikované a analyzované.

Privatizácia v Slovenskej republike ako komplexný proces, zahŕňa účasť mnohých vládnych a súkromných inštitúcií. Celý proces je do detailov vymedzený a sformovaný legislatívou. Vo svojej základnej forme a podľa súčasnej privatizačnej legislatívy je proces v jednotlivých fázach znázornený na nasledovnom diagrame.

Privatizacný proces - Slovenská republika

VSEOBECNÝ PREHLAD

FÁZA 1

Vypracovanie privatizacného projeku

- Základný privatizacný projekt (s.p.)
- Konkurencné projekty
- Podnety

FÁZA 2

Zakladatelské ministerstvá

- Posúdenie projektov
- Predlozenie stanoviska
- V prípade potreby realizuje likvidáciu

FÁZA 3

Ministerstvo pre správu a privatizáciu nár. majetku

- Posudzuje vsetky projekty
- Schvaluje projekty, na realizáciu alebo ich predkladá na schválenie vláde

FÁZA 4

Hospodárska rada vlády

- Schvaluje vsetky priame predaje

FÁZA 5

Fond národného majetku

- Realizuje vsetky privatizacné projekty

V prvej fáze privatizačného procesu: a) štátne podniky spolu so zakladateľskými ministerstvami vypracovali privatizačné projekty (základné privatizačné projekty, ktoré boli vyžadované na základe zákona), b) fyzické a právnické osoby predkladali projekty do júna 1992 (konkurenčné privatizačné projekty), c) fyzické a právnické osoby predkladali podnety po júni 1992 (podnety).

V druhej fáze tohto procesu, základné privatizačné projekty, konkurenčné privatizačné projekty a podnety posudzuje príslušné zakladateľské ministerstvo a vypracuje stanovisko, kde doporučí navrhovanú metódu privatizácie. V tejto etape investori vrátane managementu štátnych podnikov, ak je to možné, rokujú a navrhujú podmienky predaja, ceny a ďalšie záväzky ako napr. úroveň zamestnanosti a investičné záruky. Zakladateľské ministerstvo zvažuje tiež vplyv privatizačného projektu na štruktúru špecifického podnikateľského sektora.

V tretej fáze potom MSPNM posudzuje privatizačné projekty a prekladá vláde návrhy na schválenie priamych predajov alebo schvaľuje návrhy na iné metódy privatizácie a predkladá ich FNM na realizáciu. MSPNM analyzuje projekty z hľadiska ekonomickej perspektívy, zabezpečuje dokumentáciu majetkových a reštitučných problémov, pokračuje v rokovaniach s potenciálnymi investormi. Za predchádzajúcej vlády MSPNM žiadalo o podporné stanovisko regionálneho splnomocnenca vlády, starostu, Protimonopolný úrad, Najvyšší kontrolný úrad a príslušný odborový zväz. Za súčasnej vlády MSPNM požaduje iba stanovisko Protimonopolného úradu a iba informuje ďalšie úrady o svojich rozhodnutiach.

Podľa doplneného zákona o privatizácii môže MSPNM zmeniť metódu privatizácie na rozdiel od návrhu príslušného zakladateľa.

Štvrtá fáza zahŕňa schvaľovanie návrhov vládou, v prípade privatizačných projektov na priamy predaj. Táto fáza nie je potrebná v prípade verejných dražieb, verejných súťaží alebo kupónovej metódy.

Piata a posledná fáza zahŕňa realizáciu privatizačného projektu prostredníctvom FNM. FNM transformuje štátne podniky na akciové spoločnosti, legálne drží vo vlastníctve majetok štátnych podnikov a akcie akciových spoločností a nakoniec, na základe privatizačného projektu schváleného vládou alebo MSPNM, prevádza vlastníctvo na súkromných vlastníkov. FNM obhospodaruje tiež značné množstvo akcií a má sekciu zodpovednú za prevod vlastníckych práv. FNM má tiež zodpovednosť za kúpnopredajné zmluvy podpísané s kupcami majetku alebo akcií a za splnenie zmluvných a platobných podmienok. FNM však nemá žiadnu kompetenciu meniť privatizačné projekty a v prípade, že je potrebné vykonať nejakú zmenu (vrátane kúpnopredajnej zmluvy) vráti privatizačný projekt na MSPNM.
Tento všeobecný prehľad privatizačného procesu na Slovensku je

teoretickým systémom, ktorý vyplýva zo zákona o privatizácii. Možno ho, ako živý systém, charakterizovať nasledovne:

* Proces je komplexom, zahŕňajúcim mnohé inštitúcie a postupy, ktoré je treba pred spracovaním privatizačného projektu použiť. Privatizačný proces nie je mnohým zahraničným a domácim investorom, ktorí nemajú žiadne väzby na štátny podnik, veľmi jasný. Tento komplex postupov môžu mnohé zainteresované stránky využiť na zdržovanie celého procesu privatizácie, pričom sa vyskytujú prípady, keď riaditelia štátnych podnikov nemajú záujem o rýchlu privatizáciu a zdržujú celý proces predkladaním nedostatočného a nekompletného základného privatizačného projektu alebo oneskorene predkladajú majetkovú dokumentáciu.

* Na základe zákona je rozhodujúcim úradom (schvaľovanie) o privatizačných projektoch MSPNM a vláda (priame predaje). Avšak v praxi je rozhodovateľ neurčitý, pretože aj keď všetky zainteresované inštitúcie nemusia, podľa zákona, súhlasiť so špecifikami schvaľovaného privatizačného projektu, v praxi, schválenie daného privatizačného projektu si implicitne vyžaduje súhlas všetkých týchto inštitúcií.

  Ak je tu nesúhlas, ak je kvôli zmeneným faktorom potrebné rozbehnúť nové rokovania, ak je zmenená metóda privatizácie atď., vtedy je potrebné, aby projekt, v rámci privatizačného procesu, posúdili všetky inštitúcie. Ako sme uviedli vyššie, zahraniční investori majú nejasný obraz o tom, s kým by mali rokovať (management štátneho podniku, zakladateľ, MSPNM alebo FNM).

  Avšak nedávno schválený dodatok zákona o privatizácii poskytuje MSPNM možnosť privatizačný projekt zmeniť (metóda privatizácie atď.) a pretože MSPNM túto právomoc využíva, urýchli to celý privatizačný proces a možnosť vstupu do privatizačného procesu bude tiež pre zahraničných investorov jasnejšia.

* Privatizačný proces zaberá veľa času a dôsledkom toho je, že mnohé projekty navrhnuté včas, sa stávajú v priebehu schvaľovania a presunu na FNM na realizáciu, zastaralými. Ak je tento faktor kombinovaný s nepružnosťou celého procesu a s nejasnými kompetenciami pre rozhodovanie, dôsledkom je, že privatizačné projekty treba prepracovať, získať nové stanoviská a súhlasy. Odhadujeme, že v skutočnosti viac než 33% privatizačných projektov, ktoré sú v súčasnosti na MSPNM a FNM je nerealizovateľných a tieto podniky budú skôr žiadať o likvidáciu alebo reštrukturalizáciu než by mali vypracovať nový privatizačný projekt.

- Informačný systém inštitúcií zahrnutých do privatizačného procesu nie je schopný poskytovať presnú štatistiku o stave podnikov, ktoré boli určené na privatizáciu. Vo všeobecnosti, informačné systémy na MSPNM a na FNM sú primerané na uloženie súčasných informácií o stave privatizačných projektov (MSPNM) alebo držania akcií (FNM) samostatne na každej inštitúcii.

  Informačné systémy sú však neintegrované a preto je nemožné získať rýchlo informácie o stave programu privatizácie bez vykonania auditu. Neexistuje tu žiaden systém, kde by bolo jasné, ktoré podniky boli zlikvidované alebo rozdelené na menšie jednotky. Dôsledkom toho je, že pre každú inštitúciu, či je to MSPNM alebo FNM, je ťažké odhadnúť aké množstvo projektov je možné očakávať. Okrem toho je ťažké udržovať v chode celý privatizačný proces ako taký.

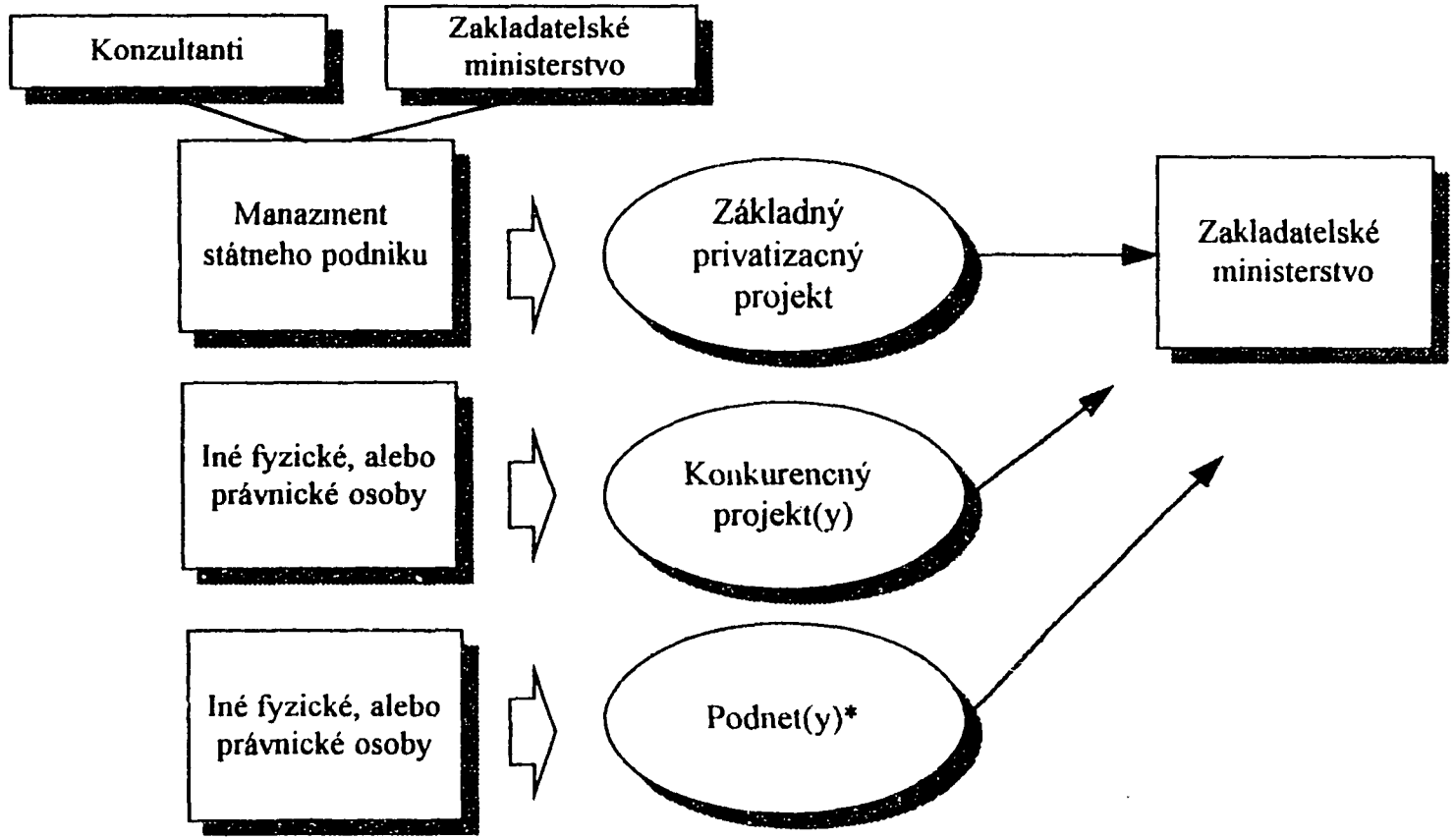
- MSPNM a FNM má pre rýchlejší proces privatizácie nedostatočný počet pracovníkov.

Nasledovné časti a diagramy detailne popisujú a znázorňujú privatizačný proces v každej z jeho hlavných fáz.

10.2 Fáza I - Vývoj privatizačného projektu

Privatizacný proces - Slovenská republika

FÁZA 1 - VYPRACOVANIE PRIVATIZACNÉHO PROJEKTU



* Poznámka: Podnety mozno poslat aj priamo na MSPNM alebo FNM

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Základné privatizačné projekty
Podľa zákona o privatizácii boli všetky štátne podniky povinné predložiť základné privatizačné projekty do leta 1992. Tieto privatizačné projekty boli vypracované podľa špeciálnej predlohy navrhnutej vládou. Na dokončenie základného privatizačného projektu management štátneho podniku predložil základné účtovné údaje (vrátane bilančného ocenenia), dokumentáciu o vlastníctve majetku (vrátane reštitučných nárokov a majetkovoprávneho statusu) a najzákladnejšieho podnikateľského zámeru. Znalecké posudky vypracované schválenými oceňovacími znalcami boli požadované v prípade projektov na priamy predaj. Management štátneho podniku úzko spolupracoval so zakladateľským ministerstvom a pomoc mu mohli poskytnúť aj schválení konzultanti z oficiálneho zoznamu, ktorým bolo udelené oprávnenie od Ministerstva spravodlivosti a Ministerstva vnútra.

Všetky podniky dokončili základné privatizačné projekty. Problémy na konci tohto privatizačného reťazca sú s neúplnými projektami, ktoré majú nedostatočnú dokumentáciu o vlastníctve majetku a reštitučných nárokoch, ba dokonca sa projekt v tomto reťazci posunul aj napriek nevyriešeným uvedeným problémom. Ďalšie problémy sú so zastaralými údajmi (najmä oceňovacími), keď bol projekt predložený v r. 1992 a dnes je ešte stále ďaleko od realizácie, pričom tieto zastaralé údaje sú spôsobené drastickými zmenami (obyčajne k horšiemu) v celom podniku a jeho hospodárskom odvetví. Konečným problémom je oneskorené predloženie požadovanej dokumentácie riaditeľmi štátnych podnikov, ktorí ako sa zdá, privatizačný proces nepodporujú.

Konkurenčné privatizačné projekty
Akákoľvek fyzická alebo právnická osoba (domáca alebo zahraničná) mala možnosť predložiť konkurenčný privatizačný projekt. Tak ako pre základný privatizačný projekt, vláda schválila smernice a požiadavky aj na vypracovanie konkurenčného privatizačného projektu a stanovila koniec júna 1992 ako posledný termín na jeho predloženie. Podniky druhej vlny majú priemerne dva konkurenčné projekty pre jeden podnik, je však veľa podnikov, ktoré majú viac než päť konkurenčných privatizačných projektov a je známy prípad aj s 33 konkurenčnými projektami.

Podnety
Akákoľvek fyzická alebo právnická osoba (domáca alebo zahraničná) môže predložiť podnet. Ide v podstate o predbežnú zmluvu spojenú so základným podnikateľským zámerom. V súčasnosti sa do privatizačného procesu môžu domáci a zahraniční investori zapojiť iba prostredníctvom podnetov. Tieto podnety môžu byť predkladané zakladateľským ministerstvám, MSPNM alebo FNM. Podnety plnia funkciu možnosti vstupu do privatizačného procesu, ale nevplývajú na štruktúru základného privatizačného projektu.

Noví potenciálni investori majú problém s pochopením hry, ktorú treba hrať v priebehu rokovaní so všetkými inštitúciami zahrnutými do privatizačného reťazca (štátny podnik, zakladateľské ministerstvo, MSPNM a FNM). Okrem toho, niektorí potenciálni zahraniční investori majú problém s transparentnosťou oceňovania projektov a problém potenciálneho konfliktu záujmov.

- Po prvé, noví investori musia rokovať s managementom štátneho podniku, ktorý však mohol predložiť projekt na kúpu podniku managementom (priamy predaj).

- Po druhé, nie je jasné, aké sú vyhodnocovacie kritériá pre výber víťazného projektu.

10.3 FÁZA II. - zakladateľské ministerstvá

Úlohou zakladateľských ministerstiev je pomáhať štátnym podnikom pri vypracovávaní základných privatizačných projektov, posudzovať všetky privatizačné projekty a podnety, pripravovať správy o každom projekte, vrátane navrhovanej metódy privatizácie a predkladať svoje stanovisko k odporúčanej metóde privatizácie pre štátny podnik.

V tejto fáze by mali privatizačné projekty teoreticky obsahovať všetky nevyhnutné aspekty: navrhovanú metódu privatizácie, identifikáciu investora, návrh kontraktačnej zmluvy /cenu, investície, zamestnanecké záväzky, atď./, reštitučné nároky, vlastnícke práva atď. V praxi sa to však stáva zriedkavo a väčšina týchto náležitostí sa vykonáva v období, kedy sa projekty nachádzajú na MSPNM a FNM.

Na úrovni zakladateľských ministerstiev sa vyskytujú tieto hlavné problémy:

* Vyriešenie právnych otázok týkajúcich sa vlastníckych práv majetku. Nekooperatívny menežment podniku môže veľmi spomaliť tento proces.

* Uskutočňovanie reštrukturalizačných plánov v niektorých podnikoch, obzvlášť v prípadoch veľkých štátnych podnikov . V niektorých prípadoch, reštrukturalizácia znamená len oddelenie sociálnych aktív štátneho podniku od produktívnych aktív, v iných prípadoch to znamená rozdelenie podniku na niekoľko privatizačných projektov. Najkomplikovanejšie problémy sa týkajú podnikov s vážnou potrebou výrobnej, alebo/a finančnej reštrukturalizácie, v záujme nájdenia investora, a

* likvidácie v prípadoch, kde reštrukturalizačná štúdia, alebo súčasná finančná a výrobná výkonnosť podniku je výrazne zlá a jasne naznačuje, že likvidácia bude tou najlepšou privatizačnou alternatívou. Hoci bolo zavŕšených takmer 100 prípadov likvidácie, alebo sú ešte v procese konania, očakáva sa, že tento počet sa ešte zvýši. Odďaľujú sa obzvlášť prípady likvidácií veľkých štátnych podnikov, kde sa predpokladá, že likvidácia spôsobí vážne sociálne problémy s nádejou, že by bolo možné tieto podniky zachrániť prostredníctvom reštrukturalizácie. Privatizáciu týchto podnikov nebude možné uskutočniť v roku 1994.

Menej problematické oblasti:

* Zakladateľské ministerstvá posudzujú aj dopad realizácie privatizačného projektu na konkurenčnú štruktúru v rámci ekonomického sektora. Stretli sme sa s niekoľkými prípadmi, kde táto otázka zablokovala privatizačný projekt.

* Informačný systém ,ktorý sprevádza privatizačný proces je na úrovni zakladateľských ministerstiev nedostatočný. Vo všeobecnosti sa informácie sledujú manuálne, alebo sú závislé od jedného kľúčového pracovníka.Tento problém sa netýka iba zakladateľských ministerstiev, ktoré majú na starosti len malé množstvo prípadov, ale vážne problémy v tejto oblasti sa vyskytujú aj na Ministerstve hospodárstva a Ministerstve pôdohospodárstva, kde sa rieši väčšina prípadov.

Ako jasne ukazujú dve nasledujúce tabuľky,najdôležitejšími zakladateľskými ministerstvami sú Ministerstvo hospodárstva s viac ako 57%-tným podielom všetkých podnikov zaradených do 2.vlny s cca 70 %-nou účtovnou hodnotou majetku /135 miliárd SK/ /podľa zoznamu vypracovaného na MSPNM z 31.12.1992/ a Ministerstvo pôdohospodárstva s viac ako 189 podnikmi /39%/ a 18%-tami účtovnej hodnoty majetku /35 miliárd SK/.

Zakladatelské ministerstvá a podniky zaradené do 2.vlny
Pocet podnikov a ich súhrnná účtovná hodnota k 31.12.1992

	0 - 250		250 - 1,000		+ 1,000		Celkom	Celkom
	#	ÚH	#	ÚH	#	ÚH	#	ÚH
Ministerstvo hospodárstva								
a. hospodárstvo	43	4,424	26	14,535	8	49,327	77	68,286
b. priemysel	20	1,732	17	8,471	11	25,786	48	35,989
c. drevo a papier	5	411	4	1,352	2	6,804	11	8,567
d. obchod a turistika	12	1,596	10	4,989	0	0	22	6,585
e. stavebníctvo	131	8,929	12	5,578	1	1,278	144	15,785
	211	17,092	69	34,925	22	83,195	302	135212
Ministerstvo pôdohospodástva								
a. lesy	7	575	0	0	0	0	7	575
b. polnohospodárstvo a potravinárske podniky	130	9,836	50	19,678	2	4,486	182	34,000
Celkom	137	10,411	50	19,678	2	4,486	189	34,575
Ministerstvo dopravy	10	685	0	0	6	20,723	16	21,208
Ministerstvo kultúry	8	102	0	0	0	0	8	102
Ministerstvo zdravotníctva	10	1,437	0	0	0	0	10	1,437
Ministerstvo financií	0	0	1	883	0	0	1	883
Ministerstvo vnútra	4	324	0	0	0	0	4	324
Celkom	**380**	**30,051**	**120**	**55,486**	**30**	**108,404**	**530**	**193,941**

Podklady: Ministerstvo pre správu a privatizáciu národného majetku SR

* Vsetky údaje sú v miliónoch SK sú z 31.12.1992

Celkový pocet zakladatelských ministerstiev a podnikov zaradených do 2.vlny
Pocet podnikov a ich súhrnná účtovná hodnota k 31.12.1992

	Pocet	Percento	Hodnota	Percento
Ministerstvo hospodárstva	302	57.0%	135,212	69.7%
Ministerstvo pôdohospodárstva	189	35.7%	34,575	17.8%
Ministerstvo dopravy, spojov a verejných prác	16	3.0%	21,408	11.0%
Ministerstvo kultúry	8	1.5%	102	0.1%
Ministerstvo zdravotníctva	10	1.9%	1,437	0.7%
Ministerstvo financií	1	0.2%	883	0.5%
Ministerstvo vnútra	4	0.8%	324	0.2%
Celkom	**530**	**100%**	**193,941**	**100%**

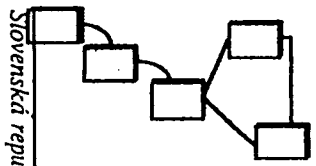
Podklady: Ministerstvo pe správu a privatizáciu národného majetku SR

* Vsetky údaje sú v miliónoch SK z 31.12.1992

Vychádzajúc z relatívnej rozsiahlosti a dôležitosti týchto dvoch ministerstiev pre privatizačný proces, detailne prejednávame formálne privatizačné postupy na týchto ministerstvách. Je potrebné si uvedomiť, že postúpeniu privatizačného projektu a stanoviska na MSPNM predchádza ešte veľa spolupráce na úrovni zakladateľských ministerstiev a MSPNM v dôsledku nekompletnej a neaktuálnej dokumentácie.

Zvyšné zakladateľské ministerstvá pripravujú a postupujú na MSPNM relatívne málo privatizačných návrhov štátnych podnikov. Všeobecne majú všade na týchto ministerstvách oddelenia, ktoré sa venujú analýze privatizačných projektov a spolupracujú s MSPNM a potenciálnymi investormi. Predtým ako minister podpíše správu so stanoviskom rezortu, schvaľuje odporúčanie Privatizačný výbor.

Ministerstvo hospodárstva



FÁZA 2 - ZAKLADATELSKÉ MINISTERSTVÁ

Ministerstvo hospodárstva

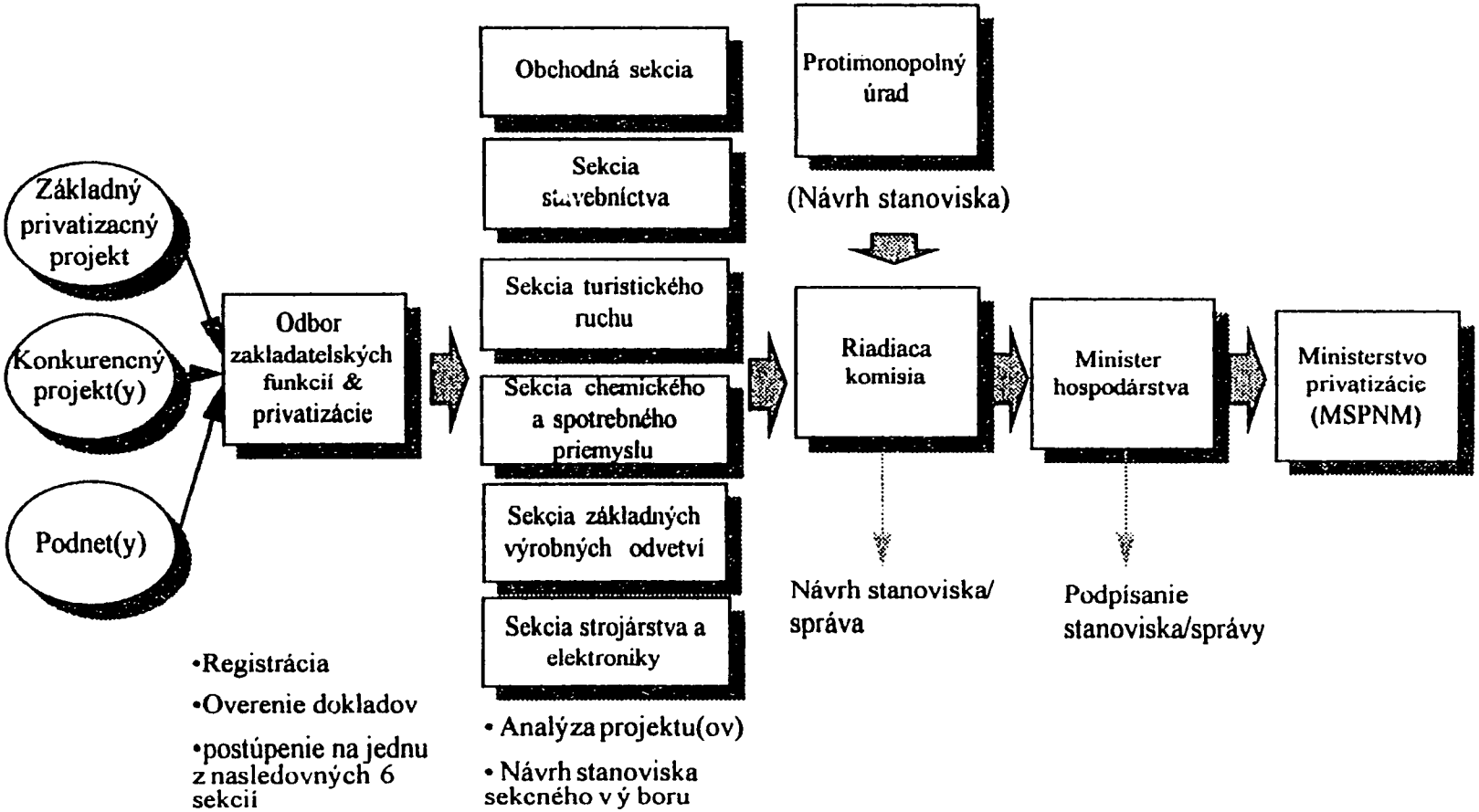


Diagram znázorňuje oficiálny proces analýzy a postupu privatizačných projektov a ich postúpenie na MSPNM so správou obsahujúcou stanovisko rezortu. V praxi, pred postúpením projektu prebieha intenzívna spolupráca so štátnym podnikom, ktorá má za cieľ skompletizovať projektovú dokumentáciu. Keď bol projekt postúpený na MSPNM, zvyčajne nastáva intenzívna spolupráca medzi MSPNM a štátnym podnikom z dôvodov nekompletnej dokumentácie /týka sa to hlavne majetku/, reštrukturalizačných návrhov, návrhov na likvidáciu a zaoberaním sa nereálnymi návrhmi z dôvodov zmenených podmienok v štátnom podniku.

Hlavné problematické miesta na Ministerstve hospodárstva, v súvislosti s privatizáciou:

- Finalizácia privatizačných návrhov cca 50-tich podnikov, ktorých projekty ešte neboli postúpené na MSPNM. Ministerstvo plánuje ukončiť ich do konca mája 1994,ale splnenie tejto úlohy bude vyžadovať veľké úsilie,

- Uskutočnenie likvidácie podnikov nachádzajúcich sa v biednej finančnej a výrobnej situácii,

- Riadenie a vypracovanie reštrukturalizačných štúdií, obzvlášť pre veľké štátne podniky,

- Prepracovanie/prehodnotenie privatizačných projektov podnikov, ktorých pôvodné projekty sú už zastaralé, alebo neuskutočniteľné.

Ministerstvo pôdohospodárstva

Štátne podniky, ktoré patria pod Ministerstvo pôdohospodárstva sú alebo potravinárske podniky, štátne majetky, alebo chovateľské stanice. Vo všeobecnosti veľkosť týchto podnikov je z hľadiska účtovnej hodnoty relatívne malá, hoci Ministerstvo obhospodaruje okolo 190 podnikov. Ministerstvo pôdohospodárstva má v súvislosti so spracovaním týchto podnikov v súčasnosti veľa komplikácií a na MSPNM bolo postúpených len asi 50% podnikov.

Komplikácie okolo privatizácie poľnohospodárskych podnikov existujú hlavne z dôvodov nejasností okolo vysporiadania vlastníckych vzťahov, identifikácie reštitučných nárokov a z dôvodov predaja častí majetku pred privatizáciou.

V prvom prípade sú majetkové a právne problémy rozsiahlejšieho charakteru ako u priemyselných podnikov. Štruktúra vlastníctva poľnohospodárskej pôdy na Slovensku pred nástupom komunistického režimu bola charakterizovaná množstvom malých parciel, ktoré boli skôr úzkymi pásikmi zeme. Za bývalého režimu bola prísne uplatňovaná kolektivizácia pôdy. Na základe toho sú dnešné jednotné roľnícke družstvá založené na množstve individuálnych parciel, u ktorých musia byť identifikované a objasnené

vlastnícke práva. Touto otázkou sa zaoberá Ministerstvo pôdohospodárstva v spolupráci s menežmentom štátnych podnikov.

Druhým najväčším problémom, ktorý spomaľuje privatizačný proces je možnosť vyňať majetok zo štátneho podniku po odoslaní privatizačného projektu. Menežment štátneho podniku a potencionálni investori majú možnosť určiť akýkoľvek majetok /okrem pozemkov,ktoré nie sú sprivatizované, ale boli vložené do Slovenského pozemkového fondu / a zdôvodniť, že uprednostňujú jeho predaj mimo privatizačného projektu. Vyňatý majetok sa zvyčajne predáva za hotovosť buď na verejnej dražbe, alebo priamo menežmentom štátneho podniku. Získané prostriedky použije menežment na zredukovanie dlhov štátneho podniku. V takýchto prípadoch musí byť privatizačný projekt prehodnotený a pozmenený.

Pozitívnou stránkou predaja vyňatého majetku je to, že je to tiež forma privatizácie. Nie je ovšem celkom jasne definované, či sa predáva "zlý majetok", aby sa zredukovali dlhy podniku a tento sa stal viac atraktívny, alebo štátny podnik predáva "najlepší majetok", ktorého má len málo a podnik sa tým dostáva do veľmi zlej finančnej situácie. Počuli sme názory, že obe rozhodnutia o predaji vyňatého majetku, ako aj proces zbavovania sa ho nie sú dostatočne transparentné.

10.4 FÁZA III. - Ministerstvo pre správu a privatizáciu národného majetku

MSPNM nedávno zmenilo svoju štruktúru od funkčnej na viac sektorálne orientovanú a má teraz nasledovné sekcie:

* ING.PORVAZNÍK
  Sekcia privatizácie priemyselných odvetví
  Zaoberá sa všetkými veľkými priemyselnými štátnymi podnikmi,

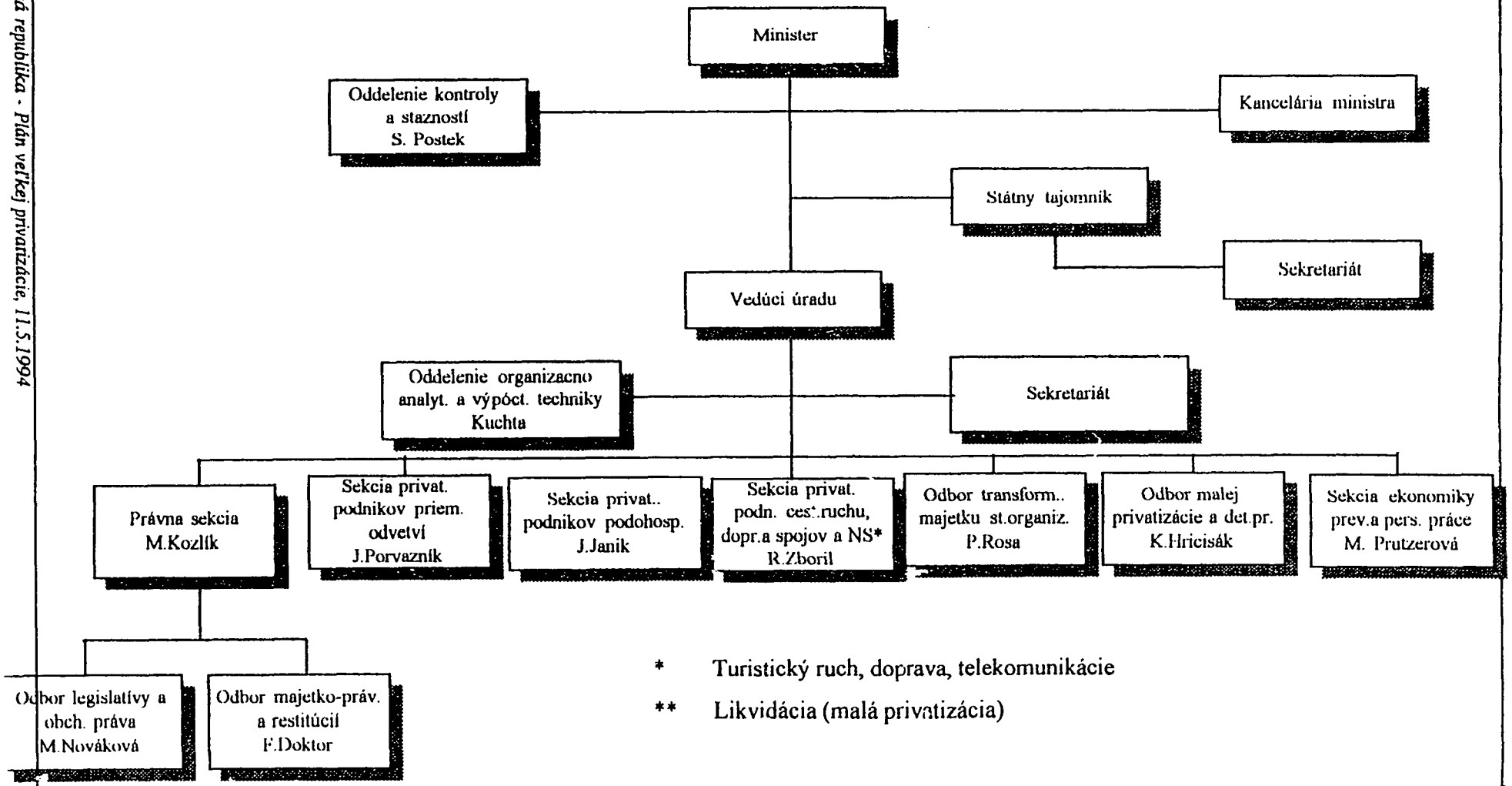
* ING.JANÍK
  Sekcia privatizácie podnikov pôdohospodárstva a potravinárskych podnikov

* ING.ZBOŘIL
  Sekcia privatizácie podnikov cestovného ruchu, dopravy, spojov a nevýrobnej sféry

* JUDr.KOZLÍK
  Právna sekcia, zaoberá sa otázkami vlastníctva a reštitučných nárokov /odbor ING.DOKTORA/ a otázkami obchodného práva /odbor JUDr.NOVÁKOVEJ/.

Privatizacný proces - Slovenská republika

MINISTERSTVO PRE SPRÁVU A PRIVATIZÁCIU NÁRODNÉHO MAJETKU



* Turistický ruch, doprava, telekomunikácie

** Likvidácia (malá privatizácia)

Slovenská republika - Plán veľkej privatizácie, 11.5.1994

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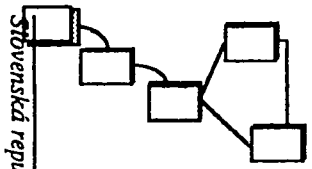
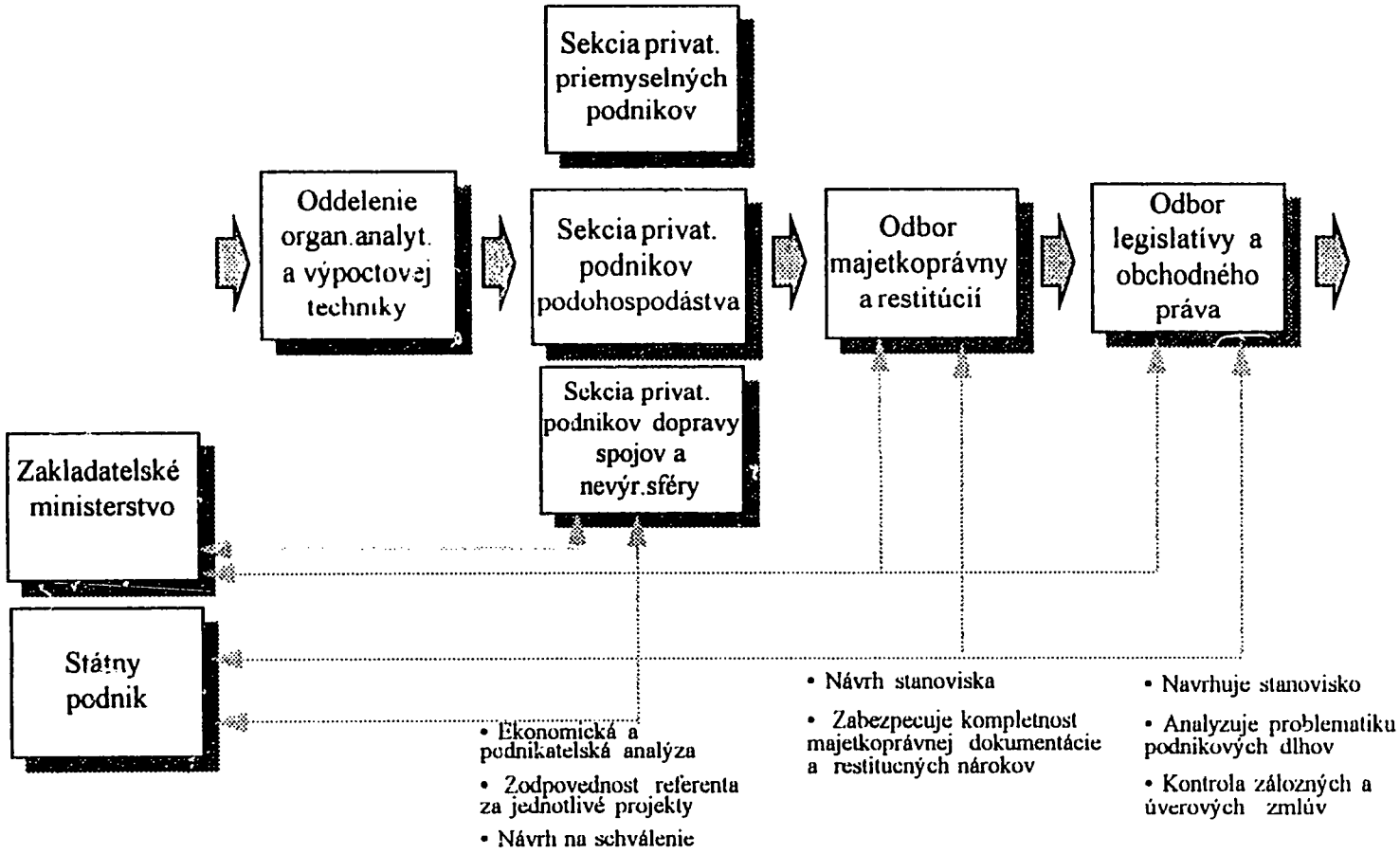


FÁZA 3

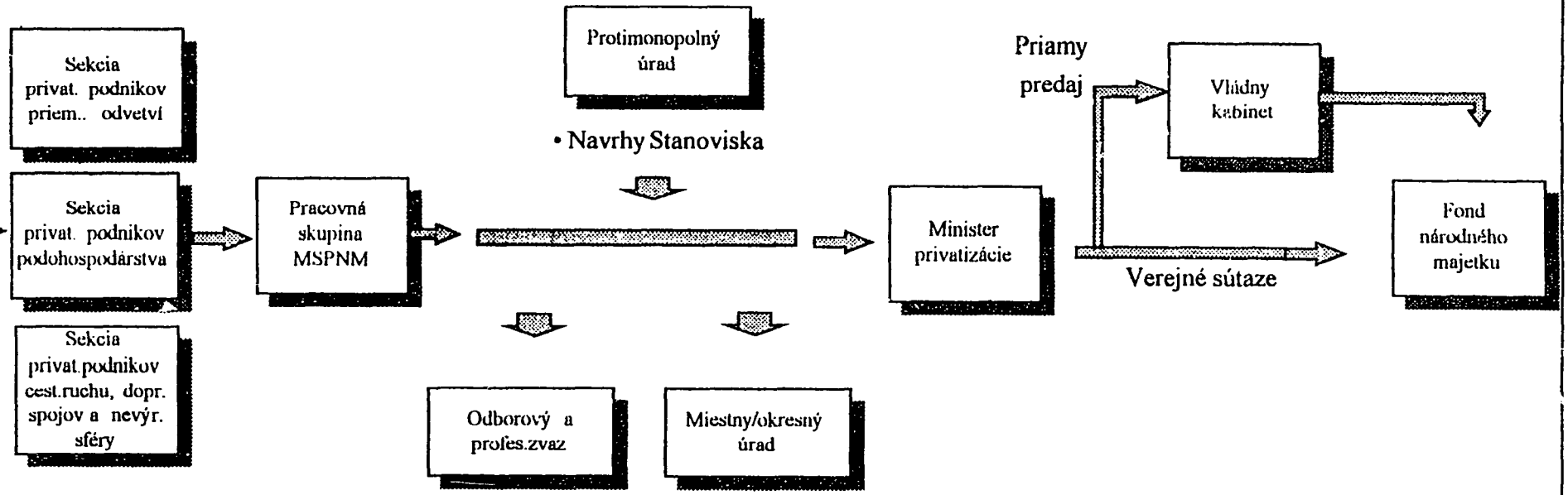
Ministerstvo pre správu a privatizáciu národného majetku



Privatizacný proces - Slovenská republika

FÁZA 3

Ministerstvo pre správu a privatizáciu národného majetku



• Správa o ekonomickej analýze

• Rozhodnutie o privatizacnej metóde

• Podpísanie projektu

• Schválenie priamych predajov

• Zverejnenie informácií o transakcii

• Realizuje privatizacné projekty

Slovenská republika - Plán veľkej privatizácie, 11.5.1994

...slovak pptikh

Diagramy ukazujú, že proces privatizácie na MSPNM je komplexom spolupráce mnohých súčastí, ktoré analyzujú každý projekt a poskytujú svoje stanovisko. Hoci formálne schválenie projektu vykonáva Schvaľovací výbor na MSPNM a Rada vlády v prípadoch priameho predaja, neformálne, trvá pomerne dlho, kým sa podarí dosiahnuť zhodu názorov medzi zakladateľskými ministerstvami, MSPNM a Protimonopolným úradom. Okrem toho, Konfederácia zamestnávateľských a odborových zväzov a Miestny úrad, kde je podnik lokalizovaný, sú informované o stanoviskách k privatizačnému projektu.

Je dôležité upozorniť,že za pôsobenia novej vlády bol celý proces zjednodušený.Počas pôsobenia bývalej vlády, bolo nutné dosiahnuť dohodu aj s odborovými zväzmi a miestnymi úradmi.

Pracovný postup na MSPNM je prehľadne organizovaný na základe troch sekcií pre spracovávanie privatizačných projektov, ktoré sú rozdelené podľa sektorov a ktoré majú, v súlade s vnútornou štruktúrou, určených výkonných pracovníkov. Ekonomická analýza a kontrola procesu sa vykonáva v rámci jednotlivých sekcií. Okrem toho hrá v schvaľovacom procese privatizačných projektov významnú úlohu aj právna sekcia, pretože všetky projekty musia prejsť pred schválením cez jej dva odbory . Právna sekcia je organizovaná do dvoch odborov, ktoré vnútorne riadia výkonní pracovníci.

Problémové oblasti,na ktoré je potrebné sústrediť sa, aby sa proces privatizácie urýchlil:

* Najzávažnejší "úzky profil" na MSPNM tvoria otázky týkajúce sa dokazovania, že štát je legálnym vlastníkom majetku a reštitučné nároky. Odbor majetkoprávny a reštitúcií,v rámci právnej sekcie, zodpovedá za to, že všetky predmetné otázky sú vyjasnené a zdokumentované. Pri analýze stavu projektov, ktoré sa práve spracovávajú na MSPNM sme si overili, že viac ako 60% /viac ako 250 prípadov/ sa momentálne nachádza na tomto odbore. Majetkový problém je výraznejší pri privatizačných projektoch pôdohospodárskych podnikov.

  Jednou z príčin tejto situácie je nekompletná majetková a reštitučná dokumentácia, ktorú postúpili zo štátnych podnikov a zakladateľských ministerstiev. Môže trvať aj 6 mesiacov, kým MSPNM získa právnu dokumentáciu, ktorú žiadalo od nekooperatívneho menežmentu štátneho podniku a od štátnych podnikov, ktoré nemajú vlastných právnikov.

  Ďalšou oblasťou je personálne obsadenie. Odbor majetkoprávny a reštitúcii má nedostaok pracovníkov na zvládnutie relatívne veľkého množstva práce. Výkonný pracovník musí v súčasnosti prekontrolovať priemerne 50 prípadov.
  Počas prvej vlny mala právna sekcia viac právnikov ako

je súčasný stav /redukcia bola následkom zníženia rozpočtu/.
Právna sekcia utrpela aj odchodom svojej riaditeľky, ako aj riaditeľov oboch odborov /riaditeľa odboru majetkoprávneho a reštitúcií a riaditeľa odboru legislatívy a obchodného práva/, čo spôsobilo odborné medzery v obsadení. Dôvodom bola neadekvátna platová úroveň v porovnaní so súkromným sektorom a nejasné právomoci.

Jednania s katastrálnymi úradmi, ktoré sú zamestanecky poddimenzované a nie sú z tohoto dôvodu schopné urýchlene poskytnúť dokumentáciu o vlastníctve, sú ďalším dôležitým problematickým miestom pri kompletovaní dokumentácie týkajúcej sa vlastníctva.

* Personálne obsadenie troch výkonných privatizačných sekcií /sekcie priemyselných odvetví, sekcie pôdohospodárskych popdnikov a sekcie cest.ruchu, dopravy, spojov a nevýrobnej sféry/ je takisto poddimenzované a každý odborný referent je zodpovedný za 25 až 40 podnikov. Vo všeobecnosti nemajú odborní referenti čas osobne navštíviť podniky a s podnikom sa zoznamujú len na základe projektovej dokumentácie, ktorá nie je postačujúca na vniknutie do kľúčových otázok, ktoré musí podnik riešiť.

  Podľa nášho názoru by malo personálne obsadenie sekcií zvýšiť aj úroveň svojich obchodníckych znalostí pomocou školení v oblasti finančnej analýzy, marketingu, podnikateľských plánov a predvídania.

  Je zrejmé, že školenia by sa mali zaoberať aj náborovou politikou, ktorej cieľom by malo byť prijatie lepšie kvalifikovaných pracovníkov, ktorí by boli lepšie honorovaní /hlavný dôvod relatívne vysokej fluktuácie/. Toto je možné uskutočniť len zvýšením rozpočtu MSPNM, alebo prostredníctvom medzinárodných organizácií poskytujúcich finančnú pomoc, ktoré by financovali vysoko kvalifikovaných slovenských odborníkov, ktorí by vypomáhali MSPNM v určenom období.

* Nekompletné a zastaralé údaje sa javia byť všeobecným problémom v takmer všetkých privatizačných projektoch. MSPNM venuje veľa práce na skompletizovanie dokumentácie, ktorá vlastne mala byť poskytnutá štátnymi podnikmi a zakladateľskými ministerstvami,ako aj zaktualizovanie zastaralých finančných a účtovných údajov.

* Meškania sa všeobecne vyskytujú v súvislosti s pokusmi o dohodu medzi MSPNM a zakladateľskými ministerstvami týkajúcimi sa všetkých dôležitých aspektov privatizačného projektu ako je napr. privatizačná

metóda, zmluvné podmienky, plány investorov, atď.

* Je potrebná reštrukturalizácia veľkých podnikov, aby sa zaistilo schvaľovanie reálnych projektov, ktoré môže efektívne uskutočniť FNM. V súčasnosti existujú niektoré projekty veľkých podnikov, ktoré nemôžu byť schválené, kým nebudú predtým finančne a prevádzkovo reštrukturalizované a preto, kým sa hľadá riešenie, tieto projekty zapadajú prachom. Okrem iného spôsobujú tieto podniky problémy aj štátnemu rozpočtu, pretože vyžadujú podporu na pokračovanie v svojej činnosti.

* Identifikovali sme aj niektoré nevyriešené konflikty medzi verejnými inšitúciami. Napríklad mnohé štátne podniky majú závažné daňové záväzky a boli sme informovaní o prípadoch, kde daňové úrady zablokovali privatizačné projekty s požiadavkou, že daňové záväzky by mali byť vyriešené pred privatizáciou.

Protimonopolný úrad

Protimonopolný úrad je vládnou inštitúciou, ktorá bola zriadená ako dozor nad konkurenčnou štruktúrou jednotlivých sektorov ekonomiky, aby identifikovala a eliminovala monopolné štruktúry a zaisťovala vhodné konkurenčné prostredie v rámci každého priemyselného odvetvia. Úrad tvorí a predkladá vláde strategické stanoviská týkajúce sa priemyselných štruktúr a zúčastňuje sa privatizačného procesu predkladaním svojho stanoviska ku každému privatizačnému projektu,z pohľadu, ako ovplyvní tento projekt konkurenčné prostredie v príslušnom priemyselnom odvetví.

V zmysle zákona o ochrane , môže Protimonopolný úrad požiadať zakladateľské ministerstvá o rozdelenie podniku v záujme udržania primeranej konkurenčnej štruktúry v rámci priemyselného odvetvia. Vo väčšine prípadov zakladateľské ministerstvá súhlasia so stanoviskom a odporúčaním Protimonopolného úradu a len v prípade malého počtu podnikov sú žiadané rozdeliť ich pred vypracovaním privatizačných projektov.

Protimonopolný úrad je dobre personálne vybavený a dokáže poskytnúť svoje stanovisko k privatizačnému projektu veľmi rýchlo /v priebehu niekoľkých dní/. Úrad vypracuje nezáviské stanovisko ku každému privatizačnému projektu. Takmer vo všetkých prípadoch bolo stanovisko poskytnuté veľmi rýchlo a v súlade s analýzou projektu na MSPNM. V prípadoch, kde Protimonopolný úrad neposkytol súhlasné stanovisko, obdrží kompletný privatizačný projekt vláda a rozhodne o ňom.V prípade niekoľkých podnikov, kde Protimokopolný úrad neposkytol súhlasné stanovisko, vláda predložené návrhy zamietla.

Úloha Protimonopolného úradu žiadnym spôsobom nezdržuje proces privatizácie.

Najvyšší kontrolný úrad SR

Úlohou Najvyššiehio kontrolného úradu je dohliadať na oceňovanie pozemkov a budov, ktoré sa vykonáva podľa špecifických pravidiel. Najvyšší kontrolný úrad preveruje oceňovania v prípadoch, kedy to vyžaduje Parlament, keď to žiada MSPNM, alebo z vlastnej iniciatívy. Jeho účasť teda nie je v privatizačnom procese podmienkou. V takých prípadoch, kde sa NKÚ zúčastňuje privatizačného procesu, vypracuje Protokol, kde zaujme stanovisko k oceneniu pozemkov a budov.

10.5. FÁZA IV. - Vládny kabinet

Od Vládneho kabinetu sa vyžaduje, aby schválil všetky priame predaje. Nedávne prípady schválenia 29-tich priamych predajov podnikov v období dvoch týdňov februára 1994 a ďalších 30-tich v marci 1994 jasne ukázali, že táto fáza nie je procedurálne problematickým miestom v prípadoch, kde má politická moc záujem projekty schváliť. Inými slovami, úloha vládneho kabinetu je "úzkym profilom" len v prípade, že schvaľovací proces sa výrazne spolitizuje.

10.6. FÁZA V. - Fond národného majetku

Fond národného majetku je samostaný a nezávislý právny subjekt, ktorý je riadený jeho Prezídiom, ktoré volí Parlament.

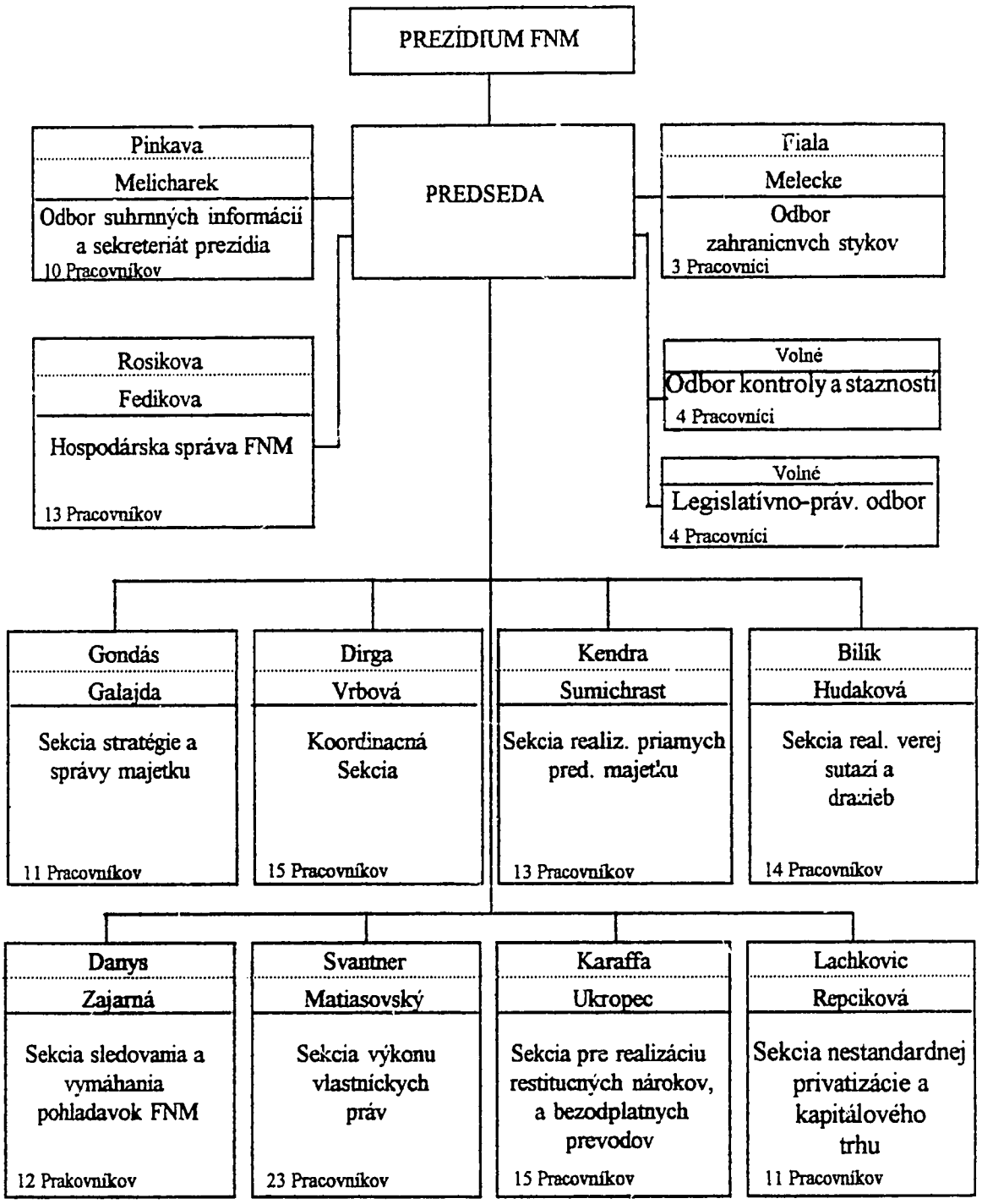
FNM nedávno prešiel veľkými organizačnými zmenami. Vo februári 1994 bol pán Kato poverený vykonávať funkciu predsedu Výkonného výboru FNM. Na Fond nastúpili len nedávno takmer všetci riaditelia /začiatkom r. 1994/ a celá organizácia sa nachádza v procese identifikovania svojich úloh, zodpovedností a postupov prác.FNM má asi 70 pracovníkov /február 1994/ a plánuje sa rozšíriť jeho súčasný stav v priebehu najbližších mesiacov asi na 170 pracovníkov,s podmienkou, že je potrebné nájsť nové priestory ešte predtým ako sa začne náborová kampaň.

V apríli 1994 , ako následok po nástupe novej vlády, parlament zvolil nové Prezídium a menoval nového predsedu Výkonného výboru. V období, kedy sa vypracovávala táto správa, neboli urobené žiadne zmeny na postoch riaditeľov sekcií a oddelení.

Nová štruktúra naznačuje, že 13 funkcií /sekcie, odbory,úrady/priamo podlieha prezidentovi Fondu. Organizačnú štruktúru FNM znázorňuje nasledujúci diagram.

Privatizacný proces Slovenská republika

FOND NÁRODNÉHO MAJETKU



Pracouníci: Plánovaný pocet (bez riaditelov a zástupcov)

Plánovaný pocet pracovníkov vrátane riaditelov/zástupcov: 170

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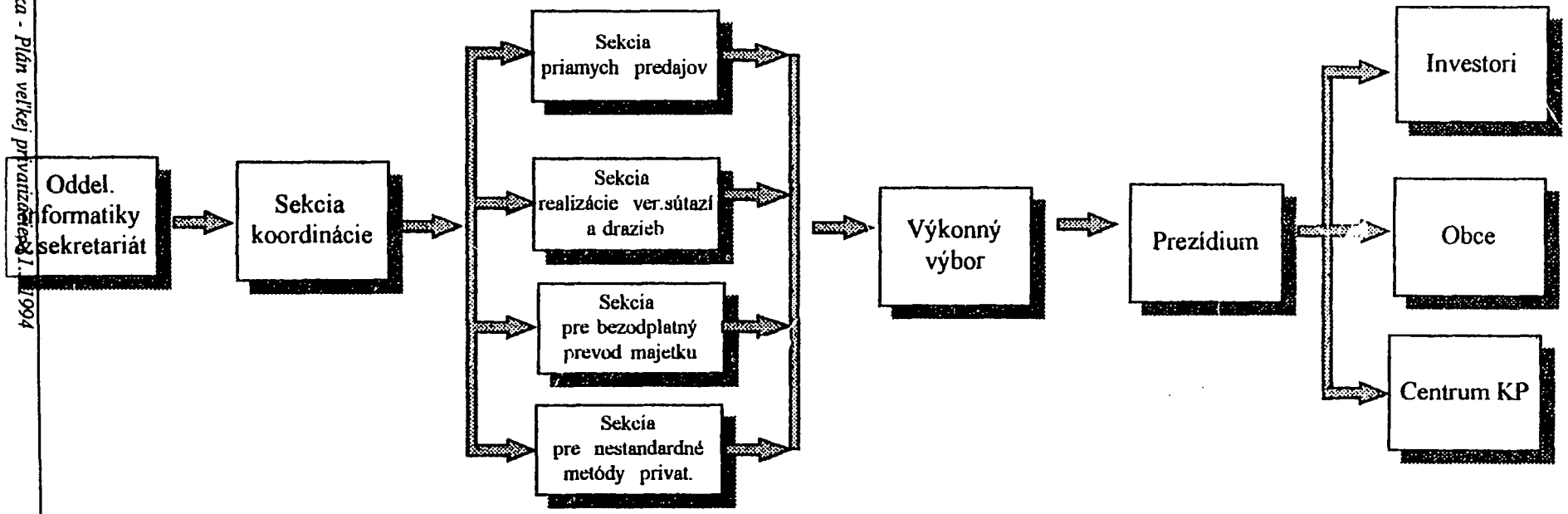
Privatizacný proces - Slovenská republika

FÁZA 4

Fond národného majetku



- Zaregistrovanie projektu
- Vlozenie údajov do informacného systému

- Zalozenie akciovej spolocnosti
- Prevod vlastníctva majetku

- Realizácia privatizácie podla privatizacnej metódy

- Schválenie

- Schválenie

- Prevod

Privatizačné projekty sú postúpené na Fond národného majetku až po schválení MSPNM, alebo v prípade priamych predajov po schválení Vládou. Privatizačné projekty, ktoré sú postúpené na FNM musia byť jasne definované. FNM nemá kompetenciu meniť v projekte aspekty týkajúce sa metódy privatizácie, alebo špecifikácií zmluvy bez predchádzajúceho schválenia na MSPNM.

Na FNM sa vyskytujú niektoré problémy ktoré podstatne vplývajú na privatizačný proces:

* V súčasnosti existujú mnohé problémy v oblasti organizácie a vedenia FNM. FNM nedávno prešiel najväčšími zmenami v personálnom obsadení, z dôvodov abdikácie členov Výkonného výboru. Vo februári 1994 bola navrhnutá a schválená nová organizačná štruktúra a odhadujeme, že FNM nezrýchli svoju činnosť kým bude organizačná štruktúra v zárodku, neskonsoliduje sa vedenie, nezvýši sa stav pracovníkov a nedefinuje sa jasne jeho úloha.

* Rozhodovanie na FNM je veľmi centralizované a mnohí riaditelia sekcií ešte nemajú dosť skúseností, aby si trúfali rozhodovať o podstatných záležitostiach. Následkom toho je, že všetky dôležité rozhodnutia musí vykonávať predseda Výkonného výboru FNM a toto sa stáva organizačným problémom.

* Personálne obsadenie je výrazne poddimenzované v súvislosti s objemom prác týkajúcim sa 2.vlny privatizácie. Plánuje sa rozšíriť stav pracovníkov o viac ako 100 ľudí až na 170 pracovníkov. Predpokladáme, že príjímanie kvalifikovaných pracovníkov bude veľmi obtiažnou a časovo náročnou záležitosťou pri súčasnej platovej úrovni a zmätku, ktorý vládne na FNM. Je teda nevyhnutné vytvoriť teamy, ktoré budú spracovávať projekty a v ktorých by boli zastúpení aj odborníci z oblasti bankových investícií a ekonomickí analytici so širokými skúsenosťami z oblasti transformácie.

* Naša analýza úlohy FNM poukazuje na silnú riadiacu pozíciu, kde je potlačená úloha zameraná viac na predaj. FNM vlastní významné podiely rôznych podnikov , ale namiesto toho, aby sa zameriaval na predaj týchto podnikov, jeho nová organizačná štruktúra venuje podstatne viac zdrojov na riadenie svojho portfólia ako na jeho predaj. Vo všeobecnosti sa toto javí ako slabá orientácia FNM na predaj, hoci predaj by mal byť jeho prvoradým cieľom.

  Následkom zmien vo vláde sa ukazujú silné tendencie , že FNM sa bude orientovať na predaj. Nová vláda indikovala, že sa navrhne politika postupného zbavovania sa

portfólia a že v rámci FNM budú čoskoro vytvorené transakčné teamy. Okrem toho existujú indikácie, že FNM prevezme v riadení podnikov , kde existuje silný súkromný investor,len pasívnu úlohu a v obmedzenom počte strategických podnikov bude z jeho strany zvýšený záujem o ich kontrolu. Politika riadenia podnikov zo strany FNM nebola ešte stanovená.

* V súvislosti so svojou riadiacou úlohou je FNM zapojený aj do procesu dohľadu a kontroly plnenia približne 580 zmluvných záväzkov. Mnoho záväzkov uvedených v zmluvách nebolo splnených, pretože investori nie sú schopní produkovať v bývalých štátnych podnikoch dostatočné zisky a hotovosť na financovanie platieb a investičných záväzkov. FNM nedávno začal právne konania o odňatí majetku, ktorý bol predtým sprivatizovaný.

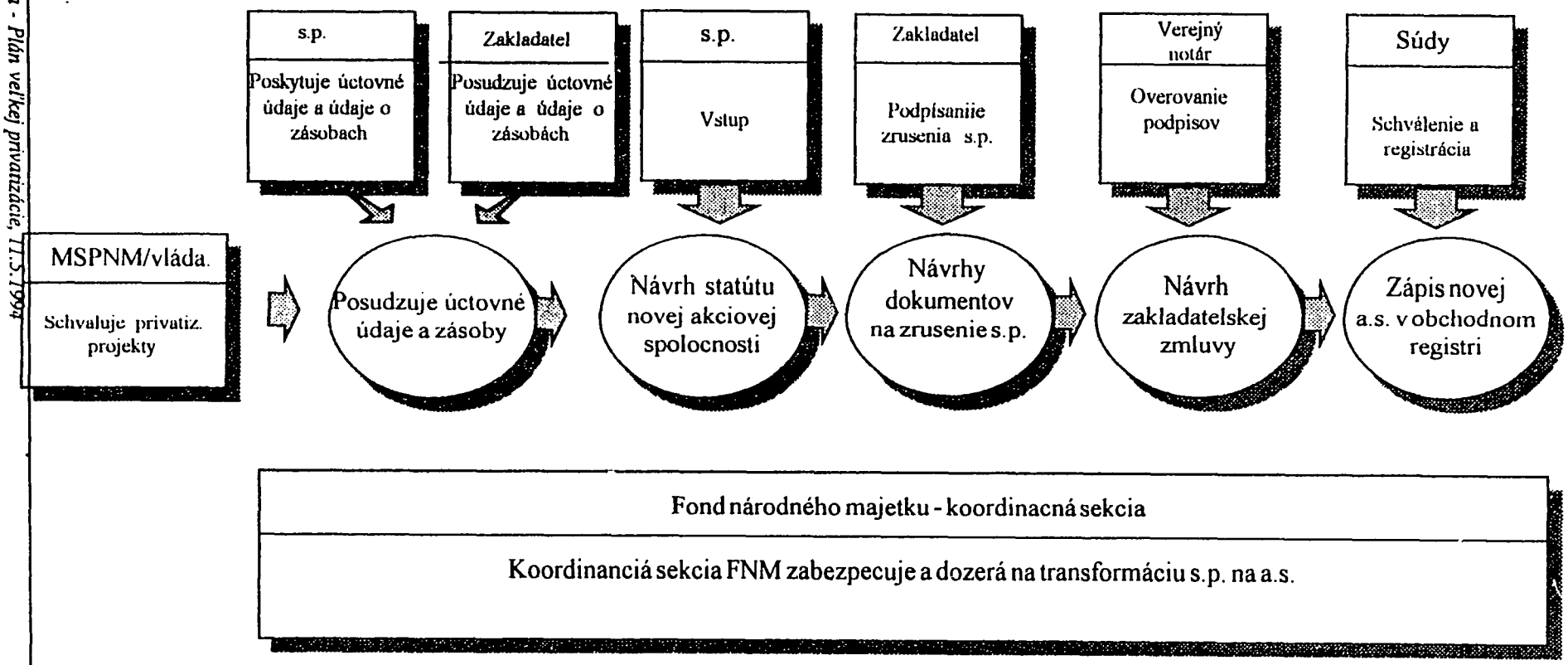
* V súčasnosti nie je stanovená politika odpredaja akcií, ktoré sú vo vlastníctve FNM. Takáto koncepcia sa však práve vypracováva.

Sekretariát a odbor informatiky

Prvým krokom po prevzatí projektu na Fonde je uloženie informácie o tomto privatizačnom projekte do informačného systému FNM. Túto úlohu Sekretariát a Odbor informatiky, vykonáva rýchlo a efektívne. Súčasný informačný systém je založený na samostatne zapojených počítačoch a informácie sa prenášajú pomocou diskiet. FNM plánuje zvýšiť výkonnosť svojho informačného systému a vytvoriť databázovú sieť, ku ktorej budú mať prístup všetci odborníci. Uskutočnenie plánov sa posúva na obdobie, kedy sa FNM presťahuje do väčších priestorov.

Sekcia koordinácie - zakladanie akciových spoločností

ZALOZENIE AKCIOVÝCH SPOLOCNOSTÍ



Aj za najlepších podmienok, zrušenie štátneho podniku a jeho následná transformácia na akciovú spoločnosť, ktorej vlastníkom akcií je FNM a Reštitučný fond /3%/ trvá 30 - 45 dní. Hoci predchádzajúca schéma ukazuje niekoľko úrovní transformácie, potencionálne najdôležitejším miestom v celom procese sa javí byť registrácia akciovej spoločnosti.

Na registráciu akciovej spoločnosti je potrebné schválenie Registračného súdu a podpis sudcu. Za normálnych okolností trvá proces registrácie akciovej spoločnosti približne šesť mesiacov. V prvej vlne sa toto kritické miesto obišlo tzv. "rýchlou cestou" schvaľovania zmlúv podnikov zaradených do 1.vlny privatizácie. Na základe tejto "rýchlej cesty" bolo možné pretransformovať všetky podniky zaradené do 1.vlny kupónovej privatizácie v priebehu 2 mesiacov. Bez podobného rýchleho procesu nebude možné pretransformovať veľký počet podnikov, zaradených do 2.vlny do termínu spustenia kupónovej privatizácie. Preto je teda nevyhnuté čo najskôr uzavrieť dohodu medzi FNM a Ministerstvom spravodlivosti o rýchlej transformácii podnikov.

Iným problémom na tejto úrovni sú potencionálne prieťahy zo strany menežmentu štátnych podnikov pri poskytovaní požadovaných finančných a účtovných údajov a inventarizácia. Tieto sú v zmysle zákona povinné poskytnúť požadované údaje v priebehu jedného mesiaca.

V súčasnosti je najväčší nedostatok pracovných síl v Sekcii pre koordináciu a za súčasného stavu pracovníkov bude veľmi obtiažne pretransformovať rýchlo a v termíne veľký počet štátnych podnikov zaradených do 2.vlny privatizácie. Tejto sekcii by veľmi pomohlo prijať slovenských právnikov, ktorých by financovali medzinárodné organizácie poskytujúce pomoc.

Sekcia pre realizáciu priamych predajov

Úloha FNM pri uskutočňovaní priamych predajov podnikov je z procedurálneho hľadiska relatívne jednoduchá a priama. Všetky kontraktačné jednania prebiehajú pred prijatím projektu na FNM. Úlohou Sekcie pre realizáciu priamych predajov majetku je návrh kúpno-predajnej zmluvy v zmysle špecifikácií uvedených v privatizačnom projekte /pre oba spôsoby predaja majetku alebo akcií/. Túto úlohu je možné splniť v priebehu jedného mesiaca v prípadoch, kde sa nevyskytujú v projekte veľké problémy.

Problémy ovplyvňujúce rýchlosť sa objavujú v projektoch, ktoré sú zastaralé v dôsledku prieťahov od termínu stanovenia podmienok transakcie /okrem iného cena a iné záväzky zo strany kupca sa stávajú neadekvátnymi dôsledkom zmien v rámci podniku v období medzi vypracovaním zmluvy a súčasnosťou/.

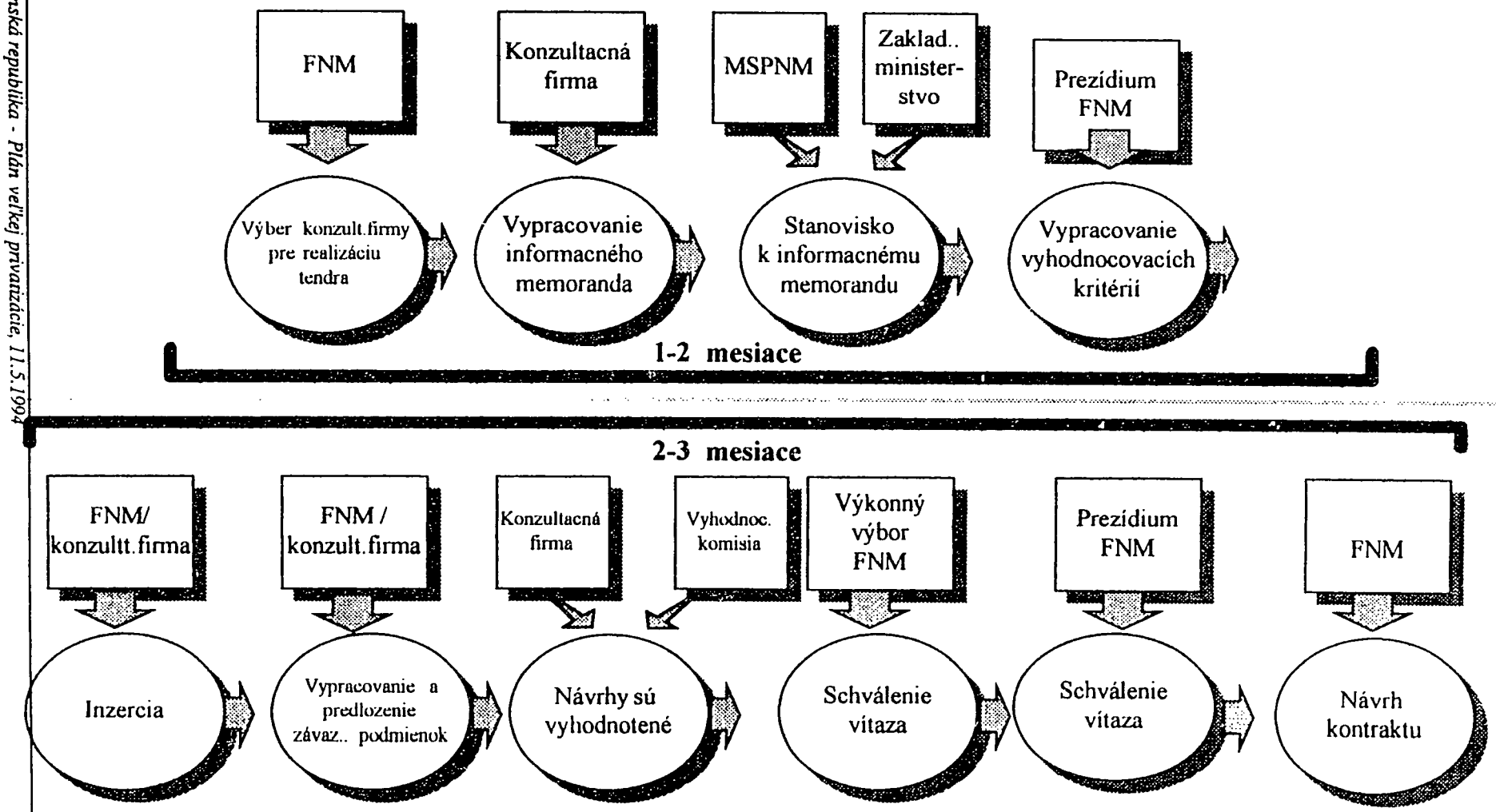
Druhým problémom v prípade priameho predaja sú flexibilné a zvýhodnené platobné podmienky, kde podľa niektorých

kontraktov môžno podpísať transakciu s platbou len 10 - 15% z ceny vopred a zostávajúca časť v splátkach až do 15-tich rokov. Tieto podmienky boli vytvorené na urýchlenie realizácie tejto privatizačnej metódy. Ničmenej, takéto platby s vysokým úverovým zadlžením spôsobujú, že investori nie sú schopní platiť splátky a tým musí FNM riešiť dilemu dostať týchto investorov do bankrotu s tým , že sa im následne odoberie sprivatizovaný majetok, alebo, že nebude vyžadovať plnenie zmluvných záväzkov.

Sekcia pre realizáciu dražieb a verejných súťaží

Privatizacný proces - Slovenská republika

POSTUP PRI VEREJNÝCH SÚTAZIACH



Vo vyhodnocovacej komisii sú zástupcovia :MSPNM, FNM, zakl.ministerstiev, MF, PMU, miestnej správy a Obch.komory. Konzultacná firma predkladá doporucenie vyhodnocovacej komisii.

slovak ppt\kih

Hoci predchádzajúci diagram ukazuje mnoho postupov, ktoré je potrebné pre zorganizovanie verejnej súťaže urobiť, sú tieto nevyhnutné pre zabezpečenie transparentnosti procesu. Uskutočnenie kompletného procesu si vyžaduje najmenej 3 mesiace, ale v skutočnosti trvá zorganizovanie verejnej súťaže 5 až 6 mesiacov.

Vo februári 1994 je v procese konania asi 100 verejných súťaží. Väčšina týchto prípadov je v súčasnosti ešte ďaleko od vyriešenia v dôsledku pozastavenia rozhodovacieho procesu v časti Prezídia FNM.

Hlavný problém v tomto procese sa týka Prezídia FNM, ktorého úlohou je schváliť kritériá verejnej súťaže a nakoniec vymenovať víťaza . Na tejto úrovni by sa mali rozhodnutia robiť rýchlejšie a dalo by sa to zabezpečiť pravidelnými stretnutiami Prezídia FNM, do programu ktorých by mali byť zahrnuté aj verejné súťaže.

Pri pohľade na diagram je jasné, že víťaza musí schváliť Vyhodnocovacia komisia, Výkonný výbor a Prezídium FNM. Schvaľovanie na všetkých troch úrovniach spomaľuje tento proces a možno je zbytočné.

Sekcia neštandardných metód privatizácie

Úloha FNM pri kupónovej privatizácii nie je veľmi rozsiahla. Sekcia neštandardných metód privatizácie a kapitálových trhov jednoducho zaisťuje, aby podniky zaradené do kupónovej privatizácie boli pretransformované na akciové spoločnosti a boli pripravené zúčastniť sa programu kupónovej privatizácie.

Problematickou úlohou Fondu národného majetku v súvislosti s kupónovou privatizáciou je transformovanie podnikov, ktoré vykonáva Koordinačné oddelenie, ktorého funkciou sme sa už zaoberali.

11.0 ROZPOČTY

11.1 Ministerstvo pre správu a privatizáciu národného majetku

Ročný rozpočet ministerstva je súčasťou štátneho rozpočtu schváleného Parlamentom. Väčšine ministerstiev bol rozpočet oproti roku 1993 podstatne skrátený. Ministerstvu pre správu a privatizáciu sa zredukoval o 50% pre vnútorné výdavky /nájom, kancelársky materiál, atď./ a o 50% pre investície.Čísla v tabuľke predstavujú nominálne hodnoty, a preto sú reálne redukcie následkom inflácie väčšie.

Rozpočet MSPNM

SK 1,000	1990	1991	1992	1993	1994
Výdavky na platy	1,104	7,965	13,027	16,282	16,223
Kancelárske potreby	1,903	9,077	13,882	14,965	9,563
Investície	1,273	8,446	2,700	1,000	500
Výdavky a invest.	5,280	25,488	29,609	32,247	26,286
Počet zamestnancov	32	104	133	140	160
Plat/pracovníka /v SK/mes./		6,382	8,162	9,692	8,449

Rozpočet pre platy zamestnancov je na tej istej úrovni ako bol v roku 1993, ale počet zamestnancov sa zvýšil o 20. Momentálny počet zamestnancov na ministerstve je zatiaľ 140, výška rozpočtu však nedovoľuje zvýšiť ho, hoci je plánovaných 160 zamestnancov.

Platová politika je pre všetky ministerstvá pevne stavovená. Následkom toho má ministerstvo problémy udržať si súčasný stav pracovníkov z dôvodov nekonkurečnej mzdovej politiky, ktorá by motivovala nových odborníkov a dokonca aj nedostatkom finančných zdrojov pre platy súčasných zamestnancov nútených pracovať nadčas a počas víkendov, aby zredukovali nahromadené množstvo práce. Ministerstvo nemôže dosiahnuť zvýšenie platového rozpočtu pre rok 1994 bez toho, aby Ministerstvo financií nezredukovalo rozpočet niektorému inému ministerstvu, v súlade so zákonom, ktorý prijal Parlament spolu so štátnym rozpočtom pre rok 1994. V praxi je to teda takmer nemožné, pokiaľ sa záležitosť neposúdi na najvyššej úrovni ako nevyhnutnosť /otázka vládneho kabinetu/.

V októbri 1993 sa otázka rozpočtu podrobne prediskutovala so zástupcami Svetovej banky. Boli sme informovaní, že Svetová banka ponúkla Ministerstvu privatizácie japonský grant na účely technickej pomoci , v nasledujúcom rozsahu:

Technická pomoc pre MSPNM. Rozpočet z 27.10.1993, Svetová banka

	počet	plat/mesiac SK	mesiacov	celkom SK
Právnici	10	31,500	12	4,500,000
Odborníci	15	12,000	12	2,160,000
Počítače	25	40,000	-	1,000,000
Tlačiarne	15	30,000	-	450,000
Celkom	-	-----		8,110,000

Zdá sa, že v oblasti formy pomoci vznikli určité nejasnosti.Dozvedeli sme sa, že finančné prostriedky by mali byť použité na financovanie krátkodobej mimoministerskej pomoci prostredníctvom slovenských právnikov a odborníkov /a nie prostredníctvom zahraničných expertov, ktorí neovládajú slovenskú legislatívu a jazyk/. Dokonca niektorí ministerskí pracovníci argumentujú, že privatizačný proces a legislatíva sú veľmi komplikované a trvalo by viac ako 6 mesiacov vyškoliť nových odborníkov, čo by museli urobiť súčasní pracovníci,čím by sa ich výkonnosť v tomto období znížila. Ich názor je, že by bolo lepším riešením použiť prostriedky na financovanie súčasných pracovníkov, ktorí budú pracovať nadčas.

Zdá sa tiež, že sú aj určité nejasnosti týkajúce sa oficiálneho postupu pre získanie pomoci, ktorú ponúkla Svetová banka a Japonský fond.

11.2 Fond národného majetku Slovenskej republiky

V zmysle zákona má FNM predložiť Parlamentu návrh svojho rozpočtu na schválenie najneskôr do 30.apríla. Postup týkajúci sa schvaľovania rozpočtu je nasledovný:

* Schválenie Dozornou radou FNM
* Schválenie Prezídiom FNM
* Schválenie Vládnym kabinetom
* Schválenie Parlamentom

Do konca marca 1994 bol rozpočet pre rok 1994 schválený len Dozornou radou FNM. Hoci nové Prezídium FNM bude menované v najbližšom čase, má súčasné Prezídium formálne oprávnenie schváliť navrhnutý rozpočet.

Kľúčové predpoklady, na základe ktorých bol rozpočet FNM na rok 1994 navrhnutý:

* FNM sa má sťahovať do nových priestorov /v priebehu mája/vo vedľajšej budove.Budova, ktorá sa práve renovuje , má kapacitu kancelárií pre cca 170 ľudí a bolo tam

prevedené prekáblovanie, ktoré spája všetky pracoviská prostredníctvom počítačovej siete.

* Začalo prijímanie nových pracovníkov s cieľom zvýšiť stav na plánovanú úroveň 170 pracovníkov. Každá sekcia je v rámci svojho pôsobenia sama zodpovedná za prijímanie nových pracovníkov.

* Bol zriadený výbor pre informačnú technológiu a každý riaditeľ mal nahlásiť svoje požiadavky. V najbližšej budúcnosti bude vyhlásená verejná súťaž na zriadenie novej počítačovej siete tak, aby bol systém v dobe sťahovania do nových priestorov v činnosti.

* Platový rozpočet odráža cieľový stav 170 pracovníkov.

Nasledujúca tabuľka uvádza navrhovaný rozpočet FNM na rok 1994:

FOND NÁRODNÉHO MAJETKU
Operatívny rozpočet na rok 1994
v miliónoch SK

Náklady na výdavky spojené s privatizáciou	
Náklady na verejné súťaže a dražby	600.00
Náklady na predaj akcií na kapitálovom trhu	2.00
Výdavky na počítače a informačný systém	1.00
Iná podpora privatizácie	20.00
Výdavky na platby spojené s vydaním obligácií	
Rezerva rozpočtu	50.00
Medzisúčet	773.00
Prevádzkové výdavky	
Kancelársky materiál	1.60
Pohonné hmoty	3.00
Energia a voda	1.90
Opravy	1.20
Telekomunikácia a poštové služby	3.50
Nájomné	6.00
Sklady,preprava,príslušenstvo budov	1.70
Nákup MTZ	15.00
Výdavky na dopravu,upratovanie,prekladateľské služby, software, atď	10.00
Iné výdavky	0.30
Mzdy a iné osobné výdavky	38.18
Sociálny fond, poistenie, zdravot.starostl.,atď.	16.65
Medzisúčet	99.03
Investície	
Administratívna budova	180.00
Ubytovacie zariadenie	90.00
Vozidlá	5.00
Kopírovacie stroje	5.00
Počítačová sieť a počítače	25.00
Komunikácie /Eurotel/	1.00
Medzisúčet	306.00
Výdavky a investície	1,178.03

12.0 Uskutočnenie kupónovej privatizácie

Spustenie 2.vlny kupónovej privatizácie vyžaduje celý komplex činností a množstvo práce, aby sa podarilo jej zahájenie ešte pred koncom roka 1994. Na druhej strane nasledujúce postupy budú v podstate tie isté ako u 1.vlny, legislatívny rámec je daný a všetky inštitúcie, ktoré sa jej zúčastnia tiež existujú a môžu čerpať zo skúseností z 1.vlny.

Hoci mnohé inštitúcie a výkonné procedúry budú podobné ako v 1.vlne, mnohé kľúčové osobnosti, ktoré pracovali v 1.vlne, nebudú zapojené do práce v 2.vlne.

V podstate, kupónový program je možné rozdeliť do dvoch hlavných okruhov činností: určiť podniky, ktoré sa zapoja do programu a počet akcií podniku. Za vyčlenenie podnikov zodpovedá v prvom rade MSPNM, ktoré úzko spolupracuje so zakladateľskými ministerstvami, FNM a Ministerstvom spravodlivosti. Na záver schvaľuje zoznam podnikov , ktoré pôjdu do kupónového programu, vláda.

Za uskutočnenie všetkých aspektov kupónového programu, ktoré sa týkajú zabezpečenia toho,aby účastníci /občania a súkromné investičné fondy/ získali akcie určených podnikov,podľa pravidiel kupónového programu, zodpovedá Ministerstvo financií. Ministerstvo financií spolupracuje s Centrom kupónovej privatizácie, poštovými úradmi a RM-Systémom.

Kľúčové inštitúcie a ich úlohy:

* *Koordinačná skupina pre kupónovú privatizáciu* - Túto skupinu tvoria zástupcovia Ministerstva financií, MSPNM, FNM, Centra kupónovej privatizácie a RM_Systému. Ich úlohou je vypracovať a koordinovať plán pre uskutočnenie kupónového privatizačného programu, ktorý sa predloží na schválenie vláde. Táto skupina bola vytvorená na základe iniciatívy MSPNM a bude dohliadať na celý priebeh kuponového privatizačného programu.

* *MSPNM* - Ministerstvo je zodpovedné za výber a schválenie podnikov, ktoré budú privatizované prostredníctvom kupónovej privatizácie ako aj za stanovenie počtu percent majetku každého podniku, ktorý bude privatizovaný prostredníctvom kupónov. Pri výbere podnikov bude MSPNM spolupracovať so zakladateľskými ministerstvami a vypracuje návrh zoznamu štátnych podnikov. Tento zoznam bude potom predložený vládnemu kabinetu na Schválenie.

  MSPNM je tiež zodpovedné za zabezpečenie toho, že privatizačné projekty vybratých podnikov boli schválené a postúpené na FNM, kde sa v termíne pretransformujú na akciové spoločnosti, aby sa mohli zúčastniť kupónovej privatizácie. Za súčasných podmienok /zmeny v

privatizačnom zákone/ má MSPNM právo zmeniť privatizačný projekt. Očakáva sa však, že bude potrebné dohodnúť sa na istých kompromisoch so zakladateľskými ministerstvami, predtým ako dôjde ku zmenám v projektoch.

* *Fond národného majetku* - FNM je zodpovedný za transformáciu štátnych podnikov na akciové spoločnosti. Tento proces sa deje v kooperácii s Ministerstvom spravodlivosti, v ktorého kompetencii je založenie a registrácia akciových spoločností v Obchodnom registri Slovenskej republiky.

* *Ministerstvo financií a Centrum kupónovej privatizácie* Toto ministerstvo je zodpovedné za realizáciu kupónového programu z hľadiska dopytu /teda občanov/. Centrum kupónovej privatizácie ako súčasť Ministerstva financií dohliada na všetky organizačné aspekty priebehu, ako napr.tlač kupónov, zriadenie registračných miest, distribúciu kupónov, mechanizmus oceňovania v jednotlivých kolách, atď.

  Ministerstvo financií je teda zodpovedné za uverejnenie predbežného zoznamu podnikov zaradených do kupónovej privatizácie a konečného zoznamu podnikov, ktorý bude obsahovať detailné finančné informácie o každom zaradenom podniku.

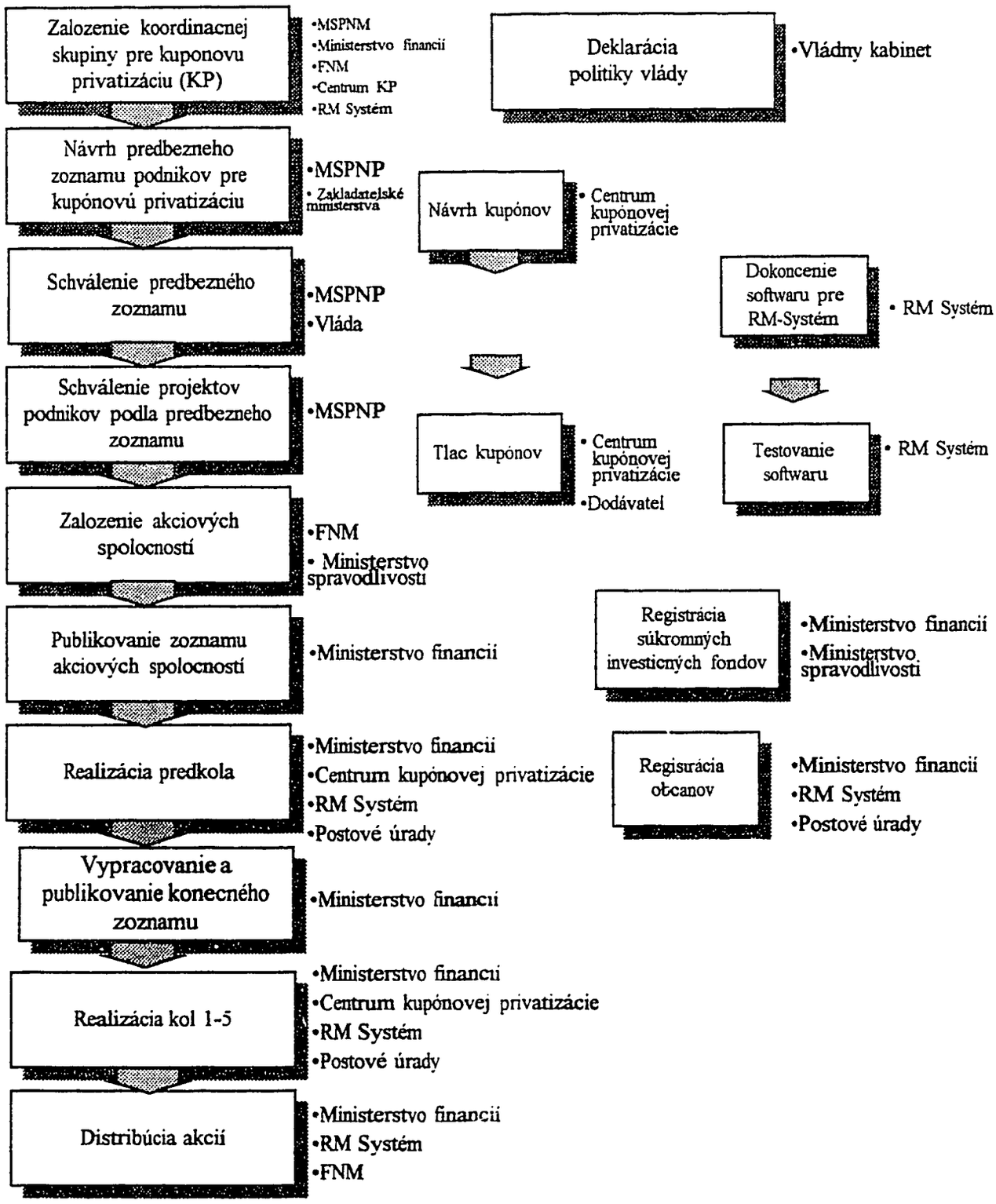
* *Slovenské poštové úrady* - Poštové úrady , sú so svojimi viac ako 3.000 strediskami miestami, kde sa predávajú kupónové knižky ako aj strediskami, kde sa sústreďujú ponuky občanov

* *RM Systém /100% vlastníkom je Podnik výpočtovej techniky-PVT/* - RM Systém je súčasne "trhom" ponúknutých bodov v priebehu rôznych kôl, miestom vstupu pre spracovávanie ponúk a informačným systémom kde sa podávajú správy a kontroluje sa stav ponúknutých bodov účastníkov. RM Systém vznikol v priebehu 1.vlny privatizácie a bude plniť rovnakú úlohu aj v druhej vlne. RM Systém sa po skončení 1.vlny stal dôležitou aktívnou "burzou" , alebo aukčným miestom, ktoré bude pracovať v podstate za rovnakých aukčných podmienok aj v druhej vlne kupónovej privatizácie. RM Systém má 160 obchodných miest, 52 okresných výpočtových centier, 10 veľkých centier a hlavné počítačové centrum v Bratislave. V súčasnosti zamestnáva asi 1.600 pracovníkov.

Je potrebné zvládnuť veľa praktických úloh, aby kupónová privatizácia úspešne prebehla. Kľúčové kroky ukazuje nasledujúci diagram:

Privatizacný proces Slovenská republika

REALIZÁCIA KUPÓNOVEJ PRIVATIZÁCIE



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Je treba uskutočniť nasledujúce hlavné kroky:

* Vláda musí vypracovať politiku kupónovej privatizácie, zverejniť ju v rámci oficiálneho programového vyhlásenia vlády, aby sa tým určil jasný mandát všetkých inštitúcií začlenených do kupónového programu.

* Je nutné zriadiť Koordinačnú skupinu,aby vypracovala a schválila plán priebehu kupónovej privatizácie a jeho časový priebeh a určila zodpovednosti a právomoci, ktoré budú mať jednotlivé inštitúcie. Je nutné, aby sa táto skupina vytvorila čo najskôr , úzko spolupracovala a bola jadrom a katalyzátorom rýchlej a úspešnej realizácie KP.

* MSPNM musí vypracovať predbežný zoznam podnikov zaradených do kupónového programu spolu s objemom majetku, ktorý sa bude privatizovať formou kupónov. Tento zoznam je nutné vypracovať v spolupráci so zakladateľskými ministerstvami a musí byť schválený vládou. Expert poskytnutý v rámci technickej pomoci by mohol spolupracovať pri stanovovaní kritérií výberu.

* MSPNM musí tiež zaistiť, aby projekty týchto podnikov boli urýchlene schválené a postúpené na FNM. Toto si bude vyžadovať od pracovníkov MSPNM tvrdú prácu a veľa nadčasov. Predpokladá sa, že MSPNM bude žiadať o technickú pomoc zo strany slovenských právnikov a finančných analytikov, ktorí sú dobre oboznámení s procesom schvaľovania privatizačných projektov, aby sa projekty schválili v čo najkratšom čase.

* FNM a Ministerstvo spravodlivosti musia spolupracovať a dohodnúť sa na "rýchlej ceste" transformácie podnikov na akciové spoločnosti. V opačnom prípade bude trvať tento proces, týkajúci sa jedného podniku, až šesť mesiacov.

  Ministerstvo financií a Ministerstvo spravodlivosti musia hľadať aj rýchlu cestu registrácie nových investičných fondov, aby sa tieto mohli v termíne zapojiť do kupónového púrogramu.

* Plánovanie a uskutočňovanie marketingu a verejnej propagačnej kampane, smerom k slovenským občanom, na získanie podpory a pochopenie kupónového programu, ako dôležitej súčasti prechodu na trhovú ekonomiku. Táto oblasť je mimoriadne dôležité vzhľadom na nedávny zmätok okolo procesu privatizácie.

Ostatné kroky v procese sú v podstate závislé od predchádzajúcich bodov. Priebeh kupónovej privatizácie na úrovni Ministerstva financií, Centra kupónovej privatizácie a RM-Systému nenaráža na žiadne vážne prekážky.

* Centrum kupónovej privatizácie už navrhlo dizajn kupónových knižiek, a prejednalo objednávku na ich tlač. Je už treba len určiť termín spustenia KP a mandát.

* RM-Systém v súčasnosti pracuje a jeho predstavitelia potvrdili, že nebudú mať problémy s uskutočnením druhej vlny kupónového programu. Jedinou prekážkou pred spustením druhej vlny je modifikácia softwarovej databázy, ale táto by mala byť ukončená v priebehu dvoch mesiacov po obdržaní mandátu.

The Slovak Republic
Large Scale Privatisation Plan

Volume II
Action Plan for the Privatisation Process

Working Draft

Claus Frost-Hansen
Robert Antonides
David Kochav
11 May 1994

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INTRODUCTION

The privatisation programme in the Slovak Republic is a key element of the transformation from a centrally planned economy to an efficient and internationally competitive, market oriented economy. The goal of the privatisation programme is to ensure that the largest number of viable, state owned enterprises and entities are successfully converted to privately-held enterprises in the shortest possible time frame.

The Slovak Ministry of Administration and Privatisation of National Property has requested technical assistance from the United States Agency for International Development (USAID) to assist in the development of a Privatisation Plan. The privatisation Plan is presented as part of the actions to be undertaken by the Government of the Slovak Republic to comply with the conditionalities of the World Bank Economic Recovery Loan, approved on 2 December 1993. The plan has also been developed in order to simplify and clarify procedures and decision-making for the privatisation process, and to develop a specific internal action plan that will allow the acceleration of the privatisation process.

The Privatisation Action Plan presented in this document is the result of the work performed by the staff of the Ministry of Administration and Privatisation of National Property (MAPNP) of the Slovak Republic in conjunction with advisors from Deloitte & Touche Management Consultants during the period from 7 February to 11 May 1994. The action plan has been reviewed by key staff of the MAPNP but full revisions have not been included and hence the document remains a "Working Draft."

The privatisation action plan presents the privatisation strategy of the Slovak Government as communicated in April 1994 and its implementation action plan. It addresses, specific action plans for each of the components of the privatisation strategy (voucher privatisation programme, privatisation through standard methods, restructuring prior to privatisation programmes, and privatisation of strategic enterprises). The plan also presents plans for institution building programmes at the MAPNP and the FNP, and identifies support programmes from external agencies.

During the period the study was undertaken and the Privatisation Plan developed, the Slovak Republic experienced a change in Government and in privatisation policy in mid-March 1994. This action plan reflects the privatisation strategy and action plan of the new coalition Government that was formed on March 1994.

We would like to express our deepest gratitude to the staff of the MAPNP, particularly our counterparts Mr. Jan Porvaznik, Ms. Iva Kutarnova, and Mr. David Frankel, for their assistance in preparing this study and providing introductions to key individuals and institutions involved in the privatisation process. Likewise we express our thanks to the many individuals interviewed (see following list) and who provided us with their insights into the privatisation process, the bottlenecks and the key issues of privatisation in the Slovak Republic. Finally, we would like to thank USAID for its support of this study.

We would like to indicate that although this document is the is the output of the study undertaken, perhaps more value has been achieved from the actual process of undertaking the study. During the period the study was undertaken, the MAPNP has strengthened its relations with international organisations, has sought and achieved increased technical assistance from organisations such as USAID and EC PHARE, and has begun the process of improving the image of the Slovak Republic as an attractive investment destination. During the process of developing this study the consultants have assisted the MAPNP in achieving these important tasks.

11 May 1994,
Claus Frost-Hansen
Robert Antonides
David Kochav

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List of People Met

Ministry of Administration and Privatisation of National Property (MAPNP)

- Milan Janicina, Minister
- Gabriel Palacka, State Secretary
- Mr. Ivan Lexa, Former State Secretary
- M. Kozlik, Director, Legal Section
- M. Novakova, Legal Section
- F. Doktor, Legal Section
- Jan Porvaznik, Director, Privatisation Industrial Enterprises
- Ludovit Zachar, Privatisation Industrial Enterprises
- Marta Bogdanova, Privatisation Industrial Enterprises
- J. Janik, Director, Privatisation Agriculture
- Dezider Mosny, Deputy, Privatisation Agriculture
- Rastislav Zboril, Director, Privatisation Non Productive Enterprises
- Peter Rosa, Director
- M. Prutzerova, Director, Finance and Personnel
- Dusan Kasan, Deputy, Finance and Personnel
- M. Kuchta, Head, Database Section
- Igor Uhrik, Advisor to the Minister
- Mr. Michalko, Voucher Privatisation
- David Frankel, Advisor
- Iva Kutarnova, International Relations
- Mirko Turcan, International Relations

Fund for National Property (FNP)

- Mr. Kato, Former Chairman of the Executive Committee
- Dusan Fiala, Director, EC Phare PMU
- Mr. Pinkava, Director
- Lubomir Melicharak, Management Information System
- Karol Danys, Director
- Ivan Gondas, Director
- Galajda, Deputy
- Michal Dirga, Director
- Vrbova, Deputy
- Pavol Kendra, Director
- Mr. Sumichrast, Deputy
- Jaroslav Bilik, Director
- Mr. Hudakova, Deputy
- Dusan Svantner, Director
- Mr. Karaffa, Director
- Mr. Ukropec, Deputy
- Mr. Lachkovic, Director
- Danica Dvorakova
- David Douglas, Advisor
- Simon C. Hawken, Advisor

- Volker Hillebrandt, Advisor

Ministry of Economy
- Jozef Petras, Director, Department of Financial Policy
- Darina Volfova
- Ms. Novemska

Ministry of Land Ressources (Agriculture)
- Vadim Haraj, Director

Ministry of Finance
- Jozef Magula, Head of Section

Ministry of Culture
- Ivan Izakovic, Vice Minister

Ministry of Health
- Eduard Simko, Former Director

Ministry of the Interior
- Vladimir Belo-Caban, Director, Ministry Office
- Jozef Liska, Director, Internal Administration

Ministry of Transport, Communication and Public Works
- Jan Ricotti
- Marian Stefanek

Center of Coupon Privatisation
- Matus Sramek, Director
- Jan Filipek

RM System Slovakia a.s.
- Darina Huttova, Deputy Director

Supreme Audit Office
- Marian Vrabec, Managing Director
- Peter Sokol, Deputy

Slovak Antimonopoly Office
- Eugen Jurzyca, Director

Slovak National Agency for Foreign Investment and Development (SNAFID)
- Jana Cekanova, Sales Executive
- Lenka Jasencakova, Public Relations

European Bank for Reconstruction and Development
- Igor Tham, Resident Representative

VUB Invest i.a.s.
- Ladislav Vaskovic, General Director
- Jozef Oravkin, Manager

Creditanstalt Securities a.s.
- Peter Foltion, Chief Executive Officer
- Ivan Benda, Managing Director

Creditanstalt Investment Company a.s.
- Martin Cabadaj, Managing Director

Centurion East European Mining Plc, UK
- Michael J. E. Foster, Managing Director

Overseas Private Investment Corporation
- Barbara F. Brereton, Investment Services Officer

The World Bank
- Yves Duvivier
- Robert E. Anderson

US Embassy
- Ted Russell, Ambassador
- Chris Sandrolini

U.S.A.I.D.
- Patricia J. Lerner, Representative to Slovakia
- Marian Krsko, Project Advisor

Deloitte & Touche
- Bob Wood, Partner in Charge
- Lubomir Haluska, Partner

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1.0 MISSION STATEMENT

The Government of the Slovak Republic views the privatisation of State property as a key component in the transformation of the economy into an efficient and internationally competitive economy. Therefore, the Government will pursue a vigorous privatisation policy that will ensure that by the completion of the voucher privatisation programme at least 50% of State property will be privatised. The voucher programme, alone will be the method utilised to privatise at least 33% of State property.

The Government will achieve these objectives by means of both standard and non-standard privatisation methods.

The voucher programme will encompass enterprises from all sectors of the economy, including some of the most attractive investment opportunities. Shares of large enterprises currently held in the Fund of National Property will also participate in the voucher programme. The voucher programme will not be a residual method of privatisation, but may be used as the primary method of privatisation. It is the objective of the Government that by the end of 1994, the voucher programme will be well within its implementation plan, and hence, that the volume of assets of the programme will contribute towards the 1994 privatisation target objective.

The Government will also speed up the privatisation by standard methods, according to already prepared privatisation projects. Therefore, enterprises (or parts of enterprises) will be offered to solvent domestic and foreign investors able to prove their credibility and submit proposals that are attractive not only in financial terms but also in terms of business plans and future investments in the enterprises. In order to attract foreign investment, the Government will identify some 30 to 50 enterprises which will be privatised through international public tenders with the assistance of international organisations and transaction implementation teams with experience in corporate finance and access to potential international investors.

Co-operation between the Fund of National Property, the MAPNP and the Government will be a key instrument in the success of the privatisation programme. A strategy for divestiture of FNP share holdings will be developed. The FNP will co-operate with the MAPNP in order to speed the sale of shares in its portfolio in the most beneficial way for the Slovak Republic.

Strategic enterprises will be identified and a privatisation policy towards these enterprises will be developed. Strategic enterprises will include the energy and utility enterprises and those in the armament industry. For these enterprises, the State will hold a controlling interest in the short run; while restructuring and regulation of the industries is developed.

Finally, the Government will open the privatisation process in order to enhance transparency and equality to all participants. The focus on the voucher programme,

alone, will enhance the transparency of the process. In order to enhance competition in when implementing standard methods, bid selection criteria will be developed and made public. A communications campaign will also be engaged in order to communicate both the goals of the privatisation strategy and the practical implementation matters of the voucher privatisation programme. The Government will also examine the obscure privatisation approvals on the last days of the previous Government in order to provide credibility to the overall privatisation process.

2.0 STATE PROPERTY AS OF 1/1/94

2.1 Basis for Privatisation Target and Definition of Privatised

The privatisation Plan is presented as part of the actions to be undertaken by the Government of the Slovak Republic to comply with the conditionalities of the World Bank Economic Recovery Loan, approved on 2 December 1993. The plan has also been developed in order to simplify and clarify procedures and decision-making for the privatisation process, and to develop a specific internal action plan that will allow the acceleration of the privatisation process.

For the purposes of monitoring the performance of the privatisation programme against its stated objectives, this section will present the definitions of privatised property as well as define State property as of 1/1/94.

Definition of Privatised

- An enterprise will be defined as privatised only when over 50% of its shares are owned and controlled by a private entity. To meet this criteria, it is therefore not sufficient for the State assets to have been transformed into Joint Stock Companies if they are owned by the FNP.

- When over 50% of an enterprise's shares are controlled by a private entity(s), then all the shares of the enterprise will be considered privatised, even though the FNP may hold up to 49% of the shares.

- Likewise, when only less than 50% of the shares are controlled by a private entity(s), then all the shares of the enterprise will be considered in State hands and none of the value of the privately held shares will contribute towards the privatisation target even though up to 49% of the enterprise's shares may be privately held.

- Shares of enterprises held in the Slovak Restitution Fund (3% of each joint stock company) will be considered State held shares.

- The unit of value to be utilised for monitoring the performance of the privatisation process will be book value of equity for the state owned enterprises that have not yet been transformed into Joint Stock Companies, and the value of the shares according to the Fund of National Property for enterprises where the FNP holds a majority stake.

2.2 State Property on 1/1/94

Given the non-integrated information systems at the FNP, MAPNP and the Founding Ministries combined with the implementation of liquidations and the addition of enterprises to the official list of Wave Two enterprises, it is very difficult to provide an exact figure of the amount of State property on 1 January 1994.

In order to derive a figure for State Property as of 1 January 1994, we will:

- Provide the actual number of enterprises and their total share value, for enterprises where the FNP holds a majority holding. The information will be derived from the information system of the FNP.

- Provide the actual number of enterprises (and their book value of equity) for enterprises whose projects have reached the MAPNP and are currently being processed. The data will be derived from the information system of the MAPNP.

- Estimate the number of enterprises and the book value of equity for enterprises whose projects have not yet reached the MAPNP. This last component will be difficult, and will be based on an analysis of the number and book value of all Wave Two Enterprises as measured in the fall of 1991 combined with estimates of the number of liquidations and additions of enterprises to the official list of Wave Two companies.

Using this approach, it is true that the total figure for State Property will comprise of *Share Capital* (Shares at the FNP) and *Book Value of Equity* (Enterprises at the MAPNP and the Founding Ministries). However, this approach is followed for simplicity sake and considering that the share value of enterprises at the FNP is closely related to the book value of equity only adjusted downward by some 10%.

State Property at the Fund of National Property

On 1 January 1994, the National Property Fund of the Slovak Republic held shares in 558 enterprises with a total subscribed capital of SK 136.7 billion of which the FNP held shares with a value of SK 47.9 billion and the Slovak Restitution Fund held shares with a value of SK 3.8 billion. The distribution of the holdings by the FNP according to participation in an enterprise is presented in the table below:

FNP Holdings on 1/1/94

Participation of FNP	No. of Joint Stock Companies	Total Subscribed Capital	Shares of FNP
0 - 10%	190	35,385	1,494
10 - 33%	194	31,758	5,975
33 - 47%	57	28,427	11,544
47 - 50%	16	5,537	2,161
50 - 66%	32	6,521	3,508
66 - 100%	69	27,888	23,168
TOTAL	**558**	**136,737**	**47,850**

* Source: Fund of National Property.
* All figures in SK million.

From the table above, it is clear that the FNP held over 47% of the shares in 117 joint stock enterprises with a total subscribed capital of SK 40 billion. The 47% figure is significant because 3% of the shares of each of the joint stock companies are placed in the Slovak Restitution Fund and hence in State hands, and when the two are added they constitute a majority stake.

For the purposes of this plan and given the definitions presented in this section, the 117 enterprises with a total subscribed capital of SK 40 billion will be defined as State property. A detailed list including all enterprises in which the FNP holds shares, the share capital of each enterprise and the percentage held by the FNP (as of 1/1/94) is provided in the annex.

The structure of the FNP holdings changed very little during the first quarter of 1994. The table below reflects the FNP holdings on 25/3/94.

FNP Holdings on 25/3/94

Participation of FNP	No. of Joint Stock Companies	Total Subscribed Capital	Shares of FNP
0 - 10%	191	35,512	1,455
10 - 33%	195	49,307	10,565
33 - 47%	55	10,589	4,071
47 - 50%	16	5,537	2,161
50 - 66%	32	8,158	4,840
66 - 100%	73	29,075	24,283
TOTAL	**562**	**138,178**	**47,375**

* Source: Fund of National Property.
* All figures in SK million.

A detailed list including all enterprises in which the FNP holds shares, the share capital of each enterprise and the percentage held by the FNP (as of 25/3/94) is provided in the annex.

State Property at the MAPNP

On 1 January 1994, the MAPNP had Wave Two privatisation projects for 453 State Owned Enterprises with a book value of equity of SK 213.7 billion.

However, of these the MAPNP had approved 44 privatisation projects resulting in 64 privatisation outputs with a book value of equity of SK 5.8 billion. These outputs have been forwarded to the FNP and therefore are listed in the information system of the FNP.

Number and Book Value of Equity of Enterprises Processing at MAPNP (1-1-94)

	Number	Book Value of Equity (SK billion)
Entering State Owned Enterprises	453	213.7
Less:		
Approved Privatisation Projects (Privatisation Outputs)	44 (64)	5.8 (5.8)
Net Currently Processing at MAPNP	**409**	**207.9**

Proposed Privatisation Methods for Approved Wave Two Enterprises (1-1-94)

	Number	Book Value of Equity (SK million)
Direct Sale of State Property	13	1,311
Transfers without Payment	8	86
Transfer to settle restitution claims	1	2
Public Tenders and Auctions	38	2,627
Transfer to Joint Stock Companies	4	1,784
Total	**64**	**5,810**

By 1 May 1994, projects for nine more enterprises reached the MAPNP for processing. Also, by May 1994, a total of 75 enterprise projects were approved by the MAPNP resulting in 130 privatisation output units with a total value of equity of SK 22.2 billion. It must be noted, however, that these figures include the projects rapidly approved under the final days of the previous Government and which are currently being investigated for irregularities, and some of these may be overturned.

Number and Book Value of Equity of Enterprises Processing at MAPNP (1-5-94)

	Number	Book Value of Equity (SK billion)
Entering State Owned Enterprises	462	220.3
Less:		
Approved Privatisation Projects (Privatisation Outputs)	75 (130)	22.2 (22.2)
Net Currently Processing at MAPNP	**387**	**198.1**

Proposed Privatisation Methods for Approved Wave Two Enterprises (1-5-94)

	Number	Book Value of Equity (SK million)
Direct Sale, tender, & Auction of State Property	86	9,746
Transfers without Payments	31	668
Transfer to settle restitution claims	1	2
Transfer to Joint Stock Companies	12	11,803
Total	**130**	**22,219**

Estimated State Property at the Founding Ministries

According to a report published by the MAPNP on November 1993 (Some Facts and Figures about the Privatisation Process in the Slovak Republic), the following table summarises the number of Wave Two enterprises and their book value of equity in 1991:

Second Wave State Owned Enterprises (1991)

Extent of Enterprise Equity	Number of Enterprises	Book Value of Equity (SK billion)
From SK 0 - 25 million	81	1.1
From SK 25 - 50 million	75	2.9
From SK 50 - 100 million	83	5.8
From SK 100 - 250 million	126	20.2
From SK 250 - 500 million	86	30.1
From SK 500 - 1000 million	37	26.2
Over SK 1,000 million	31	109.8
Total	**519**	**196.1**

However, to these figures, one must add at a minimum, a number of enterprises left over from Wave One, delete a number of liquidations which have been implemented between 1991 and the present, and add new companies companies which the Founding

Ministries have identified as candidates for privatisation. Furthermore, the book value of equity has been adjusted between the time the 1991 list was drawn and the present, mainly due to changes in accounting practices with respect to real estate.

Based on this information and on interviews with the Founding Ministries where we have been informed of other enterprises added as candidates for privatisation and the implementation of liquidations, and estimates drawn by the staff of the MAPNP, we estimate that the book value of equity of enterprises whose projects have not reached the MAPNP is approximately SK 15.0 billion.

Total Estimated State Property on 1/1/94

The following table presents the total State Property from which the privatisation target will be established:

Estimated State Property on 1/1/94

	Number of Enterprises*	Book Value of Equity (SK billion)
Majority Holdings by FNP	117	39.9
At MAPNP	409	207.9
Estimated at Founding Ministries	unknown	15.0
Total		**262.8**

* Note: For the FNP holdings, the number of enterprise figure includes output units, and several privatisation output units are possible from one State Owned Enterprise; whereas, the number of enterprise figures for the MAPNP and the Founding Ministries includes number of State Owned Enterprises.

Therefore, in order for the Slovak Republic to achieve its 1994 privatisation objective of privatising 33% of State property, it must privatise majority stakes in enterprises whose total share capitals add up to over **SK 86.7 billion.**

Estimated Privatisation between 1/1/94 and 1/5/94

On May 1994, the MAPNP has estimated the amount of State Property that it expects to process, and this is provided in the following table:

Forecast of Property to be Processed by MAPNP after 1/5/94

	Number of Enterprises	Book Value (SK billion)
Entering State Owned Enterprises	435	199.3
Privatisation outputs	1,051	199.3
- Direct Sales of Property	670	26.7
- Transfers without payment	166	3.1
- Property returned for Restitution	18	0.2
- Transfer to Joint Stock Companies	197	169.3
Shares in Joint Stock Companies		169.3
- Reserves for Other Funds		27.2
- Book Value of Shares		142.1
Privatisation of Shares:		142.1
- Standard Sales		35.6
- Permanent FNP Holding		19.3
- Voucher Privatisation		83.3
- Restitution Fund		3.9

When we add to this estimate (SK 199.3 billion) to the value of shares in which the FNP has a majority stake (SK 42.8 billion), one obtains an estimate for the total State Property on 1/5/94 (SK 242.1 billion). Implicitly, this indicates that SK 20.7 billion (or 23.8% of the 1994 target) worth of State Property has been privatised during the period from 1/1/94 to 1/5/94.

However, it must be pointed that some of the privatisations implemented during this period are under investigation for irregularities.

3.0 PRIVATISATION STRATEGY FOR THE SLOVAK REPUBLIC

In order to achieve the stated objectives of the privatisation programme and the specific targets, the Government will implement a privatisation strategy that will focus on the following broad components:

A. Implement wave two voucher privatisation programme

The Government will implement the second wave of voucher privatisation in 1994 and early 1995. Voucher privatisation will not be a residual privatisation method, and, in principle up to 97% of any enterprise may be privatised through a voucher privatisation programme. The Government will select and approve a number large and viable enterprises that are attractive investments for participation in the voucher programme.

The enterprises selected for the second wave of voucher privatisation will include some 150 - 200 enterprises whose projects are currently being processed at the MAPNP and the Founding Ministries, and some 120 enterprises whose shares are currently held by the FNP. The 150 - 200 enterprises have a total book value of equity of some SK 183 billion, of which SK 85 billion will be privatised through the voucher programme. The 120 enterprises at the FNP will provide an estimated SK 20 billion to the voucher programme.

The enterprises identified for participation in the voucher privatisation programme are generally large enterprises with total book value of equity greater than SK 200 million. The percentage of the enterprise that will be privatised through the voucher method will depend on whether there is currently a foreign or domestic strategic investor interested in obtaining a share of the enterprise. In cases where there is no such investor, up to 97% of the shares may be privatised through the coupon. In cases where there is an interested investor, the voucher component will be limited to ensure the possibility for a strategic investor to obtain a controlling interest.

Implementing the Voucher Privatisation Programme for Wave Two requires complex procedures and the involvement of many institutions in to ensure the implementation is well underway by the end of 1994. On the other hand the procedures to be followed are basically the same as for Wave One, the legislative framework is already in place, and all the institutions that participated in the first wave are in place and should benefit from the experience of the first wave. A detailed action plan for implementation of the voucher programme, including critical tasks, dates, and responsible institutions is provided in the following section.

B. Divestiture of FNP Holdings

The strategy for divestiture of the FNP's holdings in 562 enterprises will comprise of the following components:

i. Shares in 120 enterprises will be identified and privatised through the voucher programme according to the selection criteria for voucher participation;

ii Shares in enterprises where the FNP has holdings of less than 6% will be privatised through placements in the capital markets. In general, the volume of these holdings is too small to include in the second wave of voucher privatisation;

iii. Shares in enterprises for which there is currently a potential strategic investor (foreign or domestic), will either not participate in the voucher programme and be privatised through standard methods, or only part of these holdings will participate in the voucher programme, leaving the possibility for a strategic investor to obtain a controlling interest through standard methods;

iv. The shares not covered by i - iii, include shares in enterprises where the FNP holding amounts to less than SK 50 million. These shares will be privatised through standard methods (primarily domestic tenders);

C. Privatisation through standard methods

Wave Two enterprises which will not participate in the second wave of voucher privatisation will be privatised gradually through standard methods to domestic and foreign investors: direct sales, domestic and international tenders, and direct placements in the capital markets. In general, this group comprises of small and medium enterprises with less than SK 200 million in book value of equity, of which most of the group are very small enterprises in the vicinity of SK 10 million in book value of equity.

Standard methods will also be applied to privatising blocks of the shares in enterprises participating in the voucher programme but where strategic investors have been identified. Standard methods will also be applied to privatising blocks of shares in Wave One enterprises currently held by the FNP.

To assist in the implementation of privatisation by standard methods, the MAPNP and the FNP will request the assistance of foreign transaction experts that will both assist in identifying investors and speed the transaction and negotiation process so that the Government maximises revenue from privatisation, investment and employment commitments, attracts foreign

investments and helps develop the image of the Slovak Republic as an attractive investment destination.

In order to speed the privatisation by standard methods and attract foreign investment, a plan to implement international public tenders for some 30 to 50 enterprises from Wave Two and from the FNP will also be implemented during 1994 and 1995.

D. Develop restructuring and privatisation plans for strategic enterprises

The Government is in the process of identifying a number of strategic enterprises which will include the state utility monopolies (telecommunications, electricity, gas, etc.) and the largest armaments enterprises. For these enterprises the Government will implement restructuring programmes combined with further developing the regulatory environment under which these enterprise carry out their activities prior to developing and implementing privatisation plans. The Government expects to privatise a non-controlling interest in these enterprises once the proper regulation is in place and restructuring studies are developed and implemented.

At the moment the strategic enterprises include some 10 to 12 enterprises with book value of equity of some SK 50 billion.

E. Implement restructuring programmes prior to privatisation

The Ministry of Economy, the MAPNP, the National Bank of the Slovak Republic and international lending agencies are in the process of developing and implementing a restructuring and privatisation programme for some 30 enterprises, and developing a bank re-capitalisation and debt conciliation programme. The enterprises include those with the most severe financial problems and which require urgent financial restructuring.

The objective of the programme is to bring together the enterprises and their creditors into debt reconciliation proceedings in order to develop solutions to the bad debt problems and privatisation strategies in conjunction. It is estimated that for some of these enterprises, the debt reconciliation and privatisation procedure will result in the quick liquidation of the enterprises.

F. Programmes of assistance for the privatisation programme

In order to implement the privatisation strategy of the Government of the Slovak Republic, external assistance will be required and sought. Some assistance programmes include:

i. Technical assistance will be required by the MAPNP in the form of Slovak lawyers and financial analysts in order to quickly evaluate and

approve the 150 to 200 privatisation projects which will enter the second wave of voucher privatisation;

ii. In order to facilitate the implementation of the voucher privatisation programme, technical assistance will be required to speed the process of corporatising the state owned enterprises. This legal man-power assistance will be provided to the FNP and the Ministry of Justice;

iii. Technical assistance will be required to develop a communications and public relations strategy both for the voucher privatisation programme and the international tender programme to be implemented in 1994, and in order to attract foreign investment.

iv. Expert assistance will be required to develop sales memoranda in accordance to international quality standards for a selected group of enterprises that will be identified as candidates for an international public tender programme;

v. In order to speed the implementation of sales through standard methods, technical assistance will be required in the form of expert transactions teams that will attract potential foreign investments and assist in negotiating and implementing direct sales and domestic and international tenders;

vi. Assistance will also be required to speed the programme of enterprise restructuring and debt conciliatory programmes sponsored by various international organisations.

vii. Finally, training programmes to develop the general business and financial skills of the staff of the MAPNP and the FNP are critical to the success of the privatisation programme. Of particular need, will be training programmes targeted at the staff of the FNP concerning the functioning of capital markets, transaction negotiating strategies, and evaluating business and financial plans.

These selected proposed technical assistance programmes have been identified as critical for directly affecting the privatisation programmes.

Even though the plan will not present more proposals for assistance, it fully recognises that there are a host of programmes which may be implemented that have an indirect but critical effect on the privatisation process (e.g. capital markets development programmes, programmes of assistance to the banking sector, programmes of regulatory development, etc.). Important programmes of assistance which aim at developing the telecommunications sector, restructuring the energy sector, converting the armaments industry, etc. will also not be presented.

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4.0 PRIVATISATION IMPLEMENTATION PLAN FOR THE SLOVAK REPUBLIC

4.1 Second Wave of Voucher Privatisation

The primary implementation objectives for the voucher privatisation programme include speed, impact, fit with the overall privatisation strategy, and providing attractive investment opportunities to Slovak citizens.

- *Speed* - The Government expects to quickly re-energise privatisation in the Slovak Republic by means of voucher privatisation, and it has set as an objective to have the voucher programme in an advanced stage by the end of 1994. Critical targets include citizen and private investment fund registration by 1 September 1994 and the completion of the Zero Round by the end of December 1994. Speed in implementation is critical in order to meet the 1994 privatisation target objective which the Government committed to with the World Bank.

- *Impact* - In order to meet the objective of privatising 33% of State property by the end of 1994 a vigorous voucher programme is the only feasible alternative. Consequently, majority stakes in large enterprises will be primary candidates for participation in the voucher programme.

- *Fit With Privatisation Strategy* - The voucher privatisation programme is one component within the country's privatisation strategy, and as such its implementation plan must complement and take into consideration other privatisation activities.

- *Providing Attractive Investment Opportunities to Slovak Citizens* - In order to ensure the programme is successful it is critical that the shares offered to the public provide an adequate level of value. Furthermore, it is important that the procedures for implementing the programme (pricing, distribution, information dissemination, etc.) are transparent and well communicated to the public.

This section will present the selection criteria for enterprises to be privatised through the voucher programme, key issues which must be addressed, and the critical implementation steps with target deadlines which the Government will commit to.

Selection Criteria for Participating Enterprises

- *Large Enterprises* - Enterprises with book value of equity of SK 200 million and above will be primary candidates for privatisation through the voucher programme. As a matter of principle, a majority share in these enterprises will be privatised in this form after transforming the State Owned Enterprises into Joint Stock Companies. Only in situations where a serious strategic investor that is able to pay in a relatively short time span and is able to finance

restructuring costs will enterprises of this size be excluded from the voucher programme or only a minority of the shares be privatised through the voucher.

Selecting large enterprises will ensure that the effort of processing privatisation projects is targeted at the largest and therefore will create the largest programme possible given limited resources and time.

Selecting large enterprises will also ensure there is sufficient subscription capital to meet the possible demand of an expected 2.5 million participating citizens in the voucher programme.

- *Smaller Enterprises (SK 100 - 200 million) where ownership issues are clearly resolved* - This group of enterprises should include attractive (in terms of profitability and market potential) medium sized enterprises whose privatisation projects will be relatively easy to process due to clearly resolved ownership issues.

  In general, companies valued at less than SK 200 million with unresolved ownership problems should not be included in the second wave of voucher privatisation. To resolve these problems is expected to be time consuming and is dependent on the co-operativeness of the enterprises.

- *Large and Small Enterprises Where Public Tenders Were Approved but not Announced*

- *Enterprises with Viable Business Potential* - It is important for both maximising the success of the coupon privatisation and public support of the programme to exclude companies without viable business potential. This will maximise the return of citizens participating in the programme, and will limit the number of enterprises that will require liquidation proceedings during the period under which an ownership control is being consolidated or shortly after.

  Enterprises which are in very poor operational and financial condition, and which require extensive restructuring or liquidation proceedings together with a customised privatisation plan should not be included in the voucher programme. These enterprises will probably not survive the coupon privatisation programme without a restructuring plan, and will most likely have to be liquidated as soon as ownership control is exercised. Such events at key large enterprises could jeopardise the success of the coupon privatisation programme and its perception by the Slovak public.

  The Ministry of Economy in co-operation with the MAPNP and major creditors has already selected a number of enterprises which require such financial restructuring and debt conciliation proceedings, and international lending organisations have committed their support to undertaking the restructuring and privatisation plans.

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- *Strategic Investors Identified* - Exclude those enterprises, or limit the percent that will be privatised via the voucher, for which there are seriously interested foreign or domestic investors which have initiated negotiations for their acquisition. The voucher programme should not jeopardise on-going negotiations with foreign or domestic investors which may result in the injection of cash into the enterprises, the quick privatisation of the enterprises, and the injection of foreign exchange into the Slovak Republic. The image of the Slovak Republic as an world investment destination will be hurt if advanced negotiations with foreign investors are halted.

  The MAPNP will also prepare a list of enterprises (about 30) for sales to foreign investors. For these enterprises only a minority of the shares will participate in the voucher programme in order to allow for majority sale by standard methods.

- *Strategic Enterprises* - Enterprises which are identified as strategic by the Government (mainly energy, telecommunications and armaments) will be excluded from the voucher programme or only a minority share will be privatised via the voucher method.

- *Effects on the Competitive Environment* - In order to support and maintain a competitive structure in the sectors of the economy, splitting existing enterprises as recommended in privatisation projects by the Founding Ministries and the Anti-Monopoly Office will be implemented.

The MAPNP has drafted a preliminary list of 183 enterprises as candidates for participation in the voucher programme:

Preliminary List of Enterprises for 2nd Wave Voucher Privatisation

Sector	Number	Book Value SK billions	Voucher Volume SK billions
Industrial	104	152.9	72.5
Agriculture	43	10.6	4.8
Services	36	19.4	7.6
Total	**183**	**182.9**	**84.9**

At the moment of drafting this plan, neither the exact number of enterprises which will participate in the voucher programme nor the percentage of each of these that will be privatised via the voucher has been decided. The figures in the table above merely reflect a proposal by the MAPNP whereby each of the 183 candidate enterprises is assigned a percent to the voucher programme. It should also be noted that the table does not include shares held by the FNP which will be privatised through the voucher

programme. The table is included only to illustrate the order of magnitude of the programme.

The policy determining the exact percent of any enterprise that will be privatised via the voucher is based on a company by company analysis with no restrictions on the total percent that may be privatised via the voucher:

- In general, 97% of the shares are eligible for the voucher when there is currently no expectation of an interested strategic investor;

- 60 - 70% of the shares will be used in coupon privatisation in order to reserve the possibility for the FNP to sell a block of shares to a strategic investor in the future;

- A minority interest will participate in the voucher programme in cases of strategic enterprises and cases where standard methods will be applied due to the identification of a strategic investor.

The preliminary list of candidate enterprises for participation in the voucher programme includes few enterprises where 97% will be privatised in the voucher programme, many enterprises in the 60-70% range, and a significant number of enterprises where only a minority will be privatised through the voucher.

Summary of Critical Issues in Voucher Implementation

The following issues have all been discussed in Volume I - Description and Analysis of the Privatisation Process in the Slovak Republic, but are summarised here prior to presenting the action plan and time table for the voucher programme.

- *Time Pressure and the Need to Approve Privatisation Projects Quickly* - On 1 May 1994, very few, if any, privatisation projects for the candidate enterprises were approved and required no changes before they could move on to the next chain in the process. Approving and/or modifying some 200 privatisation projects of Wave Two enterprises and modifying some 120 projects of enterprises currently held by the FNP will be a major task of the overall process.

  A major effort will be required of the staff of the MAPNP to process all these projects and resolve ownership and financial issues within a period of some three months. For this effort non-ministerial assistance will be required, and international organisations have already responded to this need.

- *Developing a Consensus on the List of Enterprises and the Percent of Each to Participate in the Voucher Programme* - Although there is wide consensus supporting a vigorous privatisation programme and for the voucher

privatisation component, the specifics of the policy in terms of which enterprises and how much of each enterprise to be privatised have not been agreed. Agreement needs to be reached by the Founding Ministries and the MAPNP and ultimately by the Government.

- *Transforming the State Owned Enterprises into Joint Stock Companies, and Registering Private Investment Funds* - The Slovak Commercial Code and the Court system is responsible for long delays in registering Joint Stock Companies. It can take up to six months to register an enterprise (a Joint Stock Company or a private investment fund) if judges and their staff are uncooperative or if there is a huge back-log. It is critical to develop a process to speed the registering of enterprises, and this process may take the form of establishing temporary courts with a limited mandate and only for this purpose.

- *Obtaining the Co-operation of Management of State Owned Enterprises* - The severest problem in processing and approving privatisation projects is documenting ownership issues, and having a co-operative SOE management is a critical factor in quickly processing the projects. Uncooperative management or management not interested in having its enterprise participate in the voucher privatisation programme can delay the process or prevent the enterprise from participating altogether. Methods to motivate the management of the enterprises must be explored and implemented. One motivational mechanism includes providing shares to management and employees at favourable financial terms. The MAPNP is preparing a special study to address this problem and will propose appropriate procedures.

- *Obtaining Reliable Financial Data for the Published Definitive List* - The Definitive list of participating enterprises to be published by the Ministry of Finance will require that each enterprise provide audited financial information as of a certain point in time. Obtaining this data may be difficult for various reasons including uncooperative management and a possible lack of resources or expertise on the part of the enterprises to provide the adequate data.

  To solve this problem, a special standard financial information format should be drafted, and teams of financial analysts should be responsible for obtaining the data from a number of enterprises through all means including enterprise visits.

- *Ensuring Adequate Corporate Governance During Period of Ownership Vacuum* - The period between the founding of the Joint Stock Company, the distribution of shares through the voucher programme and the exercise of ownership control by the new owners presents a potential ownership vacuum during which the management of the enterprises may engage in poor management practices and fraudulent asset stripping policies. To prevent such actions the FNP must find a way to monitor the enterprises in a similar manner that the Founding Ministries had been doing previously.

- *Developing Policies for Strategic Enterprises* - Privatisation strategies (including regulation of the sectors) for the strategic enterprises have not been approved at the Government level.

- *Developing a Public Relations Campaign to Support the Voucher Programme* - A public relations campaign is not only important for informing the public about the mechanics of the implementation procedures, but also to educate the public of the benefits of the privatisation programme and of the role of voucher privatisation.

Action Plan and Time Table for Voucher Privatisation

In essence, the voucher programme can be divided into two broad activities: the supply of enterprises for the programme and the demand for shares in the enterprises. Co-ordinating the supply of enterprises is the primary responsibility of the MAPNP who will work closely with the Founding Ministries, the FNP, and the Ministry of Justice. Ultimately, the Government approves the list of enterprises that will participate in the voucher programme.

The Ministry of Finance is responsible for implementing all aspects of the voucher programme that entail ensuring the participants (citizens and private investment funds) will obtain the shares of the participating enterprises, according to the voucher programme legislation. The Ministry of Finance co-operates with the Centre of Coupon Privatisation, the Post office, and the RM System.

The following points present the key institutions and their roles:

- *Co-ordination Group for Voucher Privatisation* - This Group is comprised of representatives of the Ministry of Finance, MAPNP, FNP, Centre of Coupon Privatisation, and the RM System. Its role is to develop and co-ordinate the plan for the implementation of the voucher privatisation programme that will be presented to Government for approval. This group was established at the initiative of the MAPNP and will overview the voucher privatisation programme throughout its implementation.

- *Ministry of Finance Voucher Privatisation Committee* - The Ministry of Finance must create a co-ordinating unit in order to carry out the "demand" side activities. This Committee will focus on issues of pricing, advertising and co-ordinating the demand activities. For each of these three activities, sub-committees will be formed.

- *MAPNP* - The MAPNP is responsible for selecting and approving companies to be privatised via voucher privatisation including deciding the percentage of each enterprise to be privatised via the voucher. In order to perform the

selection task, the MAPNP will co-operate with the Founding Ministries in drafting the preliminary list of State Owned Enterprises. This list of enterprises is then presented to the Government Cabinet for approval.

The MAPNP is also responsible for ensuring that the privatisation projects for the identified enterprises are approved and forwarded to the FNP for transformation into Joint Stock Companies in time so that they may participate in the programme. Under current circumstances (the amendment to the privatisation law), the MAPNP is permitted to change privatisation projects on its own authority. However, it is expected that some compromises will have to be made with the Founding Ministries before projects are changed.

- *Fund of National Property* - The FNP is responsible for transferring the SOEs into joint stock companies. This process is performed in co-operation with the Ministry of Justice whose job it is to process and register the Joint Stock Companies in the commercial register of the Slovak Republic;

- *Ministry of Finance and Centre for Coupon Privatisation* - This Ministry is responsible for the implementation of the voucher programme on the demand side (the citizens). The Ministry of Finance's Centre for Coupon Privatisation overviews all practical aspects of the implementation such as the printing of coupons, the establishment of the transaction centres, the distribution of the coupons, the points pricing mechanisms during the various rounds, etc.

  The Ministry of Finance is also responsible for publishing the preliminary list of enterprises that will participate in the programme and the definitive list of enterprises which contains detailed financial information on each of the participating enterprises.

  Finally, the Ministry of Finance is also involved in approving new private investment funds that wish to participate in the voucher programme.

- *Slovak Post Office* - The post office with its over 3,000 outlets serves as the point of sale for the coupon books as well as a point for collecting bids from the citizens;

- *RM System (100% owned by Podnik Vypoctovej Techniky)* - The RM System is both the "market" that is used for the interaction of points bidding during the different rounds, the point of entry for processing bids, and the information system to record and control participants and their point bids. The RM System was established during Wave One privatisation to fulfil the same role as it will under the second wave.

  The RM System has survived after Wave One to become an important and active "exchange" or auctioning board under basically the same auctioning principles that will be followed by the second wave of voucher privatisation.

The RM-System has 160 trading locations, 52 District Computing Centres, 10 large centres, and one mainframe located in Bratislava. It currently employs a staff of some 1,600 employees.

Supply Side - Providing Shares for the Voucher Privatisation Programme

TASK	ENTITY	DEADLINE
Government Programme Declaration on Privatisation and Voucher Privatisation Programme	Government	April '94
Establishment of Voucher Privatisation Committee in order to develop and approve the voucher implementation plan and its target dates, and declare the responsibilities and competencies of the different institutions	MAPNP (MAPNP, FNP, MoF, CCP; RMSystem)	April '94
Draft Preliminary List of Participating Enterprises (from list of Wave Two Enterprises)	MAPNP	19 April '94
Draft Preliminary List of Participating Enterprises from FNP Holdings	MAPNP FNP	15 May '94
Approval of Preliminary List and Percentage of each enterprise to be privatised through the Voucher Programme for Wave Two Enterprises	MAPNP Founding Mins. Government	15 May '94
Approval of Preliminary List and Percentage of each enterprise to be privatised through the Voucher Programme from FNP Holdings	MAPNP Founding Mins FNP	15 May '94
Develop and approve privatisation strategies for strategic enterprises	MAPNP Founding Mins. FNP	
Finalise special study on proposed mechanisms to provide incentives to managers of State Owned Enterprises to co-operate in the privatisation process	MAPNP	
Finalise and reformulate privatisation projects for enterprises whose projects have not yet reached the MAPNP	Founding Ministries	30 June '94
FNP proposes changes to the privatisation projects of enterprises it holds and which are candidates for voucher privatisation. MAPNP takes the necessary steps to include these in the voucher programme.	MAPNP FNP	15 May '94
Change projects which were initially public tenders but which have not been announced, into projects for voucher privatisation	MAPNP	31 May '94
Change, process, and approve privatisation projects for those projects which have reached the MAPNP and which will go into the voucher programme	MAPNP	31 July '94
Develop a system (fast lane) of quick transformation of State Owned Enterprises into Joint Stock Companies	FNP Ministry of Justice	

Transform State Owned Enterprises into Joint Stock Companies	FNP Ministry of Justice	31 August '94
Develop and implement a public relations strategy targeting Slovak citizens in order to create a broad understanding and support of the voucher programme as a critical component of the transition to a market economy	MAPNP	
Undertake market research study on the performance and perception of the private investment funds and their ownership role	MAPNP	
Publish the preliminary list of enterprises	Ministry of Finance	

Demand Side - Providing Participants for the Voucher Privatisation Programme

TASK	ENTITY	DEADLINE
Establish Demand Side Committee and Sub-committees on pricing, advertising, and co-ordination	Ministry of Finance	May 1994
Publish preliminary list of enterprises	Min. of Finance	
Design and print coupon books (contractor)	Centre Coupon Privatisation	
Implement necessary modifications in the software of the RM System and test the system	RM System	
Launch communications campaign aimed at informing citizens of the practical issues in participating in the voucher privatisation programme	Centre Coupon Privatisation	
Registration of private investment funds with the Ministry of Finance	Min. of Finance	1 Sept. 94
Registration of private investment funds at Commercial Registry of the Slovak Republic	Min. of Finance Ministry of Justice	1 Sept. '94
Registration of Citizens for participation in the voucher programme	Min. of Finance RM System	1 Sept. '94 - 31 Oct. '94
Processing and Evaluation of the Registration Process	Min. of Finance	1 - 7 Nov. '94
Publish Definitive List of Participating Enterprises	Min. of Finance	15 Oct. '94
Zero Round Implementation	Min. of Finance RM System Post Office	3 Oct. '94 - 16 Dec. '94
Publish Results of the Zero Round	Min. of Finance	19 - 31 Dec. '94
Round 1 implementation	Min. of Finance RM System Post Office	2 - 20 Jan. '95
Round 2 implementation	Min. of Finance RM System Post Office	6 - 17 Feb '95
Round 3 implementation	Min. of Finance RM System Post Office	6 - 17 March '95
Round 4 implementation	Min. of Finance RM System Post Office	3 - 14 April '95
Round 5 implementation	Min. of Finance RM System Post Office	2 - 12 May '95
Share distribution	Min. of Finance RM System	

Privatisation Targets Under the Voucher Programme

The following projections are based on the preliminary list of 183 enterprises for participation in the voucher programme prepared by the MAPNP. These figures do not include the estimated 120 enterprises that will also participate in the voucher programme. Furthermore, the preliminary list and the percentage of each enterprise that will participate in the voucher programme has not been approved by the Government.

Book Value of Equity of MAPNP & Founding Ministry SOE's Proposed for Voucher Privatisation

	Minority Share in Voucher	Majority Share in Voucher	Total
Industry	41.8	111.7	153.5
Agriculture	11.6	0.0	11.6
Spas & Services	10.6	8.8	19.4
Total	**64.0**	**120.5**	**184.5**

The figures reflect the sum of the total book value of the estimated 183 State Owned Enterprises which will participate in the voucher programme (Enterprises at MAPNP privatisation stage). Note that for enterprises where a majority stake (+51%) will be privatised through the voucher, 100% of the book value of equity is added into the column "Majority Share in Voucher"; similarly, in cases where a minority percent of an enterprise will be privatised through the voucher, 100% of its book value of equity is added into the column "Minority Share in Voucher."

Although the figures are not conclusive, it is clear that if the voucher programme is well on its way by the end of 1994, the target of privatising 33% of State Property (SK 86.7 billion) will be met and surpassed by the efforts of the voucher programme alone.

4.2 Divestiture of FNP Holdings

The FNP has been a relatively dormant organisation in the past from the point of view of selling its property holdings. Also, and as discussed in Volume I, the FNP has undergone severe organisational turmoil in the past months and is currently in the process of building an effective organisation with a strong sales orientation. Finally, the FNP is in a serious need for the development of a strategy for divestiture which will be communicated throughout the entire organisation. These organisational problems are addressed under the "Institution Aspects" section of this action plan.

Currently, the FNP has the following portfolio of shares:

FNP Holdings on 25/3/94

Participation of FNP	No. of Joint Stock Companies	Total Subscribed Capital	Shares of FNP
0 - 10%	191	35,512	1,455
10 - 33%	195	49,307	10,565
33 - 47%	55	10,589	4,071
47 - 50%	16	5,537	2,161
50 - 66%	32	8,158	4,840
66 - 100%	73	29,075	24,283
TOTAL	**562**	**138,178**	**47,375**

* Source: Fund of National Property.
* All figures in SK million.

To this current holding, shares from enterprises in wave two which are not privatised through the voucher programme will eventually reach the FNP for privatisation implementation through standard methods.

Strategy for FNP Divestiture:

A. *Divestiture through the capital markets* - The FNP has relatively small share holdings in a large number of enterprises. As a general rule, all FNP holdings which amount to 6% or less of any enterprises' share capital, will be divested directly into the Slovak capital markets. In order to do this:

- the FNP Presidium must approve such a policy,
- the FNP must request to the MAPNP changes in the privatisation projects of these enterprises in order to divest directly through the capital markets, and
- the MAPNP must carry out the necessary legal steps to authorise such a divestiture method by the FNP.

These steps can be performed in a relatively short time span, and they are expected to be completed by 31 December 1994. The MAPNP and the FNP will concentrate on such activities only after their major activities on the voucher programme are completed. The actual divestiture of the small residual holdings will be implemented throughout 1995.

It must also be noted that this share divestiture will not contribute towards any privatisation target objectives since the majority of the shares are already in private hands and hence these enterprises are considered privatised under the definition of privatisation.

B. *Divestiture through the Voucher Programme* - Shares in some 120 enterprises currently held by the FNP will participate in the second wave of voucher privatisation. The actions to be taken to implement this component are detailed in the section on Second Wave of Voucher Privatisation.

C. *Divestiture through Standard Methods* - All other shares not covered by A or B will be privatised through standard methods. Actions for implementing this component are detailed in the section on Privatisation Through Standard Methods. Also, the actions required for institutional development required to implement privatisation through standard methods (FNP organisational development and the implementation of transaction teams financed by international organisations such as USAID and EC PHARE) are detailed in the section on Institutional Aspects.

4.3 Privatisation Through Standard Methods

General Policy

A. *Enterprises with a book value of less than SK 100 million* - In order to avoid the lengthy step of transforming SOEs into Joint Stock Companies, enterprises in this category will be privatised without transforming them into Joint Stock Companies. It is estimated that the interest of foreign investors is relatively low for this group of enterprises and also in order to support local entrepreneurs, companies in this category will be privatised mainly through direct sales and auctions to local entrepreneurs. For these enterprises, payment terms consisting of 10% at the time of sale and the remaining in instalments of up to 10 years.

B. *Enterprises with book value exceeding SK 200 million* - The assets of these enterprises will be transformed into Joint Stock Companies and some or all of these shares will participate in the second wave of voucher privatisation. Standard methods will be applied to selling a majority of these shares in situations where strategic investors are able to pay soon and to invest immediately into the enterprises. Selling shares for enterprises in this category will be the primary focus of the "transaction teams" that will be based at the FNP and the MAPNP.

C. *Enterprises with book value between SK 100 - 200 million* - Enterprises in this category will primarily be transferred into joint stock companies whose shares will be wholly privatised by standard methods; although, a few of these enterprises will participate in the second wave of voucher privatisation.

Criteria for Selecting Purchasers

In order to enhance the transparency of the privatisation through standard methods approach and renew confidence in the process, the method of choosing the investor will be based on competition based on easily comparable and quantifiable criteria of each of the proposals (such as price, size of the first payment, size of investment commitments, and overall reliability of the purchaser). Since it is critical for the development of the Slovak economy to attract foreign capital, payments based on foreign credits will be preferred thus providing an incentive to foreign investors.

Speeding the Implementation of Standard Methods Through Transaction Teams

- *Transaction Teams* - The FNP and the MAPNP will incorporate transaction experts to organise international public tenders, identify suitable investors, and negotiate with prospective purchasers:

  Each transaction team will consist of an investment/corporate banker as its leader, a Western accountant or financial analyst, a Western lawyer as needed.

interpreters and a secretary. In addition, the transaction team will include a Slovak accountant and a Slovak lawyer;

In the beginning, this program should be kept relatively small as the MAPNP and the FNP concentrates on the second wave of voucher privatisation and gains experience in working with foreign advisors and consultants;

The benefits of employing transaction teams include the following:

- assisting in negotiating the best possible terms and conditions for the Government and its companies;
- identifying and attracting foreign investors;
- increasing the purchase price;
- increasing and/or strengthening the investment commitments;
- guaranteeing employment levels and employee training;
- providing technical, management and marketing know-how;
- minimising the guarantees given by the government;
- increasing income to the treasury;
- enhancing the likelihood of a successful ensuing enterprise;
- providing the Government with advisors who are as competent as those used by bidders; and
- Providing foreign investors a communication channel with the Government through western trained specialists.

Transaction teams will be financed by USAID and EC PHARE upon the request of the MAPNP and the FNP.

- *Within Standard Methods, Focusing on Direct Sales* - Although competition is an important objective and therefore public tenders and auctions are preferred in a long term perspective. However, due to the implementation complications, the length of time that it takes to implement, lack of experience, and the low success rate, public tenders and auctions will be applied on a limited basis and only for attractive enterprises where there exist several interested parties. The preferred standard method to be used will therefore be direct sales.

- *Limit the Number of Joint Stock Enterprise Transformations* - Given the length of time it takes to register a Joint Stock Company, a policy of privatising the smaller companies by direct sale of property will be followed.

Volume to be Privatised through Standard Methods

In this section, the volume of State assets will be presented in two forms:

Firstly, total book value of equity of State property is measured regardless of weather it represents, or results in, a majority or minority holding. This calculation is derived in

order to estimate the actual order of magnitude of State property that will be privatised through standard methods. The following table represents total State Property on 1/1/94, including minority holdings at the FNP.

Total Estimated Actual Volume to be Privatised 1/1/94

	Voucher	Standard	Total
Total FNP Holdings	20	28	48
MAPNP and Founding Ministries	85	138	223
Total State Property	**105**	**166**	**271**

* Figures measured in SK billion.

The table shows that in absolute terms, about SK 166 billion of State property will be privatised through standard methods (assuming the FNP does not hold any property permanently in the long run), including direct sales of property, placements of shares in the capital markets, auctions and tenders, transfers without payment, etc.

Secondly, total book value of equity is presented, but adjusted to reflect the privatisation definition rules presented in section 2.1.

Total Estimated Actual Volume to be Privatised Measured as Total Share Capital or Total BV Equity where the State has a Majority Holding 1/1/94

	Voucher	Standard	Total
Total Majority FNP Holdings	28	12	40
MAPNP and Founding Ministries	121	102	223
Total State Property	**149**	**114**	**263**

* Figures measured in SK billion.

From the two previous tables, it is clear that although the voucher programme will be comprised of an estimated SK 105 billion volume, it will result in about SK 149 billion of privatised State property, according to the rules of measuring privatised property.

Furthermore, although the State will hold SK 166 billion of property, much of it will be comprised of minority holdings. According to these forecasts, the State will hold majority holdings in enterprises whose total book value is SK 114.

Permanent FNP Holdings

The policy to determine how much property will be held permanently in at the FNP has not been defined; however, the MAPNP estimates that some SK 20 billion in 10-12 strategic enterprises will be held permanently by the FNP.

Implementing Privatisation through Standard Methods

The time frame for implementing privatisation through standard methods is much longer than for the voucher privatisation programme. It is expected that the privatisation programme will proceed through 1996 or 1997 at a rate of about 15 to 20 projects per month. Furthermore, because the Government's immediate focus is on voucher privatisation combined with the fact that implementing standard methods takes a minimum amount of time, it is estimated that very few standard sales will be implemented before the fall of 1994. After this time, the target rate of 15 to 20 projects per month will be targeted.

The MAPNP is currently drafting a precise time schedule for each enterprise including the proposed method(s) of privatisation and the target date for privatisation. This plan should be obtained from the MAPNP at a later date to complement this target of 15 to 20 enterprise timetable.

The key immediate steps that need to be taken in order to get the standard methods programme moving rapidly include:

- Incorporating the transaction teams to the MAPNP and the FNP;
- Developing Sales materials for the enterprises to distribute to potential investors;
- Implementing a domestic and international public relations campaign;
- Take organisational development actions needed to make the FNP an effective organisation capable of implementing standard methods (see section 5.0);

4.4 Strategic Enterprises

The present Government intends to limit to about 10-12 the number of "strategic" enterprises in which it wishes to retain a long-term interest. The list will include three power generation and distribution companies, the gas company, telecommunications, and three or four of the largest armaments enterprises.

For the companies in the energy sector and in telecommunications, MAPNP prefers the following basic model of ownership:

- for voucher privatisation;
- for temporary share holding by FNP until foreign strategic partners can be attracted;
- for long-term State Ownership by FNP.

The above policy, with respect to the list of strategic enterprises as well as with respect to the ownership model, has to be discussed and agreed upon with The Ministry of Economy (MOE) (as well as with the Ministry of Telecommunications for Telecom). The MAPNP hopes that the policy agreed upon with the MOE will then be approved by the Government.

Prior to privatisation a good deal of preparatory work needs to be done by several ministries. The major components of such work include the following:

- ***Pricing Policy*** - Several subsidies in prices of electricity, heat, and gas have already been reduced. The Government recognises that remaining subsidies have to be gradually phased out, in order to eliminate inefficiency in use of energy. The MOF is presently working on a program of gradually rationalising and raising energy prices to international levels. The program aims at achieving appropriate economic cost recovery and a profitability level that could help attract foreign and domestic investors.

- ***Regulation of Public Utilities*** - Since the power, gas and telecommunications sectors are likely to remain monopolies, the Anti-monopoly Office has been working on the preparation of a regulatory law, which will establish the legal structure, duties and rights of public utilities, as well as set up the regulatory institutions and their powers. The regulatory framework must be legislated and established prior to privatisation of the public utilities.

- ***Safeguarding State Interests*** - Arrangements have to be made to protect the interests of the State in the public utilities. Consideration has to be given to the appropriate mechanisms for doing that, whether by legislation the Government will submit to Parliament or through the Articles of Association of the power, gas and telecommunications companies, which will be incorporated prior to privatisation. One option might be for the State to have a "golden share" in each of the new companies, by which the State interests might be protected.

The Government will seek to draw on international experience in designing the proper framework for pricing, regulating and privatising the power, gas and telecommunications sectors. Technical assistance to finance the work of consultants in these areas will be needed.

Large-scale investments will be required for the modernisation of the power, gas and telecommunications companies. The Government will seek external advice as to the appropriate method for attracting foreign capital, either by strategic partners or by sales of shares in international capital markets.

As stated earlier, the MAPNP wishes to include in the Voucher Privatisation 33 percent of the shares of the power, gas and telecommunications companies. It aims at including these shares in the Second Wave of the Voucher Privatisation. However, the timing depends on the decisions of the Government, as well as on the pace of the work on the design and establishment the regulatory framework and the implementation of price reforms. Legislation by Parliament might also be needed.

The MAPNP will initiate extensive discussions with the MOE on the steps needed to prepare the large armaments enterprises for privatisation. Significant progress has been made in converting some parts of these enterprises to production of civilian goods. Nevertheless, the large armaments enterprises are still facing severe financial difficulties. Because of their contribution to creating employment, particularly in regions with a relatively high rate of unemployment, the Government is still providing subsidies to these enterprises.

These enterprises will have to undergo major financial and physical restructuring, including conversion, before they can be privatised. The Government will initiate preparation of detailed programs for restructuring and eventual privatisation of the major armaments enterprises. It will seek the assistance of foreign consultants in the preparation of such programs.

An Indicative Action Plan for corporatization and privatisation of the strategic enterprises is presented in the following chart.

INDICATIVE ACTION PLAN FOR STRATEGIC INDUSTRIES

#	KEY STEPS	RESPONSIBILITY	PREPARATION BY	TIMING
1	Policy formulation on list of strategic industries and their methods of privatisation	MAPNP, MOE, MOF, Min. of Telecom.		By May 10, 1994
2	Decision of Council of Ministers on the above			Mid-May 1994
3	Preparation of detailed action plan, including steps to be taken prior to privatisation	MAPNP	Consultants	May-June '94
4	Formulation of pricing policy for power, heating and gas	MOF, MOE	Consultants	May-July '94
5	`Design of regulatory framework for power and gas sectors	MOE, Anti-monopoly Office	Consultants	May-August '94
6	Drafting of telecom bill and submission to Parliament	Min. of Telecom., Min. of Justice	Consultants	Second half of '94
7	Corporatization of power, gas and telecom companies	FNP		Following introduction of regulatory framework and price reform
8	Voucher privatisation of 33% of shares of power, gas and telecom companies	MAPNP, FNP		
9	Preparation of investment proposals for foreign strategic partners or international capital markets	MAPNP, FNP	International investment banks and consulting firms	Second half of '94
10	Preparation of restructuring plans for armaments enterprises	MOE	Consultants	Second half of '94
11	Pre-privatisation restructuring of armaments enterprises	Restructuring Committee	Consultants	1995
12	Corporatization and privatisation of armaments enterprises	FNP		1996

4.5 Restructuring

A large part of the Slovak enterprises will have to be restructured in order to become competitive in international markets and financially profitable. One indication of the size of the restructuring needed is the proportion of enterprises which are financially insolvent. In late 1993, 57.5 percent of all the enterprises were loss-makers, with total losses amounting to SK 42.5 billion.

Obviously, financial insolvency is the outcome of the "real" problems of enterprises which have been operating in the pre-reform system. Typically, products and production technologies are many years (often as many as 20 years) behind internationally competitive standards. Inefficiency (as measured by the intensity of resource use of manpower, energy and materials per unit of output) is several times higher than comparable international levels. These enterprises have been able to survive in recent years only by continually increasing their indebtedness to banks and to other enterprises, and in some cases, particularly in armament industries, by depending on direct government subsidies.

Diagnostic Studies of Enterprises with the Largest Non-Performing Loans
The Ministry of Economy (MOE) has prepared a list of 21 enterprises for which diagnostic studies will be performed. These enterprises have the largest non-performing loans in the banking system. Many of these enterprises have also been loss-makers in 1992 or in 1993. The list includes some State Owned Enterprises (SOEs); others have already been partially privatised, and have been registered as joint-stock companies in which the Fund for National Property (FNP) is still the major shareholder.

Unfortunately, there have been delays in securing necessary financing from external sources, as well as difficulties in securing the agreement of some of the enterprises to finance a part of the costs of the studies (EC PHARE requires that 15 percent of the costs be financed by the enterprise). In principle USAID has expressed its readiness to finance studies of 15 of these enterprises. EC PHARE has agreed to finance 85 percent of the study costs for six enterprises.

The terms of reference (ToR) of these studies have already been prepared, although minor changes may still be made. The studies will be oriented towards speedy action, and will consist of three phases: (i) quick diagnosis to identify those enterprises which have a reasonable chance of becoming competitive and profitable, following a financial work-out as well as recommendations on either restructuring or liquidation; (ii) preparation of a restructuring plan, together with a privatisation plan or a liquidation plan; (iii) implementation of the relevant plans.

Consultants have already been selected by USAID and EC PHARE; however, the contracts have not yet been awarded. The MOE will fully co-operate in the preparation of the studies and in their implementation. Given the resolve of the present Government to accelerate the process of privatisation, it is imperative that all parties

involved — the Government, the enterprises, USAID, EC PHARE, the World Bank and the consultants — do their utmost to begin preparation of the studies without any further delay.

To facilitate speedy preparation of the studies and to co-ordinate their implementation, the Government has agreed to establish a Restructuring Committee which will consist of senior officers of MOE, MOF, FNP, VUB and IRB. The members will be appointed soon. The Government has already secured the commitment of the relevant enterprises and banks to co-operate in speedy implementation of the plans which will be recommended.

The National Bank is currently working on developing a detailed plan for how the debt reconciliation process may be implemented. The target date for this plan is end of June 1994. Our understanding is that the preliminary idea is to define a procedure with out of court settlement between the creditors to borrowers in default fulfilling certain criteria. The development of the procedures and conditions are at a very early stage. Technical assistance in developing the model and procedures could be needed to speed up the process.

Industrial Subsector Studies

The MOE also wishes to expedite the preparation of studies of the following industrial subsectors: textiles and clothing, leather and shoes, glass and printing. Twenty-six enterprises have been designated to be included. Priority will be given to those SOEs which need assistance in preparation of privatisation programs.

The studies will be financed out of a Japanese grant of funds to be administered by the World Bank. In order that the enterprises be included in the Second Wave of the Voucher Privatisation (VP), it is hoped that the ToR will be finalised by the end of April 1994, consultants be selected as soon as possible, and the study be completed before the end of 1994.

Liquidation of Non-viable Enterprises

Those enterprises which, on the basis of the diagnostic studies, do not show good prospects for viability and profitability after restructuring will be liquidated and their assets sold off.

A Bankruptcy Law has been enacted in Slovakia, but experience has indicated difficulties and delays in utilising this Law to effect speedy liquidation, due to both shortcomings of the Law and insufficient experience of courts in bankruptcy proceedings.

Therefore, the Government is interested in preparation of proposals for out-of-court arbitration or conciliation proceedings, which could provide a fast track for liquidation and settling of debts. The issue will be reviewed by a member of a forthcoming World

Bank mission scheduled for late April 1994, who has gained valuable experience in such proccedings in Eastern Europe and in countries of the former Soviet Union. If needed, the Government may request technical assistance in preparing the framework for appropriate out-of-court proceedings.

Privatisation "As Is"
The studies will indicate which enterprises are potentially viable. Those enterprises which are able to be privatised "as is," even at a relatively low price, will be included in the privatisation program, and will be privatised by the respective method(s) recommended in the study, whether that be by vouchers or by standard methods.

Pre-Privatisation Restructuring
It is, however, likely that the studies will identify enterprises which cannot be privatised without prior *financial restructuring*. Due to an extremely high debt burden, even potentially viable enterprises are unlikely to attract investors. In such cases a prerequisite for privatisation might be financial restructuring aimed at introducing an equity and debt structure consistent with sustainable operations.

Financial restructuring would be done only with those companies in which all parties involved — owners (i.e., the Government), managers, workers, creditors — agree that it will be followed by a restructuring of the "real" operations of the company, including dismissal of excess workers and replacement of managers incapable of turning the company around. Financial restructuring by itself is unlikely to achieve a turnaround for an inherently inefficient company. Moreover, it might be counter-productive since it could delay the necessary organisational and physical restructuring.

Financial restructuring involves some relief from debt. In some cases creditor banks might swap part of their debt for equity, thereby becoming shareholders. They should then have a strong interest in the success of the restructuring, and, if capable of doing so, might provide professional support to the financial managers. In most cases the Government, as owner of both the banks and SOEs, would have to underwrite part of the debt write-off. As such, the write-off would merely reflect a recognition of a loss already incurred and would not entail a real economic cost. However, it may well result in a budgetary expense (e.g., to pay interest on bonds issued to recapitalize banks) which will need to be provided within an overall budget constraint, so that the Government will be able to provide financial assistance only to those enterprises with the best prospects for successful restructuring. After a proper financial structure is established, enterprises being restructured should be required to rely only on borrowing from the banking system, whose decisions on the provision of credit would be based purely on an assessment of the credit risk, without government intervention.

How financial restructuring is going to be implemented will to a large extent depend on the plan currently being developed by the National Bank.

In companies with excess labour it would be prudent to *reduce the work force* prior to privatisation. Such action, which would facilitate privatisation, might be easier to implement if carried out concurrently with debt reduction.

Some companies might have valuable assets, such as land or buildings, which may not be needed for the core of future operations. Such assets should be split off and sold prior to privatisation, thus raising cash to finance restructuring of the companies or to be returned to FNP.

Post-Privatisation Restructuring

Following financial restructuring as well as reduction of excess work force, the viable companies will be privatised by the method recommended by the consultants. Some of the enterprises slated for Voucher Privatisation would be included in the Second Wave. To make that possible, speedy action will be required of all parties involved, co-ordinated by the Restructuring Committee. Proceedings for transformation to joint-stock companies will have to be started for those enterprises which will be slated for privatisation.

Viable companies which will not be included in the Second Wave of VP would be privatised by standard methods.

The major task of restructuring would be left to the new owners of the privatised companies. The major components of restructuring would be of operational nature, which is likely to include the following:

- Reorganisation to streamline operations and clarify responsibilities and accountability.

- The new private owners will have to decide whether the previous managers are capable of turning the enterprise around, or if new managers will have to be appointed. In difficult cases the managers will have to be assisted by turnaround specialists, who most probably will have to be hired from Western countries.

- Introduction of modern management systems, including cost accounting, market analysis and quality control.

- Cost reduction through technological change, operational improvements and savings in energy and materials.

- Changes in the product mix, introduction of new products, discontinuance of uncompetitive or unprofitable lines, and spinning off or closing of marginal business units.

- Development of new markets (export and domestic) and improvements in marketing.

- Maximum effective use of assets by increasing the production of marketable products and by subcontracting.

- Most likely it will also require new investments in modern equipment, which will have to be made by the new owners.

An Indicative Restructuring Action Plan is presented in the following chart. Obviously, the detailed steps, as well as the timing, are dependent on the restructuring plans of each of the enterprises, which will be prepared by the consultants.

INDICATIVE RESTRUCTURING ACTION PLAN

#	KEY STEPS	RESPONSIBILITY	PREPARATION BY	TIMING
1	Diagnostic studies for enterprises with the largest non-performing assets — 15 USAID financed; 6 EC-PHARE financed	MOE	Consultants	May-July '94
2	Monitoring and review of studies; decisions on implementation	Restructuring Committee		May-August '94
3	Liquidation of non-viable enterprises; debt settlement by out-of-court proceedings	MOE		Sept.-Dec. '94
4	Corporatization of enterprises slated for privatisation	MOE		Sept.-Dec. '94
5	Some companies privatised "as is," in Second Wave of Voucher Privatisation	MOE, MAPNP, FNP		First half of '95
6	Pre-privatisation restructuring — Financial workouts Layoff of excess workforce and sale of some assets	MOE, MOF, FNP, creditor banks MOE	Consultants	Sept. '94 - June '95
7	Privatisation — by standard methods — by Vouchers Final Wave	FNP FNP	Consultants	1995 Second half of '95
8	Post-privatisation restructuring Physical, including new investments Organisational, including appointment of new management if needed	New private owners Supervisory boards and management	Consultants	1996-1999

4.6 Protection of State Assets During the Interim Period

The First Wave of Voucher Privatisation was characterised by a lengthy "interim period" from the beginning of preparation of the privatisation projects to the exercise of ownership rights by the new private owners of companies. In many cases this interim period has lasted for two years or more. In this interim period there has been no effective control over enterprise managers. The combination of a long tradition of corruption under the previous regime and lack of control has reportedly led to wide-spread abuse by managers.

Cases of "asset stripping" are reported to have been widespread. One method has been to effect dubious "sales" for what is in fact the transfer of valuable assets of SOEs to privately owned companies at prices lower than their real values. In trading companies, purchases of raw materials and goods have been reported at prices higher than actually paid, while sales have been reported at lower than actual prices paid. The profits were siphoned off to private companies managed by friends or relatives of SOE managers. Although such practices are supposed to have been illegal, they were made possible not only by lack of control, but often, reportedly, by the co-operation of State officials who supported the managers in exchange for political support or financial gain.

Such practices have not only resulted in the unauthorised and unethical transfer of State assets to the personal benefit of managers and their political allies, but have also discredited the privatisation process.

There is clearly a need to take measures which will reduce the risks of abuse in the Second Wave. The Government is presently considering taking several steps in this direction (although it would be unrealistic to expect the total elimination of such risks).

The most important measure will be the speedy implementation of the privatisation process and shortening of the "interim period."

Another important measure is the introduction of well-functioning corporate governance in privatised companies. Experience in the First Wave has clearly indicated that the most serious limitation on introduction of corporate governance has been the difficulty for previous managers to change their management practices, and the shortage of competent and non-corrupt new managers. The required changes cannot be achieved merely by changing the behaviour of previous managers or by appointing new managers. The privatised companies are now in the early stages of the introduction of new systems. These should not only reward managers for good performance and integrity, but should also provide for proper financial and managerial audit in order to make the managers accountable for their practices. This should be implemented immediately after privatisation.

The Investment Funds are reporting a gradual improvement in the quality of managers and members of supervisory boards. Experience gained following the First Wave is likely to help upgrade the quality of corporate governance and increase the number of

prospective directors and managers. However. there are no panaceas in this respect. The introduction of proper management systems in a large number of privatised corporations is bound to be a lengthy and arduous process.

A third measure is improving the legal system, and closing a number of legal loopholes. The Government is preparing a new draft Law on Conflict of Interest which will be submitted to Parliament. (Two other draft laws which were previously submitted to Parliament unfortunately have not been approved.) Work is also being done in MAPNP in reviewing the United States law on ethics which regulates the behaviour of public officials. The objective is to consider whether a similar Law on Ethics might be appropriate for Slovakia. If such a draft law is prepared it would probably have to refer not only to Government officials but also to managers of SOEs. It is important that this legislation is in place during the summer of 1994.

4.7 Regulation of Investment Funds (IFs)

The success of Voucher Privatisation in making the privatised companies efficient and profitable depends to a large extent on the performance of the IFs, who were entrusted by citizens with some 75 percent of all vouchers issued in the First Wave.

In the First Wave insufficient attention has been paid to the role of the IFs and to their modes of operation. The law of the Federal Republic under which the IFs have been operating has several shortcomings, which are due to lack of experience and the novelty of the system as a whole. Despite several amendments brought about by laws and decrees of the Slovak Republic, several weaknesses in regulation of IFs have persisted in the First Wave.

The basic framework of the intermediaries is this: First, an investment company, mostly owned by domestic banks and insurance companies or by private parties, has to be registered as a joint-stock company. An investment company (IC) can then apply for a license to establish an Investment Fund (IF). The interests of the owners of the ICs (who advise the IFs on selection of a portfolio) are not necessarily identical with those of the share owners of the IFs, namely, the citizens who entrust their funds to the IFs. To avoid potential conflicts of interest it is necessary to ascertain that the managers of the IFs act in accordance with the long-term interests of the shareholders of the IFs.

In the First Wave the law has not specified any time limit within which the IFs must hold their Constituent General Meetings and begin acting as joint-stock companies. Consequently, at the present time — which is about a year since completion of the bidding rounds in mid-1993 — only some 10 IFs have held General Meetings. And these 10 IFs are not necessarily the largest ones. In the opinion of MOF several IFs, possibly in order to give their managers freedom to act without the supervision of their shareholders (namely, the investors), have been slow in taking the necessary steps to begin acting as joint-stock companies.

Recently the Parliament has approved a new law that will require new IFs (which have to be licensed to participate in the Second Wave) to convene a General Meeting no later than two months following completion of the bidding rounds.

Another weakness in the law has been some ambiguity as to whether IFs can appoint members not only to Supervisory Boards of companies but also to Boards of Directors (which are the management organs of the companies). In fact, in some cases IFs have appointed members of Boards of Directors, without there being a clear distinction between their roles as owners and as managers of companies. In some cases conflicts of interest may have arisen where members of Boards Directors of companies have also been employees of other organisations.

The new law states that IFs can appoint members of Supervisory Boards but not members of Boards of Directors.

The above-described changes in the law are steps in the right direction. Further consideration should be given to regulation which would subject managers of IFs to some degree of guidance and supervision by the IF shareholders. One option might be to require IFs to submit the proposed contract between the IF and the investment company promoting it, as well as the proposed investment strategy, to the Annual Shareholders Meeting of the IF for that body's approval.

The regulation of the IFs should not aim at unnecessarily restricting the operations of the IFs, but should seek to protect the interests of the large number of shareholders who, for the most part, are citizens with little, if any, experience in financial investments.

It is proposed that technical assistance is provided in order to review the existing legislation and propose modifications to legislation and administration of the IFs.

5.0 INSTITUTIONAL ASPECTS

In Volume I, the process and the bottleneck has been described in great detail. This section briefly address key suggestions that could improve the privatisation process.

5.1 Co-ordinating Privatisation Committee

Recently the Minister of Privatisation has taken the initiative to form a committee to co-ordinate the voucher privatisation implementation. This committee meets on a weekly basis and has representatives from MAPNP, FNP, Ministry of Finance, The Centre for Coupon Privatisation, Pond Vypoctovej Techniky (IT company owing the RM System). It has been proposed to include representatives from the Founding Ministries in this committee especially the Ministry of Economy. This committee has a limited lifetime till the initial voucher privatisation process is over.

We propose that a permanent committee consisting of MAPNP, FNP, Ministry of Finance, and the major founding ministries gets a permanent status and is entrusted with the following main roles and tasks:

- Manage and monitor the entire privatisation process and take initiatives to resolve problems and remove bottlenecks;
- Manage the voucher privatisation process;
- Manage the restructuring programme and the loan work out programme;
- Manage the SRP programme;
- Co-ordinate technical assistance to the privatisation process.

The committee should report to the Minister of Privatisation. MAPNP should carry out secretariat functions for the committee. The secretariat function include the responsibility of preparing agenda, and minutes of meetings, as well as on a monthly basis prepare a report on the status of privatisation. The monthly status report should provide an overview on progress in privatisation projects in all levels: the founding ministries, the MAPNP and the FNP.

Whenever needed the committee should create working groups, and responsible for working out solutions for specific problems. Examples of such working groups are:

- Working group on Cadastral Offices responsible for assessing the major bottlenecks in the Cadastral offices, and working out a plan for how to overcome these bottlenecks;

- Working group on Commercial Courts responsible for assessing the major bottlenecks in the commercial courts, and working out a plan for how to overcome these bottlenecks;

- Working group on Restructuring Studies responsible for monitoring and reporting on the progress in restructuring studies;

- Working group on Special Restructuring Programme responsible for monitoring and reporting on the progress in SRP;

- Working group on Technical Assistance responsible for monitoring and reporting on progress in and needs for technical assistance.

Members of the working groups may come both from the Privatisation Committee as well as from the ministries and other institutions involved.

5.2 Fund National Property

The FNP is a self contained and independent legal entity governed by its Presidium, which is appointed by the National Council.

The FNP implements privatisation projects and its main functions/responsibilities include:

- Transforming SOEs into joint-stock companies;
- Organising auctions and public tenders;
- Drafting and completing sales contracts;
- Managing portfolio of contracts/agreements concerning completed privatisations;
- Managing portfolio of shares in newly privatised companies in which the Fund still holds shares.

The recent amendment to the privatisation law implies the following changes:

- The Presidium of the FNP, which consists of nine members headed by a president will be appointed by the Government and has to be approved by the Parliament;
- The Minister of Privatisation cannot be a member of the Presidium of the FNP;
- The Presidium appoints the Control Board of the FNP;
- The Minister of Finance cannot be member of the Control Board;
- The Chairman of the Executive Committee (full time manager of the FNP) is automatic appointed as Vice-President of the Presidium of the FNP.

In the week commencing 11 April 1994 a new presidium and a new chairman of the executive committee have been appointed.

According to Law 92/91 the FNP has to submit a budget to Parliament for approval no later than 30 April. The budget procedure is as follows:

- Control Board approval;
- Presidium approval;
- Government's Economic Council approval;
- Parliament approval.

A revision of the budget, prepared in early 1994 under the previous leadership is most likely needed as a consequence of the new privatisation policy with heavy emphasis on voucher privatisation. It can be anticipated that the new priorities will lead to a change in the structure of the future work load in the FNP.

During May, the FNP will move to new premises in a building next to the present premises. The building is presently being renovated, has offices for some 170 people, and is being cabled for connecting all work stations via a computer network.

The recruitment process has started with the objective of increasing the staff to the planned level of 170. Each section director is responsible for the recruitment in his own area.

An IT committee has been formed and each director has submitted need specifications. A public tender with the objective of acquiring a new network, etc. is likely to be carried out in the near future in order to have the system in operation in connection with moving to the new premises.

The major problems areas and possible solutions identified are:

- **Slow Decision Making Process** - The decision making in the Fund is very centralised. Our impression is that the new directors under the previous leadership did not feel secure in their position and consequently were reluctant to take decisions. Therefore all major decisions tended to go to the top management, that then became a bottleneck.

  Ultimately the Presidium has to take or confirm most of the decisions (e.g. approving contracts for direct sales, approving specific proposed privatisations via public tenders, etc.).

  An example: As of end of February 1994, 101 privatisation projects to be implemented via public tenders had reached the Fund. Only 3 of these were completed. A very large number of the rest were stuck in the decision making process in the Fund, many of which at the Presidium level, thus being of control of the administrative level of the Fund.

  New procedures have to be defined in order to make the organisation work more effectively.

- **Organisational Development Urgently Needed** - The new management/new directors have to go through a learning process in order to understand their new roles and responsibilities and learn how to work together internally as well as with ministries and other bodies involved; additionally the task of expanding the organisation with 50% over a very short time period will be an immense task.

  In order to implement this task there is an immediate need for appointing a senior professional full time responsible for a new human resource function. The task for this function is to formalise the description of the new structure, making job description defining roles and responsibilities for each director, deputy and major groups of professionals.

- **Recruiting the Most qualified Slovak Professionals is a Crucial Success Factor** - Much turmoil has been related to FNP recently and many members of

the organisation has left or are in a process of leaving the organisation. Some of this has to do with the fact that FNP to our understanding is not an attractive place work for highly skilled professionals that are needed. This has partly to do with the compensation policy.

One solution is to employee a pool of Slovak professionals on a time limited contract basis offering such professionals a compensation that is comparable to what the professionals will be able to obtain in the private sector. This is a sensitive solution; however attracting and keeping a highly qualified staff is a critical success factor for the Fund.

- **Foreign Investors/Organisational Strengthening through Transaction Teams** - In our opinion the Fund would be the natural institution in which to place the main responsibility for attracting and servicing foreign investors, even though foreign investors according to the privatisation legislation have to negotiate with other parties (SOE management, Founding Ministry, MAPNP). A major organisational strengthening of the Fund is needed in this area in order to be able to fulfil such a commitment.

  Long term foreign advisors will be needed to carry out the task of advising/guiding foreign investors interested in participating in the privatisation process. These advisors will have to work closely together with the transaction teams. with the MAPNP, and the Founding ministries, as well as with Slovak National Agency for Foreign Investment and Development.

  A substantial number of SOEs have a potential for being of interest for foreign investors. Some of these SOEs are already transferred into joint stock companies with the shares held by the Fund; others are in the process of being corporatised and will thus come under the control of the Fund. Some of these companies are going to be sold to foreign investors by means of direct sales, others by means of international tenders. The Fund needs strengthening in this area due to the fact that it has very little experience and expertise in dealing with foreign investors.

  The major tasks are:

  - Assessment, completion, and updating of policies and procedures;
  - Define priorities for the companies to be sold to foreign investors;
  - Prepare information memoranda for companies to be sold to foreign investors;
  - Define a specific action plan for each company;
  - Establish contact to foreign investors either through direct sales or public tender;
  - Conduct negotiations, and close transaction.

Each project team should consist of an Investment Banker as the team leader, a Western Financial Analyst/Accountant, a Western Lawyer, supported by a Slovak accountant, a Slovak Lawyer, and a secretariat, including translators. The teams should report directly to the director in which it is working, and work alongside with the staff of the FNP. Plenty of translators should be attached to the teams. As a rough indicator, each team is estimated on average to be able to close around 8 transaction a year.

- **FNP's Portfolio of Shares** - The FNP has shares in 562 companies as of 25 March 1994 consisting of shares temporarily and permanently to be held by FNP.

  In those companies, where FNP has less than 10%, the Fund was under the previous leadership planning to sell the shares as soon as possible. Where the Fund had more than 34%, the Fund was planning to participate in the annual shareholders meetings over the next months. FNP had selected 29 companies in which the Fund plans to hold a permanent share holding.

  The Fund needs to develop:

  - A clear policy for what to do with the shares;
  - A clear policy for how to sell the shares - who is responsible, who can decide on whom to sell to, at what prices, etc.;
  - A clear policy for how to exercise ownership rights (board participation);

  Actions needed to be taken should include the following elements:

  - Privatisation: Reduce the share holding of the Fund in any company to less than 50% during 1994 by using all sales methods: direct sale, sale via capital market and voucher privatisation;

  - Sale of all remaining shares in companies in which the Fund holds insignificant share holding e.g. via the capital market;

  - EBRD's SRP Programme: Intensify the process of establishing a holding structure with participation of the Fund, EBRD and other investors;

  - Define and implement a management reporting system in order to monitor the performance of the remaining portfolio of shares;

  - Increase the capacity of the portfolio management function (level e.g. 1 professional per 10 companies in which the Fund holds shares);

- Exercise the ownership rights in companies in which the Fund holds shares by drawing upon external professionals to represent the interests of the Fund in the boards of the companies. The main objective of those professionals representing the Fund should be to focus on commercial objectives, i.e. to increase the value of shares and create dividend to the shareholders. External professionals should be recruited from domestic and international sources: Well respected business lawyers, industrialists, and investment bankers.

■ **FNP's Portfolio of Sales Contracts** - The FNP has now a portfolio of 586 sales contracts i.e. contracts with new owners of former SOEs. Each of these contracts is different.

The FNP is now facing many cases, where the new owner has failed to generate a cash flow in the acquired company that enables him to service his obligations towards the FNP. Currently great of cases are reaching the FNP with request for prolonging and rescheduling the payments.

The FNP is therefore in a process of defining, how to deal with these cases. A new policy and mechanism needs to be defined. Taking back shares is clearly defined in legislation. However, the legal position when taking back property is not clear. Re-nationalisation may become an issue.

The FNP needs to develop a proper legal office to deal with these issues.

■ **Huge Backlog of Property Rights Issues and Restitution Claims** - People with restitution claims may get money, state bonds or property administered by the FNP. The Restitution Fund pays out these claims when resolved.

The FNP has a huge backlog of unsolved restitution claims: 12,000 unsolved, and only 700 solved. Restitution claims on property needs to be resolved before privatisation can take place.

The department dealing with these issues is severely undermanned and needs additional resources.

Indicative Action Plan - Fund National Property

#	Key Steps	Responsibility	Prepared by	Timing
1	Implement transaction teams	FNP, MAPNP		June '94 - December '95
2	Move to new premises	FNP	FNP	May '94
3	Revise budget and staff plan	FNP	FNP, Consultants	May '94
4	Create Human Resource function	FNP	Consultants	May '94 - September '94
5	Create legal department	FNP	FNP	June '94
6	Implement new MIS	FNP	Consultants	June '94 - September '94
7	Recruit staff	FNP	FNP, Consultants	June '94 - September '94
8	Implementation of training programmes	FNP	FNP, Consultants	September '94 - March '95
9	Implement EBRD Special Restructuring Programme	FNP, MoE	EBRD	July '94
10	Define new policy for sale of shares	FNP, MAPNP	FNP, Consultants	June '94
11	Define new policy for exercising ownership right	FNP	FNP, Consultants	June '94
12	Define new policy for managing portfolio of sales contracts	FNP	FNP, Consultants	June '94
13	Define new policy for attracting foreign investors	FNP, MAPNP	FNP, MAPNP, Consultants	June '94

5.3 Ministry of Administration and Privatisation of National Property

The role of MAPNP is to control and approve privatisation projects. The structure of the Ministry is clear, and the Ministry is working effectively from a structural point of view. The main immediate problem is a capacity problem in the legal department and - to a lesser degree - in the three privatisation sections. Other challenges include improving the skill base of MAPNP employees and improving contacts with potential foreign investors. The MAPNP also needs to strengthen its international and public relations departments.

These problems have been know for a period. The previous leadership did not want to take actions to overcome the capacity problems. Actions needed to be taken include:

- Government/Parliament approval of a substantially larger budget for MAPNP;
- Recruitment of a pool of Slovak lawyers and business analysts;
- Implement training programmes;
- Public relations.

Implement Training Programmes
The quality of the work of the staff of the Ministry could be improved by training activities. It is therefore proposed, that a training programme is designed and implemented for the staff of the Ministry. Staff from the FNP could also participate in the training. Training should include topics such as business strategy and planning, marketing, organisation, financial analysis, etc., i.e. all topics relevant for understanding how to manage a company in a free market economy.

The training could take the form of a 3-4 weeks training spread over a period of e.g. 3-4 months. It is proposed, that the implementation of the training programme takes place, when the permanent staff of the Ministry has been increased - e.g. sometime in the early Autumn 1994 - in order to not to create further capacity problems.

By implementing training activities, the Ministry could become a more attractive working place, and thus contribute to overcome the problem the Ministry has in attracting and keeping qualified staff, due to the low salaries offered.

Pool of Lawyers/Business Analysts to SOEs
Several of the SOEs have capacity problems in dealing with legal matters, and also expertise in updating privatisation projects. It is therefore proposed, that the MAPNP creates a pool of lawyers and business/financial analysts, that can be make available as an ad hoc resource for SOE management in preparing updated privatisation projects.

Foreign Investors/Organisational Strengthening through Transaction Teams
A large number of enterprises decided for whole or partial privatisation through sale to foreign investors, or with a potential for foreign investor participation are in the pipeline at the Founding Ministry level and in the MAPNP. In order to speed up the privatisation process, and strengthen the Government's position in the negotiation

process, Western resources are needed. It is proposed, that this takes the form of transaction teams hosted at the MAPNP. The composition and tasks of the transaction teams are basically the same as for the transaction teams based at the Fund; the main difference is that the contact to the potential foreign investors is at an earlier stage.

Public Relations

The public relations department has the responsibility to deal with the press on a day to day basis in all matters related to privatisation, and take the initiative to co-ordinate campaigns, both domestic and international PR campaigns.

Future of MAPNP

The MAPNP has a limited lifetime. The work load will probably be at its peak in 1994 and early 1995. It is proposed to develop a career plan for every professional working in the MAPNP, which includes employing staff e.g. in the FNP.

6.0 PERFORMANCE MONITORING AND INFORMATION SYSTEMS

Currently, it is very difficult, if not impossible, to provide quick information regarding the privatisation programme and to track the status of any one company in the process. There is no integration between the information systems of the main Government institutions involved in the privatisation process (Founding Ministries, MAPNP, and FNP).

At the Founding Ministries, consolidated information is usually maintained in a rather informal way by officials within a Section or Department responsible for privatisation. In our view such a system is adequate for Ministries that overview a relatively small number of enterprises (Health, Culture, etc.).

The Ministry of Economy, on the other hand, is responsible for developing privatisation projects for some 350 companies. They are currently not capable of providing information on the exact status of the enterprises under their supervision. We received an indication that some 100-150 enterprises have not yet had their privatisation projects reach the MAPNP.

The information system at the MAPNP provides the list of companies for which it has received projects, and it is able to indicate at which stage in the process of evaluation (within the MAPNP) the project is currently at. The database information system is connected via network and is accessible to MAPNP employees.

The information system at the FNP is not connected to that of the MAPNP in any way. The FNP has no way of forecasting the number of privatisation projects it can expect to receive or when it can expect to receive these.

Furthermore, the database system is based on stand-alone PC's where information is forwarded to the central Information Technology Department by means of diskettes. Such a system is unreliable.

The information system at the FNP contains data for projects once they have been forwarded by the MAPNP. Generally, FNP information is based on approved projects (which differs from the number of enterprises as some of these have been split) which makes it difficult to compare to the number of enterprises.

Developing an integrated information system that crosses all relevant institutions will be costly and time consuming. We do not recommend that such a system is developed since most of the privatisation projects are out of the Founder Ministry stage.

However, we believe that it is important to establish an information flow between the MAPNP and the FNP. This can be performed either by developing an integrated system for both institutions or by establishing a formal reporting (paper) system by which the MAPNP provides the FNP with a list of all its privatisation projects and their current status. The first solution would be better but more expensive to

implement. The later idea could be implemented easily using the current database system at the MAPNP.

The information system at the FNP needs to be upgraded urgently. An improved database system is required as well as the development of a network. This will become critical as wave two projects reach the FNP and as staff increases rapidly. It is also important to upgrade the information system at the FNP in order to provide accurate information to interested investors in a rather quick manner. Preparatory work defining the functionality of the new system has been taken in order to create such a system. Such a new system should be able to provide information on a regular basis on the progress in privatisation.

Slovenská republika
Plán veľkej privatizácie

2. časť
Plán činnosti privatizačného procesu

Pracovný návrh

Claus Frost-Hansen
Robert Antonides
David Kochav

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ÚVOD

Privatizačný program je v Slovenskej republike kľúčovým prvkom transformácie z centrálne plánovanej ekonomiky na výkonnú, medzinárodne konkurencieschopnú a trhovo orientovanú ekonomiku. Cieľom privatizačného programu je zabezpečiť, aby sa čo najväčší počet životaschopných štátnych podnikov a majetkov úspešne premenil v čo najkratšom čase na súkromné podniky.

Ministerstvo pre správu a privatizáciu národného majetku Slovenskej republiky požiadalo Americkú agentúru pre medzinárodný rozvoj /USAID/ o poskytnutie technickej pomoci pre vypracovanie privatizačného plánu. Privatizačný plán je súčasťou aktivít vlády Slovenskej republiky, ktoré sú podmienkou pre poskytnutie pôžičky Economic Recovery Loan od Svetovej banky, ako boli schválené 2.decembra 1993. Plán bol vypracovaný aj z dôvodov, aby zjednodušoval a objasňoval jednotlivé postupy a rozhodnutia v procese privatizácie a aby navrhol a vyšpecifikoval interný akčný plán, ktorý urýchli privatizačný proces.

Akčný privatizačný plán, ktorý popisuje tento dokument je výsledkom práce personálu Ministerstva pre správu a privatizáciu národného majetku /MSPNM/ Slovenskej republiky v spolupráci s poradcami z firmy Deloite & Touche Management Consultants v období od 7.februára do 11.marca 1994. Akčný plán bol zrevidovaný kľúčovým personálom MSPNM, ale nezahrňuje úplnú revíziu faktov a preto tento dokument zostáva "pracovnou verziou".

Akčný privatizačný plán prezentuje privatizačnú stratégiu a jej uskutočňovanie, ako bola prednesená Slovenskou vládou v apríli 1994. Popisuje špecifické akčné plány pre každý z prvkov privatizačnej stratégie /kupónový privatizačný program, privatizáciu štandardnými metódami, reštrukturalizáciu pred privatizáciou a privatizáciu strategických podnikov/. Plán teda obsahuje plány pre inštitucionálne stavebné programy pre MSPNM a FNM a vyznačuje podporné programy externých agentúr.

Počas obdobia vypracovávania štúdie a privatizačného plánu, nastali v polovici marca 1994 vo vláde Slovenskej republiky a v politike privatizácie zmeny. Predložený plán odráža privatizačnú stratégiu a akčný plán novej koaličnej vlády, ktorá vznikla v marci 1994.

Radi by sme vyjadrili našu najhlbšiu vďaku zamestnancom MSPNM, obzvlášť našim blízkym spolupracovníkom pánovi Jánovi Porvazníkovi, pani Ive Kutarňovej a pánovi Davidovi

Frankelovi, za ich pomoc pri vypracovávaní tejto štúdie a zabezpečovaní kontaktov s kľúčovými osobnosťami a inštitúciami, zapojeným do privatizačného procesu. Rovnako by sme chceli vyjadriť našu vďaku aj mnohým ďalším jednotlivcom /viď nasledujúci zoznam/, s ktorými sme diskutovali a ktorí nám pomohli vniknúť do privatizačného procesu a do "úzkych profilov" a kľúčových otázok privatizácie v Slovenskej republike. Na záver by sme chceli poďakovať USAID za podporu tejto štúdie.

Radi by sme poukázali na to, že hoci je tento dokument výsledkom uskutočnenej štúdie, väčším prínosom by bola štúdia aktuálneho procesu. V období, keď sa táto štúdia vypracovávala, Ministerstvo pre správu a privatizáciu národného majetku rozvinulo svoje vzťahy s medzinárodnými organizáciami a požiadalo o poskytnutie technickej pomoci, ktorá mu bola v rozšírenej miere pridelená od organizácií ako USAID a EC PHARE. Začal sa proces zlepšovania imidžu Slovenskej republiky, ako atraktívneho cieľa na investovanie. V uskutočňovaní tejto dôležitej úlohy pomáhali MSPNM v uvedenom období spracovávania tejto štúdie aj kozultanti.

11.mája 1994
Claus Frost-Hansen
Robert Antonides
David Kochav

Zonam pracovníkov s ktorými sme jednali:

Ministerstvo pre správu a privatizáciu národného majetku /MSPNM/

- Milan Janičina, minister
- Gabriel Palacka, štátny tajomník
- Ivan Lexa, bývalý štátny tajomník
- Michal Kozlík, riaditeľ právnej sekcie
- Marta Nováková, riaditeľka odboru legisl. a obch.práva
- František Doktor, riaditeľ odboru majtkopráv. a reštit.
- Ján Porvazník, riaditeľ sekcie privatizácie priemyselných odvetví
- Ľudovít Zachar, referent sekcie privatizácie priem.odvetví
- Marta Bogdanová,refernt sekcie privatizácia priem. odvetví
- Ján Janík, riaditeľ sekcie privatizácie podnikov pôdohospodárstva
- Dezider Mosný, zástupca riaditeľa
- Rastislav Žbořil, riaditeľ sekcie privat. podnikov cest.ruchu, dopravy, spojov a nevýr sféry
- Peter Rosa, riaditeľ odboru transformácie majetku št.org.
- Mária Prutzerová, riaditeľka odboru ekonomiky, prevádzky a personálnej práce
- Dušan Kasan, zástupca riaditeľa
- Miroslav Kuchta, vedúci oddelenia organ -analytického a výpočtovej techniky
- David Frankel, poradca
- Iva Kutarňová, zahraničné vzťahy
- Mirko Turčan, tlačový úsek

Fond národného majetku /FNM/

- Dušan Fiala, riaditeľ EC Phare
- Igor Pinkava, riaditeľ odboru pre tlač a informatiku
- Ľubomír Melichárek, informačný systém
- Karol Danys, riaditeľ
- Ivan Gondáš, riaditeľ
- Galajda, zástupca
- Michal Dirga, riaditeľ
- Vrbová, zástupkyňa
- Pavol Kendra, riaditeľ
- Šumichrast, zástupca
- Jaroslav Bílik, riaditeľ
- Hudáková, zástupca
- Dušan Švantner, riaditeľ
- Karaffa, riaditeľ
- Ukropec, zástupca
- Lachkovič, riaditeľ
- Danica Dvořáková
- David Douglas, poradca
- Simon C.Hawken, poradca
- Volker Hillebrandt, poradca

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Ministerstvo hospodárstva

- Jozef Petráš, riaditeľ odboru finančnej politiky
- Darina Volfová
- Darina Novomestská, riaditeľka odb. zákl. funkcií a privat.

Ministerstvo pôdohospodárstva
- Vadim Haraj, riaditeľ

Ministerstvo financií
- Jozef Magula, riaditeľ sekcie

Ministerstvo kultúry
- Ivan Izakovič, štátny tajomník

Ministerstvo zdravotníctva
- Eduard Šimko, riaditeľ

Ministerstvo vnútra
- Vladimír Belo-Caban, riaditeľ kancelárie ministra
- Jozef Liska, riaditeľ vnútornej správy

Ministerstvo dopravy, spojov a verejných prác
- Ján Ricotti, vedúci úradu
- Marian Štefánek,

Centrum kupónovej privatizácie
- Matúš Šrámek, riaditeľ
- Ján Filipek

RM System Slovakia a.s.
- Darina Huttová, zástupkyňa riaditeľa

Najvyšší kontrolný úrad
- Marian Vrabec, riaditeľ
- Peter Sokol, zástupca

Slovenský protimonopolný úrad
- Eugen Jurzyca, riaditeľ

Slovenská národná agentúra pre zahraničné investície a rozvoj /SNAZIR/
- Jana Čekanová, obchodný referent
- Lenka Jasenčáková, public relations

Európska banka pre obnovu a rozvoj
- Igor Tham, zástupca

VUB Invest a.s.
- Ladislav Vaškovič, generálny riaditeľ
- Jozef Oravkin, menežér

Creditanstalt Securities, a.s.
- Peter Foltýn, vedúci výkonný úradník
- Ivan Benda, výkonný riaditeľ

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Creditanstalt Investičná spoločnosť a.s.
- Martin Cabadaj, výkonný riaditeľ

Centurion East European Mining Plc UK
- Michael J.E.Forest, výkonný riaditeľ

Overseas Private Investment Corporation
- Barbara F.Brereton, referent pre investície

Svetová banka
- Yves Duvivier
- Robert E. Anderson

Veľvyslanectvo USA
- Ted Russel, veľvyslanec
- Chis Sandrolini

U.S.A.I.D.
- Patricia J. Lerner, reprezentantka pre Slovensko
- Marian Krško, poradca

UNIDO
- Paul Viedemann, referent pre rozvoj priemyslu

Deloite & Touche
- Bob Wood, vedúci spolupracovník
- Lubomír Haluška, spolupracovník

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1.0 PREHLÁSENIE KONZULTAČNÉHO TÍMU

Vláda Slovenskej republiky považuje privatizáciu štátneho majetku za kľúčový komponent transformácie ekonomiky na výkonnú a medzinárodne konkurencieschopnú ekonomiku. Preto chce presadzovať silnú privatizačnú politiku, ktorá zaručí, že po ukončení kupónovej privatizácie bude sprivatizovanných najmenej 50% majetku štátu. Sám kupónový program bude metódou, prostredníctvom ktorej sa sprivatizuje najmenej 33% štátneho majetku.

Vláda chce dosiahnuť tieto ciele použitím oboch metód privatizácie, štandardných i neštandardných.

Do kupónového programu budú zahrnuté podniky zo všetkých sektorov hospodárstva, vrátane niektorých veľmi atraktívnych investičných príležitostí. Do kupónového programu budú zaradené aj akcie niektorých veľkých podnikov, ktoré sú vo vlastníctve Fondu národného majetku. Kupónový program nebude reziduálnou metódou, ale stane sa prvoradou metódou privatizácie. Cieľom vlády je , aby sa do konca roka 1994 kupónový program dobre rozbehol a aby objem majetku zaradeného do programu prispel v roku 1994 k dosiahnutiu vytýčeného cieľa.

Vláda plánuje urýchliť aj privatizáciu štandardnými metódami, v súlade s práve pripravovanými privatizačnými projektami. Preto, podniky /alebo ich časti/ budú ponúknuté solventným domácim, alebo zahraničným investorom, ktorí budú schopní preukázať svoju vieryhodnosť a predložia návrhy, ktoré budú atraktívne nielen z finančného hľadiska, ale aj z hľadiska podnikateľského plánu a budúcich investícií do podniku. Aby sa získali zahraničné investície, vláda vyčlení 30 - 50 podnikov, ktoré sa budú privatizovať prostredníctvom medzinárodných tendrov za pomoci medzinárodných organizácií a transakčných tímov s dostatočnými skúsenosťami v oblasti podnikových financií a s prístupom k potenciálnym zahraničným investorom.

Kľúčovým nástrojom úspechu privatizačného programu je spolupráca medzi Fondom národného majetku, Ministerstvom pre správu a privatizáciu národného majetku a Vládou. Je potrebné vypracovať stratégiu predaja akcií, ktoré vlastní Fond národného majetku. FNM bude spolupracovať s MSPNM, aby urýchlil predaj akcií vo svojom portfóliu čo najvýhodnejšie pre Slovenskú republiku.

Identifikujú sa strategické podniky a vypracuje sa stratégia politiky privatizácie týchto podnikov. Strategické podniky

budú zahrňovať podniky z oblasti energetiky, verejných služieb a zbrojárskej výroby . V týchto podnikoch má štát krátkodobý záujem o ich kontrolu, kým nebude vypracovaný plán na ich reštrukturalizáciu a riadenie.
Vláda chce privatizačný proces viac otvoriť, aby zvýšila jeho transparentnosť a zabezpečila rovnocennosť všetkých účastníkov. Už samotné zameranie sa na kupónový program zvýši transparentnosť procesu. Aby sa podporila konkurencia v privatizácii pri použití štandardných metód, je potrebné určiť kritériá a zverejniť ich. Na dosiahnutie oboch cieľov privatizačnej stratégie a uskutočnenie praktických postupov, týkajúcich sa kupónového programu bude slúžiť oznamovacia kampaň.. Vláda má v pláne preskúmať aj niektoré nejasné schválenia privatizačných projektov, ktoré sa udiali počas posledných dní existencie bývalej vlády, aby sa obnovila vieryhodnosť privatizačného procesu.

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2.0 ŠTÁTNY MAJETOK K 1.1.1994

2.1 ZÁKLADY PRE PRIVATIZAČNÝ PLÁN A DEFINÍCIA SPRIVATIZOVANÉHO MAJETKU

Privatizačný plán je súčasťou aktivít, ktoré má vykonať Slovenská vláda, aby splnila podmienky pre poskytnutie pôžičky Economic Recovery Loan od Svetovej banky, ako boli schválené 2.decembra 1993. Plán bol vypracovaný aj preto, aby zjednodušil a objasnil postupy a rozhodovania v privatizačnom procese a špecifikoval interný akčný plán, ktorý umožní urýchlenie privatizačného procesu.

Pre účely monitorovania plnenia privatizačného programu v súlade so stanoveným cieľom, táto časť obsahuje definíciu sprivatizovaného majetku, ako aj definuje štátny majetok k 1.1.1994.

Definícia sprivatizovaného majetku

- Podnik je definovaný ako sprivatizovaný len v prípade, že viac ako 50% jeho akcií je vo vlastníctve a pod kontrolou súkromného subjektu. Na splnenie tohoto kritéria, nie je postačujúce, ak majetok štátu, ktorý bol pretransformovaný na akciovú spoločnosť, je vo vlastníctve FNM.

- Ak je viac ako 50% akcií podniku kontrolovaných súkromným subjektom, potom všetky akcie podniku sa považujú za sprivatizované, dokonca aj v prípade, že FNM vlastní do 49% akcií.

- Rovnako, ak súkromný subjekt kontroluje menej ako 50% akcií, potom sa všetky akcie považujú za akcie v rukách štátu a žiadna z hodnoty privátne držaných akcií, nebude prispievať k dosiahnutiu privatizačného cieľa ani v prípade, že 49% akcií bude v rukách súkromníkov.

- Akcie, ktorých vlastníkom je Slovenský reštitučný fond /3% každej akciovej poločnosti/ sa považujú za akcie vo vlastníctve štátu.

- Hodnotová jednotka, ktorá bude použitá na monitorovanie priebehu privatizačného procesu bude účtovná hodnota majetku štátnych podnikov, ktoré ešte neboli pretransformované na akciové spoločnosti a hodnota akcií vo Fonde národného majetku, pre podniky, kde FNM vlastní väčšinový podiel.

2.2. ŠTÁTNY MAJETOK K 1.1.1994

Vychádzajúc z neintegrovaného informačného systému na Fonde národného majetku, Ministerstve pre správu a privatizáciu národného majetku a zakladateľských ministerstvách, v kombinácii s uskutočnenými likvidáciami niektorých podnikov a zaradením týchto podnikov do oficiálneho zoznamu podnikov pre druhú vlnu privatizácie, je veľmi obtiažne poskytnúť presné čísla o objeme štátneho majetku k 1 januáru 1994.

Aby sme odvodili hodnoty objemu štátneho majetku z 1 januára 1994, budeme:

- Uvádzať aktuálny počet podnikov a hodnotu ich akcií u podnikov, kde je FNM väčšinovým vlastníkom Informácie budú čerpané z informačného systému FNM.
- Uvádzať aktuálny počet podnikov /a účtovnú hodnotu ich majetku/ u podnikov, ktorých projekty sa nachádzajú na MSPNM a sú v procese spracovania Hodnoty budú čerpané z informačného systému MSPNM
- Predpokladať počet podnikov a účtovnu hodnotu ich majetku u podnikov, ktorých privatizačné projekty ešte neboli postúpené na MSPNM Posledný bod bude obtiažny a bude sa zakladať na analýze počtov a účtovnej hodnoty všetkých podnikov zaradených do druhej vlny, ktoré sa uvádzali v roku 1991, v kombinácii s odhadom počtov likvidácií a priradení týchto podnikov do oficiálneho zoznamu podnikov zaradených do druhej vlny

Je pravdou, že pri použití tohoto postupu, bude celková hodnota štátneho majetku zahrňovať *akcový kapitál* /akcie FNM/ a *účtovnú hodnotu majetku* /podniky na MSPNM a zakladateľských ministerstvách/ Avšak, tento postup bol zvolený v záujme zjednodušenia a berie do úvahy, že hodnota akcií na FNM je približne rovnaká ako účtovná hodnota majetku a je len upravená asi o 10%.

Majetok štátu na Fonde národného majetku

K 1.januáru 1994 mal Fond národného majetku Slovenskej republiky akcie v 558 podnikov s celkovým kapitálom 136,7 miliárd SK, z ktorých hodnota akcií vo vlastníctve FNM bola 47,9 miliárd SK a hodnota akcií vo vlastníctve Slovenského reštitučného fondu bola 3,8 miliárd SK Rozdelenie akcií FNM podľa veľkosti podielu v podniku znázorňuje nasledujúca tabuľka:

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Akcie na FNM k 1/1/94

Podiel FNM	Počet akciových spoločností	Upísaný kapiál celkom	Akcie FNM
0 - 10%	190	35,385	1,494
10 - 33%	194	31.758	5,975
33 - 47%	57	28,427	11,544
47 - 50%	16	5,537	2,161
50 - 66%	32	6,521	3,508
66 - 100%	69	27,888	23,168
CELKOM	558	136,737	47,850

- Zdroj: Fond národného majetku
- Všetky údaje sú v miliónoch SK

Z predchádzajúcej tabuľky je jasné, že Fond národného majetku vlastní viac ako 47% akcií v 117 akciových spoločnostiach s celkovým upísaným kapitálom 40 miliárd SK. Prevláda číslo 47%, pretože 3% akcií každej akciovej spoločnosti vlastní Slovenský reštitučný fond, ktorý je v rukách štátu a keď sa tieto dva podiely sčítajú, tvoria spolu väčšinový podiel.

Pre účely tohoto plánu a na základe definície uvedenej v tejto časti, 117 podnikov s celkovým upísaným kapitálom 40 miliárd SK budeme definovať ako majetok v rukách štátu. Podrobný zoznam, ktorý obsahuje všetky podniky, ktorých akcie vlastní FNM, akciový kapitál každého z týchto podnikov a percento, ktoré vlastní FNM /k 1.1.1994/ uvádzame v prílohe.

Štruktúra akcií FNM sa v prvom kvartáli 1994 zmenila len veľmi málo. Nasledujúca tabuľka uvádza akcie vo vlastníctve FNM k 25.3.1994.

Akcie FNM k 25/3/94

Podiel FNM	Počet akciových spoločností	Upísaný kapitál celkom	Akcie FNM
0 - 10%	191	35,512	1,455
10 - 33%	195	49,307	10,565
33 - 47%	55	10,589	4,071
47 - 50%	16	5,537	2,161
50 - 66%	32	8,158	4,840
66 - 100%	73	29,075	24,283
CELKOM	562	138,178	47,375

* Zdroj: Fond národného majetku
* Všetky uvedené čísla sú v miliardách SK

Podrobný zoznam, ktorý obsahuje všetky podniky, ktorých akcie vlastní FNM, akciový kapitál každého z týchto podnikov a percentá, ktoré vlastní FNM /k 25.3.1994/ uvádzame v prílohe.

Majetok štátu na MSPNM

K 1.januáru 1994 sa nachádzalo na Ministerstve pre správu a privatizáciu národného majetku 453 privatizačných projektov štátnych podnikov,v účtovnej hodnote majetku 213,7 miliárd SK, ktoré boli zaradené do 2.vlny privatizácie.

Z tohoto počtu schválilo MSPNM 44 privatizačných projektov, ktorých výsledkom bolo 64 výstupov s účtovnou hodnotou 5,8 miliárd SK. Tieto výstupy boli postúpené na FNM a preto sú uvedené v informačnom systéme FNM.

Počet a účtovná hodnota majetku podnikov, nachádzajúcich sa na MSPNM (1-1-94)

	Pocet	Účtovná hodnota majetku (mld SK)
Štátne podniky na MSPNM	453	213.7
Mínus:		
Schválené privatizačné projekty (privatizačné výstupy)	44 (64)	5.8 (5.8)
Podniky spracovávané na MSPNM	**409**	**207.9**

Metódy privatizácie schválených projektov podnikov zaradených do 2.vlny (1-1-94)

	Počet	Účtovná hodnota majetku (mld SK)
Priamy predaj	13	1,311
Bezodplatný prevod	8	86
Navrátenie majetku v rámci reštitúcií	1	2
Verejné súťaže a dražby	38	2,627
Transformácia na akciové spoločnosti	4	1,784
Celkom	**64**	**5,810**

1.mája 1994 bolo postúpených na MSPNM na spracovanie deväť ďalších projektov. To znamená, že v máji 1994 bolo na MSPNM schválených 75 privatizačných projektov, ktorých výsledkom bolo 130 privatizačných výstupov s celkovou účtovnou hodnotou majetku 22,2 miliárd SK. Treba poznamenať, že tieto údaje zahrňujú aj projekty, ktoré boli narýchlo schválené počas posledných dní pôsobenia predchádzajúcej vlády a ktoré boli nedávno prehodnocované z hľadiska právoplatnosti pričom niektoré z nich boli zrušené.

Počet a účtovná hodnota majetku podnikov, nachádzajúcich sa na MSPNM (1-5-94)

	Pocet	Účtovná hodnota majetku (mld SK)
Štátne podniky na MSPNM	462	220.3
Mínus:		
Schválené privatizačné projekty (privatizačné výstupy)	75 (130)	22.2 (22.2)
Podniky spracovávané na MSPNM	**387**	**198.1**

Metódy privatizácie schválených projektov podnikov zaradených do 2.vlny (1-5-94)

	Počet	Účtovná hodnota majetku (mld SK)
Priamy predaj	86	9,746
Bezodplatný prevod	31	668
Navrátenie majetku v rámci reštitúcií	1	2
Verejné súťaže a dražby	12	11,803
Transformácia na akciové spoločnosti	.	
Celkom	**130**	**22,219**

Odhadovaný štátny majetok na zakladateľských ministerstvách

Vychádzajúc zo správy, ktorú uverejnilo MSPNM v novembri 1993 /Niektoré fakty a údaje týkajúce sa privatizačného procesu v Slovenskej republike/, nasledujúca tabuľka sumarizuje počet podnikov, zaradených do 2.vlny a účtovnú hodnotu ich majetku v roku 1991.

Štátne podniky zaradené do 2.vlny (1991)

Rozsah majetku podniku	Počet podnikov	Účtovná hodnota majetku (mld SK)
Od 0 - 25 miliónov SK	81	1.1
Od 25 - 50 miliónov SK	75	2.9
Od 50 - 100 miliónov SK	83	5.8
Od 100 - 250 miliónov SK	126	20.2
Od 250 - 500 miliónov SK	86	30.1
Od 500 -1000 miliónov SK	37	26.2
Nad 1,000 miliónov SK	31	109.8
Celkom	**519**	**196.1**

K týmto údajom musíme pripočítať prinajmenšom počet podnikov, ktoré zostali z prvej vlny, vyradiť počet likvidácií, ktoré boli uskutočnené od roku 1991 až po súčasnosť a pripočítať nové podniky, ktoré zakladateľské ministerstvá určili ako kandidátov pre privatizáciu. Účtovné hodnoty majetku boli medzičasom upravené, väčšinou kôli zmenám v účtovnaní nehnuteľností.

Na základe tejto informácie a rozhovorov, ktoré sme viedli na zakladateľských ministerstvách, kde sme boli informovaní o ďalších podnikoch, zaradených medzi kandidátov na privatizáciu a o likvidáciách, a na základe odhadov získaných od zamestnancov MSPNM, odhadujeme, že účtovná hodnota majetku podnikov, ktorých projekty neboli postúpené na MSPNM je približne 15 miliárd SK.

Celkový odhad majetku štátu k 1.1.1994

Nasledujúca tabuľka uvádza celkový majetok štátu, z ktorého odvodzujeme privatizačný cieľ:

Odhadovaný majetok štátu k 1/1/94

	Počet podnikov *	Účtovná hodnota majetku (mld SK)
Väčšinový podiel akcií vlastní FNM	117	39.9
Na MSPNM	409	207.9
Odhad zakladateľských ministerstiev	neznámy	15.0
Celkom		**262.8**

* Poznámka: U akcií FNM, údaje o počte podnikov zahrňujú výstupné jednotky, kde je možných niekoľko privatizačných výstupov z jedného štátneho podniku; pričom údaje o počte podnikov u MSPNM a zakladateľských ministerstvách zahrňujú počty štátnych podnikov.

To znamená, aby Slovenská republika dosiahla svoj cieľ sprivatizovať v roku 1994 33% štátneho majetku, musí sprivatizovať väčšinové podiely podnikov, ktorých akcie budú predstavovať kapitál viac ako 86,7 miliárd SK.

Odhad privatizácie v období medzi 1.1.1994 a 1.5.1994

V máji 1994 MSPNM odhadlo objem majetku štátu, ktorý plánuje spracovať tak ako to znázorňuje nasledujúca tabuľka:

Odhad majetku, ktorý má spracovať MSPNM po 1/5/94

	Počet podnikov	Účtovná hodnota majetku (mld SK)
Postúpené PP štátnych podnikov	435	199.3
Počet výstupov	1.051	199.3
- Priamy predaj	670	26.7
- Bezodplatný prevod	166	3.1
- Navrátený majetok v rámci reštitúcií	18	0.2
- Transformácia na akciové spoločnosti	197	169.3
Akcie v akciových spoločnostiach		169.3
- Rezervné fondy		27.2
- Účtovná hodnota akcií		142.1
Privaizácia akcií		142.1
- Štandardný predaj		35.6
- Stále vlastníctvo FNM		19.3
- Kupónová privatizácia		83.3
- Reštitučný fond		3.9

Keď pripočítame tento odhad /199,3 miliárd SK/ k hodnote akcií podnikov, kde má FNM väčšinový podiel /42,8 miliárd SK/, dostaneme odhad celkového majetku štátu k 1.5.1994 /242,1 miliárd SK/. Implicitne to ukazuje, že 20,7 miliárd SK /alebo 23,8% z cieľa na rok 1994/ hodnoty štátneho majetku bolo sprivatizovaného v období od 1.1.1994 do 1.5.1994.

Je však potrebné poznamenať, že niektoré privatizácie, ktoré sa uskutočnili v tomto období sa prehodnocujú z hľadiska ich právoplatnosti.

3.0 PRIVATIZAČNÁ STRATÉGIA PRE SLOVENSKÚ REPUBLIKU

Aby sa dosiahli stanovené ciele privatizačného programu a splnili sa špecifické plány, vláda má v úmysle uplatniť takú privatizačnú stratégiu, ktorá sa bude zameriavať na nasledujúce rozsiahle komponenty:

A. Uskutočnenie 2.vlny kupónovej privatizácie

Vláda chce zrealizovať 2.vlnu kupónovej privatizácie v roku 1994 a začiatkom roka 1995. Kupónová privatizácia nebude reziduálnou privatizačnou metódou a principiálne sa môže až 97% majetku jednotlivých podnikov sprivatizovať prostredníctvom kupónového privatizačného programu. Vláda má v úmysle zaradiť do neho a schváliť veľký počet životaschopných podnikov, ktoré budú ponúkať pre účastníkov kupónového programu atraktívne možnosti investovania.

Medzi podniky zaradené do druhej vlny kupónovej privatizácie, je začlenených aj 150-200 podnikov, ktorých projekty sa práve spracovávajú na MSPNM a zakladateľských ministerstvách a asi 120 podnikov, ktorých akcie sú v súčasnosti vo vlastníctve FNM. 150-200 podnikov má celkovú účtovnú hodnotu majetku približne 183 miliárd SK, z čoho sa 85 miliárd bude privatizovať prostrednícvom kupónového programu. 120 podnikov na FNM vloží do kupónového programu asi 20 miliárd SK.

Podniky, ktoré boli zaradené do kupónového privatizačného programu sú väčšinou veľké podniky, s celkovou účtovnou hodnotou majetku viac ako 200 miliárd SK. Percento majetku týchto podnikov, ktoré sa bude privatizovať prostredníctvom kupónovej metódy, bude závisieť od toho, či o akcie tohoto podniku v súčasnosti prejavil záujem zahraničný, alebo domáci strategický investor. V prípade, že takýto investor neexistuje, môže byť kupónovou metódou sprivatizovaných až 97% akcií podniku. V prípade záujmu investora bude kupónová časť limitovaná, aby sa zaistila možnosť pre strategického investora získať kontrolný balík akcií.

Uskutočnenie 2.vlny kupónovej privatizácie si vyžaduje celý komplex procedúr a začlenenie mnohých inštitúcií, aby sa zabezpečil jej dobrý štart ešte pred koncom roka 1994. Na druhej strane, postupy, ktoré je potrebné rozbehnúť sú v podstate tie isté ako u prvej vlny, legislatívy rámec je stanovený a všetky inštitúcie, ktoré participovali v prvej vlne, sú pripravené

a využijú skúsenosti z prvej vlny. Detailný plán priebehu kupónového programu, zahrňujúci hlavné úlohy, termíny a zodpovedné inštitúcie je uvedený v nasledujúcej časti.

B. *Predaj akcií, ktoré sú vo vlastníctve FNM*

Stratégia predaja akcií 562 podnikoch, ktoré sú vo vlastníctve FNM, bude zahrňovať nasledujúce postupy:

i Určia sa akcie 120-tich podnikov, ktoré sa budú privatizovať prostredníctvom kupónového programu podľa výberových kritérií pre účasť v kupónke;

ii Akcie podnikov, kde FNM vlastní menej ako 6%, budú privatizované prostredníctvom predaja na kapitálových trhoch. Vo všeobecnosti, počet týchto akcií je príliš malý na to, aby bol zaradený do druhej vlny kupónovej privatizácie;

iii Akcie podnikov o ktoré má v súčasnosti záujem potenciálny strategický investor /zahraničný, alebo domáci/, sa buď nezaradia do kupónového programu a budú sa privatizovať štandardnými metódami, alebo len časť týchto akcií sa zaradí do kupónového programu pri ponechaní možnosti pre strategického investora, aby získal kontrolný balík akcií štandardnými metódami;

iv Akcie, ktoré nie sú spomenuté v bodoch i-iii, predstavujú akcie podnikov, kde je čiastka, ktorú vlastní FNM menšia ako 50 miliárd SK. Tieto akcie sa budú privatizovať prostredníctvom štandardných metód /v prvom rade domácimi verejnými súťažami/;

C. *Privatizácia štandardnými metódami*

Podniky zaradené do druhej vlny, ktoré nebudú participovať v kupónovej privatizácii budú postupne privatizovať domáci, alebo zahraniční investori štandardnými metódami: priamy predaj, domáce a medzinárodné tendre a priame umiestnenia na kapitálových trhoch. Vo všeobecnosti táto skupina zahrňuje malé a stredné podniky s účtovnou hodnotou majetku menšou ako 200 miliónov SK, z ktorých väčšinu tvoria veľmi malé podniky s účtovnou hodnotou majetku okolo 10 miliónov SK.

Štandardné metódy sa budú uplatňovať aj pri privatizácii určitej časti akcií podnikov, ktoré boli zaradené do kupónového programu, ale kde existuje

strategický investor. Štandardné metódy sa budú ďalej uplatňovať aj pri privatizácii časti akcií podnikov z prvej vlny, ktoré v súčasnosti vlastní FNM.

Pri privatizácii štandardnými metódami chce MSPNM a FNM požiadať o pomoc zahraničných transakčných expertov, ktorí budú pomáhať pri vyhľadávaní investorov a urýchľovaní transakčného a vyjednávacieho procesu tak, aby vláda maximalizovala zisky z privatizácie, investícií a záväzkov, týkajúcich sa zamestnanosti, pritiahla zahraničné investície a pomáhala zlepšovať imidž Slovenskej republiky ako atraktívnej investičnej príležitosti.

Za účelom urýchlenia privatizácie štandardnými metódami a pritiahnutia zahraničných investícií do Slovenskej republiky sa plánuje uskutočnenie medzinárodných verejných súťaží pre približne 30-50 podnikov zaradených do druhej vlny, ktoré by mal usporiadať FNM v priebehu rokov 1994 a 1995.

D. *Vypracovanie reštrukturalizačných a privatizačných plánov pre strategické podniky*

Vláda je v procese identifikácie počtu strategických podnikov, ktoré budú zahrňovať monopoly štátnych služieb /telekomunikácie, energetiku, plyn atď./ a najväčšie zbrojárske podniky. Pre tieto podniky plánuje vláda vypracovať reštrukturalizačné programy kombinované s ďalším rozvojom riadiaceho prostredia, pod ktorým budú tieto podniky rozvíjať svoje aktivity pred vypracovaním a uskutočnením privatizačných plánov. Vláda plánuje sprivatizovať v týchto podnikoch menšinový podiel v období, keď budú mať vyhovujúce riadenie a vypracované a zrealizované reštrukturalizačné štúdie.

V súčasnosti sa jedná asi o 10-12 strategických podnikov s účtovnou hodnotou majetku asi 50 miliárd SK.

E. *Uskutočnenie reštrukturalizačných programov pred privatizáciou*

Na Ministerstve hospodárstva, Ministerstve pre správu a privatizáciu národného majetku,v Národnej banke Slovenskej republiky a v medzinárodných agentúrach poskytujúcich pomoc prebieha proces tvorby a uskutočňovania reštrukturalizačných a privatizačných programov pre cca 30 podnikov a tvoria sa tam programy na re-kapitalizáciu bánk a zníženie dlhov podnikov. Do

tejto skupiny sú zaradené ďaké podniky, ktoré majú veľké finančné problémy a ktoré si vyžadujú urýchlenú finančnú reštrukturalizáciu.

Cieľom takýchto programov je zapojiť podniky a ich veriteľov do procesov oddlžovania, aby sa vytvorili riešenia platobnej neschopnosti v súvislosti s privatizačnými stratégiami. Predpokladá sa, že pre niektoré podniky budú mať tieto postupy za následok ich rýchlu likvidáciu.

F. *Programy pomoci pre privatizačný proces*

Pri uskutočňovaní svojej privtizačnej stratégie sa bude vláda Slovenskej republiky snažiť o získanie externej pomoci.
Niektoré programy pomoci:

i. MSPNM požiada o technickú pomoc formou poskytnutia slovenských právnikov a finančných analytikov, za účelom urýchlenia procesu vyhodnocovania a schvaľovania 150-200 privatizačných projektov,ktoré boli zaradené do druhej vlny kupónovej privatizácie;

ii. Na uľahčenie priebehu kupónového privatizačného programu, sa požiada o technickú pomoc na urýchlenie procesu transformácie štátnych podnikov na akciové spoločnosti. Táto pomoc v oblasti právnikov bude poskytnutá Fondu národného majetku a Ministerstvu spravodlivosti.

iii. Technická pomoc bude potrebná aj pri vytváraní stratégie v oblasti komunikácie a public relations, týkajúcej sa oboch programov, kupónového aj zahraničných tendrov,aby bolo možné uskutočniť ich ešte v roku 1994 a aby sa podarilo získať zahraničné investície.

iv. Na vypracovanie informačných memoránd pre vybranú skupinu podnikov,ktoré budú určené pre medzinárodné tendre, v súlade s požadovaným medzinárodným štandardom, sa bude požadovať pomoc zahraničných expertov.

v. Na urýchlenie predajov štandardnými metódami, sa bude tiež žiadať o technickú pomoc formou odborných transakčných tímov, ktoré budú mať za úlohu prilákať zahraničných investorov , pomáhať pri

jednaniach a realizácii priamych predajov a pri organizovaní domácich a zahraničných tendrov;

vi. Pomoc bude požadovaná aj na urýchlenie programov reštrukturalizácie a zmierňovania dlhov, ktoré sponzorujú rôzne medzinárodné organizácie.

vii. Dôležitým prvkom úspechu privatizačného programu sú aj programy školenia pracovníkov MSPNM a FNM, kde získajú všeobecné znalosti z oblasti obchodu a financií. Veľmi užitočný by bol školiaci program pre pracovníkov FNM, ktorý by sa týkal fungovania kapitálových trhov, transakčných obchodných stratégií a vyhodnocovania podnikateľských a finančných plánov.

Uvedené vybrané navrhované programy technickej pomoci sú považované za veľmi dôležité, kôli ich priamemu dopadu na privatizačný proces.

Hoci tento plán neobsahuje viac návrhov pomoci, plne pripúšťa, že existuje množstvo ďalších programov, ktoré by bolo môžné uskutočniť a ktoré by mali nepriamy, ale dôležitý dopad na privatizačný proces /napr. programy rozvoja kapitálových trhov, programy pomoci v oblasti bankovíctva, programy rozvoja riadenia, atď./. Neuvádzame tu ani dôležité programy pomoci, ktoré sú zamerané na oblasť telekomunikácií, reštrukturalizáciu odvetvia energetiky konverziu zbrojárskeho priemyslu, atď.

4.0 PRIVATIZČNÝ PLÁN PRE SLOVENSKÚ REPUBLIKU

4.1 Druhá vlna kupónovej privatizácie

Prvoradými cieľmi kupónového privatizačného programu sú rýchlosť, dopad, súlad s celkovou privatizačnou stratégiou a poskytnutie atraktívnych investičných príležitostí slovenským občanom.

* *Rýchlosť* - Vláda očakáva prostredníctvom kupónovej privatizácie rýchle oživenie privatizácie v Slovenskej republike a vytýčila si cieľ, dobre rozbehnúť kupónový program ešte pred koncom roka 1994. Hlavný cieľ zahrňuje registráciu občanov a investičných fondov od 1.septembra 1994 a ukončenie nultého kola privatizácie do konca decembra 1994. Rýchlosť uskutočnenia je veľmi dôležitá z hľadiska dosiahnutia vytýčeného cieľa privatizácie pre rok 1994, ako bol dohodnutý so Svetovou bankou.

* *Dopad* - Na dosiahnutie cieľa,sprivatizovať do konca roka 1994 33% majetku štátu, je rozsiahly kupónový program jedinou vhodnou alternatívou. A preto, väčšinové podiely majetku veľkých podnikov budú prvoradými kandidátmi pre kupónový program.

* *Súlad s privatizačnou stratégiou* - Kupónový privatizačný program je jedným z prvkov privatizačnej stratégie krajiny a preto musí jeho uskutočnenie dopĺňať a zohľadňovať aj iné privatizačné aktivity.

* *Poskytnutie atraktívnych investičných príležitostí slovenským občanom* - Aby sa zabezpečila úspešnosť programu, je dôležité, aby mali ponúkané akcie adekvátnu cenovú úroveň. Okrem toho je dôležité, aby procedúry priebehu programu /oceňovanie, distribúcia, šírenie informácií atď./ boli transparentné a dobre zrozumiteľné pre verejnosť.

Táto časť uvádza kritériá výberu podnikov, ktoré sa budú privatizovať prostredníctvom kupónového programu, kľúčové otázky, ktoré treba riešiť a dôležité kroky, ktoré treba urobiť do stanoveného termínu ku ktorému sa vláda zaviazala.

Kritériá výberu zúčastnených podnikov

- *Veľké podniky* - Podniky s účtovnou hodnotou majetku viac ako 200 miliónov SK budú prvoradými kandidátmi pre privatizáciu prostredníctvom kupónového programu. V princípe, väčšinový podiel akcií týchto podnikov sa bude privatizovať touto formou,po transformácii štátnych podnikov na akciové spoločnosti. Len v prípadoch, kde je seriózny strategický investor schopný zaplatiť, v pomerne krátkom čase a je schopný financovať náklady na reštrukturalizáciu, bude podnik takejto veľkosti vyňatý z kupónového programu, alebo sa prostredníctvom kupónov bude privatizovať len menšinový podiel jeho akcií.

  Zaradenie veľkých podnikov zaistí, že úsilie venované spracovaniu privatizačných projektov bude čo najviac zúročené a vytvorí čo najrozsiahlejší program s limitovanými zdrojmi a časom.

  Zaradenie veľkých podnikov taktie zaistí,že bude vložený dostatočne veľký kapitál na uspokojenie dopytu očakávaných 2,5 miliónov občanov, ktorí sa zúčastnia kupónového programu.

- *Veľké a malé podniky, u ktorých boli schválené verejné súťaže, ale tieto zatiaľ neboli uverejnené*

- *Podniky so životaschopným podnikateľským potenciálom* -

  Pre zabezpečenie čo najväčšieho úspechu kupónovej privatizácie a jej podpory u verejnosti je doležité vyradiť z tohoto programu podniky, ktoré nemajú životaschopný podnikateľský potenciál. Týmto spôsobom sa bude maximalizovať počet účastníkov programu a bude sa limitovať počet podnikov, ktoré pôjdu do likvidácie v období, dokedy sa skonsoliduje kontrola vlastníkov, alebo krátko potom.

  Ministerstvo hospodárstva v spolupráci s Ministerstvom pre správu a privatizáciu národného majetku a najväčšími veriteľmi nedávno vyčlenilo určitý počet podnikov, ktoré bude nutné reštrukturalizovať, alebo oddlžiť. Pri realizácii plánov reštrukturalizácie a oddlženia prisľúbili pomoc aj zahraničné organizácie.

- *Existencia strategického investora* - Vyčlenia sa také podniky, alebo sa v nich bude limitovať percento objemu majetku, ktoré sa bude privatizovať kupónovou metódou, o ktoré prejavili záujem seriózni domáci a zahraniční investori, ktorí rokovali o ich kúpe. Kupónová

privatizácia neohrozí prebiehajúce jednania s domácimi, alebo zahraničnými investormi, výsledkom ktorých by mali byť finančné injekcie do týchto podnikov, ich rýchla privatizácia a príliv valút do Slovenskej republiky. Imidžu Slovenskej republiky, ako vhodnej investičnej príležitosti však uškodí, ak sa jednania, ktoré sú už v pokročilom štádiu prerušia.

MSPNM pripravuje zoznam asi tridsiatich podnikov, ktoré chce vláda ponúknuť zahraničným investorom. V prípade týchto podnikov sa zaradí do kupónovej privatizácie len ich menšinový podiel, aby sa väčšinový podiel mohol sprivatizovať štandardnými metódami.

- *Strategické podniky* - Podniky, ktoré vláda označila ako strategické /ide hlavne o podniky z oblasti energetiky, telekomunikácií a zbrojárskej výroby/ budú z kupónovej privatizácie vyňaté, alebo sa prostredníctvom kupónovej metódy bude privatizovať len menšinový podiel ich akcií.

- *Vplyv na konkurenčné prostredie* - Aby sa podporila a udržala v jednotlivých hospodárskych odvetviach konkurenčná štruktúra, zakladateľské ministerstvá a Protimonopolný úrad odporúčajú v privatizačných projektoch rozdelenie niektorých podnikov.

Ministerstvo pre správu a privatizáciu národného majetku navrhlo predbežný zoznam 183 podnikov, ktoré sú kandidátmi pre účasť v kupónovom programe.

Predbežný zoznam podnikov zaradených do 2.vlny kupónovej privatizácie

Odvetvie	Počet	Účtovná hodnota (mld SK)	Počet akcii v mld SK
Priemysel	104	152.9	72.5
Poľnohospodárstvo	43	[illegible]	4.8
Služby	36	[illegible]	7.6
Celkom	183	182.9	84.9

V období, kedy sa vypracovával tento plán, nebolo rozhodnuté ani o presnom počte podnikov, ktoré budú zaradené do kupónového programu, ani o percentuálnom objeme majetku týchto podnikov, ktoré sa bude privatizovať prostredníctvom kupónov. Čísla v predchádzajúcej tabuľke predstavujú len návrh MSPNM, pričom každý z týchto 183 kandidátov si určil sám percento majetku, ktoré pôjde do kupónovej privatizácie. Je však potrebné poznamenať, že tabuľka neobsahuje akcie, vlastníkom ktorých je Fond národného majetku a ktoré sa budú tiež privatizovať kupónovým programom. Tabuľku sme uviedli len na ilustráciu dôležitosti programu.

Politika určovania presného počtu percent majetku v jednotlivých podnikoch, ktorý sa bude privatizovať prostredníctvom kupónov, závisí predovšetkým od podniku a jeho podnikovej analýzy,a nebude obmedzený:

- Vo všeobecnosti je možné zaradiť do kupónového programu až 97% akcií v prípadoch, kde sa momentálne neočakáva záujem strategického investora
- Do kupónovej privatizácie pôjde 60 - 70% akcií podniku, aby mal Fond národného majetku možnosť predať v budúcnosti strategickému investorovi kontrolný balík akcií.
- Do kupónky bude u strategických podnikov zaradený len menšinový podiel akcií, rovnako ako v prípadoch, kde sa z dôvodov záujmu strategického investora použijú štandardné metódy.

Súhrn najproblematickejších bodov týkajúcich sa priebehu kupónovej privatizácie

O všetkých nasledujúcich bodoch sme diskutovali v časti I.- Popis a analýza procesu privatizácie v Slovenskej republike, ale ešte pred uvedením akčného plánu a časového rozvrhu kupónového programu sme ich znovu zosumarizovali:

- *Časový tlak a potreba rýchleho schválenia privatizačných projektov* - i napriek existovalo len veľmi málo privatizačných projektov, ktoré boli schválené a nepožadovali sa u nich žiadne zmeny,aby bolo možné posunúť ich v procese ďalej. Schválenie a/alebo modifikovanie asi 200 privatizačných projektov zaradených do 2.vlny a modifikovanie asi 120 privatizačných projektov, ktoré sa momentálne nachádzajú na FNM, bude

najdôležitejšou úlohou v celom procese.

Najväčšie úsilie sa očakáva od pracovníkov MSPNM pri spracovávaní všetkých týchto projektov, predovšetkým pri riešení ich majetkoprávnych a finančných otázok v priebehu asi 3 mesiacov. Pre úspešné zvládnutie tejto činnosti bude potrebné požiadať o pomoc externých pracovníkov a na túto požiadavku odpovedali nedávno medzinárodné organizácie kladne.

- *Dosiahnutie dohody pri vypracovaní zoznamu podnikov a stanovení percenta objemu ich majetku, ktoré sa zaradí do kupónového programu* - Hoci existuje všeobecná dohoda o podpore rozsiahleho privatizačného programu a obzvlášť kupónovej privatizácie, špecifiká politiky, týkajúce sa výberu podnikov a stanovenia objemu majetku, ktorý sa bude privatizovať, ešte neboli odsúhlasené. Je nutné dosiahnuť dohodu medzi zakladateľskými ministerstvami, Ministerstvom pre správu a privatizáciu národného majetku a vládou.

- *Transformácia štátnych podnikov na akciové spoločnosti a registrácia súkromných investičných fondov* - Za prieťahy pri registrácii akciových spoločností je zodpovedný slovenský obchodný zákonník a súdny systém. Registrácia spoločnosti /akciovej, alebo súkromného privatizačného fondu/ trvá v niektorých prípadoch až 6 mesiacov ak sudcovia a ich spolupracovníci nie sú ochotní dobre spolupracovať, alebo ak sa im nahromadí príliš veľa žiadostí. Na urýchlenie tohoto procesu je nevyhnutné súčasný stav vyriešiť vytvorením dočasných súdov, ktoré budú mať obmedzené právomoci len na tieto účely.

- *Získať spoluprácu menežmentu štátnych podnikov* - Najčastejšie sa vyskytujúcim problémom pri spracovávaní a schvaľovaní privatizačných projektov je zdokumentovanie vlastníctva majetku a získanie spolupráce s menežmentom štátneho podniku, ktoré sú probematickými faktormi ovplyvňujúcimi rýchlosť spracovania projektov. Nekooperatívny menežment, alebo menežment, ktorý nemá záujem, aby sa podnik zúčastnil kupónovej privatizácie, môžu proces značne predĺžiť, alebo zabrániť, aby sa podnik kupónového programu zúčastnil. Metódy na motiváciu podnikového menežmentu je potrebné nájsť a uplatniť. Jedným z motivačných mechanizmov je ponuka akcií menežmentu a zamestnancom za výhodných finančných podmienok. Ministerstvo pre správu a privatizáciu národného majetku pripravuje špeciálnu štúdiu zameranú na tento problém a na jej základe plánuje navrhnúť vhodné metódy.

- *Získanie spoľahlivých finančných údajov potrebných pre zverejnenie definitívneho zoznamu* - Definitívny zoznam podnikov zaradených do kupónovej privatizácie, ktorý vydá Ministerstvo financií, si vyžaduje, aby každý podnik poskytol pravdivé finančné informácie v stanovenom termíne. Získanie týchto údajov môže byť probematické z rôznych dôvodov, včítane nekooperatívnosti menežmentu a nedostatku zdrojov, alebo expertíz niektorých častí podnikov potrebných na poskytnutie takýchto informácií.

  Na vyriešenie tohoto problému by mal byť navrhnutý špeciálny štandard finančných informácií a za získanie údajov z podnikov všetkými možnými spôsobmi, včítane návštev podnikov, by mali byť zodpovedné tímy finančných analytikov.

- *Zabezpečenie primeraného riadenia podnikov v období vákua vlastníkov* - Obdobie medzi založením akciovej spoločnosti, distribúciou akcií prostredníctvom kupónového programu a vykonávaní kontroly novými majiteľmi predstavuje potenciálne vákuum vlastníkov, počas ktorého menežmenty podnikov môžu viesť nečestnú politiku, ktorá povedie podniky do záhuby. Aby sa zabránilo takejto situácii, musí nájsť Fond národného majetku spôsob na monitorovanie týchto podnikov podobným spôsobom, ako to predtým robili zakladateľské ministerstvá.
- *Vypracovať politiku pre strategické podniky* - Privatizačné stratégie /vrátane regulácie priemyselných odvetví/ pre strategické podniky zatiaľ ešte neboli schválené na vládnej úrovni.

- *Na podporu kupónového programu vypracovať kampaň public relations* - Public relations kampaň nie je dôležitá len pre informovanie verejnosti o mechanizme uskutočňovaných procedúr, ale aj pre vzdelávanie verejnosti ohľadne výhod, ktoré prináša kupónový program a o úlohe kupónovej privatizácie.

Akčný plán a časový rozvrh kupónovej privatizácie

V podstate možno kupónový program rozdeliť na dve hlavné aktivity: ponuka podnikov v programe a dopyt po akciách týchto podnikov. Za koordináciu ponuky podnikov je v prvom rade zodpovedné Ministerstvo pre správu a privatizáciu národného majetku, ktoré bude úzko spolupracovať so zakladateľskými ministerstvami, Fondom národného majetku a Ministerstvom spravodlivosti. Na záver schváli zoznam podnikov, ktoré budú zaradené do kupónovej privatizácie, vláda.

Ministerstvo financií je zodpovedné za uskutočnenie všetkých aspektov kupónového programu, ktoré zabezpečí,že účastníci /občania a privatizačné fondy/ získajú akcie zaradených podnikov v súlade so zákonom o kupónovej privatizácii.

Kľúčové inštitúcie a ich úlohy sú uvedené v nasledujúcich bodoch:

* *Koordinačná skupina pre kupónovú privatizáciu* - Táto skupina je zložená z predstaviteľov Ministerstva financií, Ministerstva pre správu a privatizáciu národného majetku, Fondu národného majetku, Centra kupónovej privatizácie a RM-Systému. Je úlohou je navrhnúť a koordinovať plán priebehu kupónového programu, ktorý bude predložený vláde na schválenie. Táto skupina bola vytvorená z iniciatívy MSPNM a bude sledovať privatizačný program počas jeho priebehu.

* *Výbor pre kupónovú privatizáciu na Ministerstve financií* - Ministerstvo financií musí vytvoriť koordinačnú jednotku, ktorá bude vykonávať aktivity na "strane dopytu". Výbor sa zameria na otázky týkajúce sa oceňovania, inzerovania a koordinácie aktivít zo strany dopytu.

* *Ministerstvo pre správu a privatizáciu národného majetku* - MSPNM zodpovedá za výber a schválenie podnikov, ktoré sa budú privatizovať kupónovou privatizáciou ako aj rozhoduje o tom, koľko percent majetku každého podniku sa bude privatizovať prostredníctvom kupónov. Pri riešení otázky výberu navrhne MSPNM, v kooperácii so zakladateľskými ministerstvami, predbežný zoznam štátnych podnikov. Tento zoznam podnikov sa potom predloží na schválenie vládnemu kabinetu.

  Ministerstvo pre správu a privatizáciu národného majetku zodpovedá aj za zabezpečenie toho, že privatizačné

projekty určených podnikov budú schválené a postúpené na Fond národného majetku, kde sa do určitého termínu pretransformujú na akciové spoločnosti, aby mohli byť zaradené do programu. Za súčasných okolností /novelizácia zákona o privatizácii/, môže MSPNM vo svojej kompetencii zmeniť privatizačný projekt. Očakáva sa však, že bude potrebné predtým, ako budú zmeny vykonané, urobiť niektoré kompromisy so zakladateľskými ministerstvami.

* *Fond národného majetku* - Fond národného majetku zodpovedá za transformácie podnikov na akciové spoločnosti. Tento proces sa uskutočňuje v spolupráci s Ministerstvom spravodlivosti, ktorého úlohou je vypracovať a zaregistrovať akciové spoločnosti do Obchodného registra Slovenskej republiky.

* *Ministerstvo financií a Centrum kupónovej privatizácie* - Toto ministerstvo je zodpovedné za priebeh kupónovej privatizácie na strane dopytu /občanov/. Centrum kupónovej privatizácie, ktoré je súčasťou Ministerstva financií dohliada na všetky praktické aspekty priebehu, ako je napríklad tlač kupónových knižiek, zriadenie transakčných centier, distribúcia kupónov, mechanizmus oceňovania v rôznych kolách atď.

  Ministerstvo financií tiež zodpovedá za zverejnenie predbežného zoznamu podnikov, ktoré budú zaradené do programu, a definitívneho zoznamu podnikov, ktorý bude obsahovať detailné finančné informácie o každom z týchto podnikov.

  A na záver, Ministerstvo Financií je zapojené aj do schvaľovania nových súkromných investičných fondov, ktoré sa chcú zúčastniť kupónovej privatizácie.

* *Slovenské poštové úrady* - Poštové úrady so svojimi viac ako 3 000 pobočkami slúžia ako predajné miesta kupónových knižiek, ako aj ako miesta na zber ponúk občanov.

* *RM-Systém /100% vlastníkom je Podnik výpočtovej techniky/* - RM-Systém je aj "trhom" na spracovávanie ponúknutých bodov v priebehu rôznych kôl, miestom vstupu spracovávaných ponúk a informačným systémom na zaznamenávanie a kontrolu účastníkov a ich ponúk. RM-Systém bol zriadený v priebehu prvej vlny privatizácie nato, aby plnil tú istú úlohu ako v druhej vlne.

RM-Systém sa po ukončení prvej vlny stal dôležitou a aktívnou "burzou", alebo aukčným strediskom, pracujúcim za rovnakých aukčných princípov, ktoré budú platiť aj v druhej vlne kupónovej privatizácie. RM-Systém má 160 obchodných miest, 52 oblastných výpočtových centier, 10 veľkých centier a hlavné sídlo lokalizované v Bratislave. V súčasnosti zamestnáva asi 1 600 pracovníkov.

Ponuka akcií do kupónového privatizačného programu

Úloha	Inštitúcia	Termín
Programové vyhlásenie vlády o privatizácii a kupónovom privatizačnom programe	Vláda	apríl '94
Vytvoriť Výbor kupónovej privatizácie, ktorý vypracuje a schváli plán priebehu kupónového programu, jeho termínov a určí zodpovednosť a kompetencie rozných inštitúcií	MSPNM (MSPNM,FNM, MF, CKP, RM-System)	apríl '94
Návrh predbežného zoznamu zaradených podnikov (výber zo zoznamu podnikov zaradených do 2.vlny)	MSPNM	19. apríl '94
Návrh predbežného zoznamu zaradených podnikov , kde je FNM akcionárom	MSPNM, FNM	15. máj '94
Schváliť predbežný zoznam podnikov zaradených do 2.vlny a percento majetku každého z nich, ktoré sa bude privatizovať kupónovým programom	MSPNM, Zakladatelia Vláda	15. máj '94
Schváliť predbežný zoznam podnikov, kde je FNM akcionárom a percento majetku každého z nich, ktoré sa bude privatizovať kupónovým programom	MSPNM Zakladatelia FNM	15. máj '94
Navrhnúť a schváliť privatizačnú stratégiu pre strategické podniky	MSPNM Zakladatelia FNM	
Ukončit špeciálnu stúdiu o navrhovanom mechanizme ako podnietiť menežmenty státnych podnikov k spolupráci v privatizačnom procese	MSPNM	
Ukončiť a prepracovať privatizačné projekty podnikov, ktoré ešte neboli postúpené na MSPNM	Zakladatelské ministerstvá	30. jún '94
FNM navrhne zmeny v privatizačných projektoch podnikov, kde vlastní akcie a ktoré sú kandidátmi pre kupónovú privatizáciu. MSPNM podnikne potrebné kroky na ich zaradenie do kupónového programu.	MSPNM	15.máj '94
Zmeniť projekty, ktoré boli schválené do verejnej súťaže, ale toto rozhodnutie ešte nebolo zverejnené, na projekty do kupónovej privatizácie	MSPNM	31. máj '94
Zmeniť, spracovať a schváliť PP ktoré sa nachádzajú na MSPNM tak, aby boli zaradené do kupónového programu	MSPNM	31. júl '94
Vypracovať systém (rýchlu cestu) na rýchlu transformáciu štátnych podnikov na akciové spolocnosti	FNM M.spravodlivosti	
Transformovať štátne podniky na akciové spoločnosti	FNM M.spravodlivosti	31. august '94
Navrhnúť a uskutočniť stratégiu public relations orientovanú na slovenských občanov, ktorá bude mať za cieľ vytvoriť predpoklady pre pochopenie a podporu privatizačného programu ako významného kroku na ceste k prechodu na trhovú ekonomiku	MSPNM	
Vykonať pieskumnú štúdiu týkajúcu sa posúdenia činnosti a názorov na súkromné investičné fondy a ich úlohu vlastníkov	MSPNM	
Uverejniť predbežný zoznam podnikov	Ministerstvo financií	

Oblasť dopytu - účastníci programu kupónovej privatizácie

ÚLOHA	ORGANIZÁCIA	TERMÍN
Vytvoriť komisiu pre oblasť dopytu a subkomisie pre tvorbu cien, reklamu a koordináciu	Ministerstvo financií	máj 1994
Publikovať predbežný zoznam podnikov	Ministerstvo financií	
Navrhnúť a vytlačiť kupónové knižky (dodávateľ)	Centrum kupónovej privatizácie	
Vykonať nevyhnutné úpravy v softvare RM Systému a testovať systém	RM Systém	
Spustiť komunikačnú kampaň s cieľom informovať občanov o praktických otázkach účasti v kupónovej privatizácii	Centrum kupónovej privatizácie	
Registrácia súkromných investičných fondov na Ministerstve financií	Ministerstvo financií	1. sept. 1994
Registrácia súkromných investičných fondov na obchodných súdoch Slovenskej republiky	Ministerstvo financií, Ministerstvo spravodlivosti	1. sept. 1994
Registrácia občanov zúčastňujúcich sa v kupónovej privatizácii	Ministerstvo financií, RM Systém	1. sept. - 31. okt 1994
Spracovanie a vyhodnotenie procesu registrácie	Ministerstvo financií	1. -7. nov. 1994
Publikovanie definitívneho zoznamu zaradených podnikov	Ministerstvo financií	15. okt. 1994
Realizácia predkola	Ministerstvo financií, RM Systém, Poštové úrady	3. okt. - 16. dec. 1994
Publikovanie výsledkov predkola	Ministerstvo financií	19. - 31. dec. 1994
Realizácia 1. kola	Ministerstvo financií, RM Systém, Poštové úrady	2. - 20. jan. 1994
Realizácia 2. kola	Ministerstvo financií, RM Systém, Poštové úrady	6. -17. feb. 1994
Realizácia 3 kola	Ministerstvo financií, RM Systém, Poštové úrady	6. - 17. marec 1995
Realizácia 4 kola	Ministerstvo financií, RM Systém, Poštové úrady	3. - 14. april 1995
Realizaácia 5 kola	Ministerstvo financií, RM Systém, Poštové úrady	2. - 12. máj 1995
Distribúcia akcií	Ministerstvo financií, RM Systém	

Ciele kupónovej privatizácie

Nasledovné úvahy sú založené na predbežnom zozname 183 podnikov určených pre program kupónovej privatizácie navrhnutý MSPNM. Tieto čísla nezahŕňajú asi 120 podnikov, ktoré budú tiež zaradené do kupónového programu. Okrem toho, predbežný zoznam a počet percent každého podniku, ktorý bude zahrnutý do kupónovej privatizácie nebol schválený vládou.

Účtovná hodnota základného imania podnikov MSPNM a zakladateľských ministerstiev navrhnutých do kupónovej privatizácie

	Minoritný podiel v kupónoch	Majoritný podiel v kupónoch	Celkom
Priemysel	41.8	111.7	153.5
Poľnohospodárstvo	11.6	0.0	11.6
Kúpele a služby	10.6	8.8	19.4
Celkom	**64.0**	**120.5**	**184.5**

Čísla ukazujú sumu celkovej účtovnej hodnoty uvedených 183 štátnych podnikov (podniky v stupni privatizácie na MSPNM). Treba poznamenať, že pre podniky, kde je majoritný podiel (+51%) budú privatizované pomocou kupónov, 100% účtovnej hodnoty základného imania je pridaných k stĺpcu "majoritný podiel v kupónoch"; podobne je to v prípadoch, kde percentuálna minorita nejakého podniku bude privatizovaná pomocou kupónov, 100% ich účtovnej hodnoty základného imania je pridaných k stĺpcu "minoritný podiel v kupónoch."

Aj keď tieto čísla nie sú konečné, je zrejmé, že ak bude kupónový program koncom roka 1994 rozbehnutý, cieľ sprivatizovať 33% štátneho majetku (86,7 mld Sk) by bol dosiahnutý a prekročený pomocou samotného kupónového programu.

4.2 Uvoľnenie podielov zadržaných FNM

Z pohľadu predajov svojho zadržaného majetku, bol FNM v minulosti pomerne málo aktívnou organizáciou. Ako už bolo tiež vysvetlené v Zväzku I, FNM v priebehu minulých mesiacov prekonal niekoľko organizačných zmien a v súčasnosti sa formuje ako jedna z efektívnych organizácií so silným obchodným zameraním. Nakoniec FNM nevyhnutne potrebuje vypracovať stratégiu uvoľnenia podielov, čím sa bude zaoberať celá organizácia. Uvedené organizačné problémy sú spracované v tomto akčnom pláne v časti "Inštitucionálne aspekty."

V súčasnosti má FNM nasledovné portfólio akcií:

Podiely zadržané FNM k 25.3.1994

Účasť FNM	Počet akciových spoločností	Celkový upísaný kapitál	Akcie FNM
0 - 10%	191	35,512	1,455
10 - 33%	195	49,307	10,565
33 - 47%	55	10,589	4,071
47 - 50%	16	5,537	2,161
50 - 66%	32	8,158	4,840
66 - 100%	73	29,075	24,283
CELKOM	**562**	**138,178**	**47,375**

* Zdroj: Fond národného majetku
* Všetky čísla sú v mil. Sk

Pokiaľ ide o súčasné zadržané reziduum, akcie podnikov z druhej vlny, ktoré nie sú privatizované kupónovou metódou, budú prostredníctvom FNM privatizované štandardnými metódami.

Stratégia pre uvoľnenie podielov FNM:

A. *Uvoľnenie podielov prostredníctvom kapitálových trhov* - FNM vlastní pomerne malý podiel akcií vo veľkom množstve podnikov. Na základe všeobecného pravidla, všetky podiely FNM, ktoré dosahujú 6% alebo menej v akomkoľvek kapitálovom podiele podniku, budú priamo uvoľnené na slovenské kapitálové trhy. Pre realizáciu je potrebné, aby:

- Prezídium FNM tento postup schválilo
- FNM požiadal MSPNM o zmenu privatizačného projektu týchto podnikov, aby boli podiely v nich uvoľnené prostredníctvom kapitálových trhov a
- MSPNM vykonalo nevyhnutné zákonné kroky a dovolilo FNM použiť túto formu uvoľnenia.

Tieto kroky môžu byť vykonané v pomerne krátkom časovom rozpätí a ich dokončenie sa očakáva k 31.decembru 1994. MSPNM a FNM sa zamerajú na tieto činnosti až po dokončení svojich hlavných aktivít v rámci programu

kupónovej privatizácie. Perspektívne uvoľnenie malých reziduálnych podielov bude vykonané v priebehu roka 1995.

Treba poznamenať, že toto uvoľnenie akcií neprispeje k dosiahnutiu žiadneho z cieľov privatizácie dovtedy, pokým majorita akcií nebude v súkromných rukách a teda tieto podniky budú sprivatizované podľa pravidiel privatizácie.

B. *Uvoľnenie prostredníctvom kupónového programu* - Akcie asi 120 podnikov, ktoré sú v súčasnosti držané FNM sa budú podieľať na druhej vlne kupónovej privatizácie. Postup potrebný pre realizáciu tejto činnosti je podrobne popísaný v časti Druhá vlna kupónovej privatizácie.

C. *Uvoľnenie prostredníctvom štandardných metód* - Všetky ostatné akcie, ktoré nespadajú pod odseky A alebo B budú privatizované štandardnými metódami. Postup pre realizáciu tejto činnosti je detailne popísaný v časti Privatizácia štandardnými metódami. Ďalej, činnosti zamerané na inštitucionálny rozvoj potrebné pre privatizovanie štandardnými metódami (organizačný rozvoj FNM a vytvorenie transakčných tímov financovaných medzinárodnými organizáciami ako je USAID a EC PHARE) sú detailne popísané v časti Inštitucionálne aspekty.

4.3 Privatizácia štandardnými metódami

Všeobecná politika

A. *Podniky s účtovnou hodnotou nižšou než 100 mil. Sk* - Aby sa vylúčilo dlhé obdobie transformácie štátnych podnikov na akciové spoločnosti, budú podniky tejto kategórie privatizované bez transformovania na akciové spoločnosti . Odhaduje sa, že záujem zahraničných investorov o túto skupinu podnikov je relatívne slabý, a aby sa podporil záujem domácich podnikateľov, budú podniky tejto kategórie privatizované najmä prostredníctvom priamych predajov a dražieb domácimi podnikateľmi. Platobné podmienky pre tieto podniky sa skladajú z 10% ceny v čase predaja a zvyšok vo forme splátok na 10 rokov.

B. *Podniky s účtovnou hodnotou vyššou než 200 mil. Sk* - Aktíva týchto podnikov budú prevedené do akciových spoločností a niektoré alebo všetky z týchto akcií budú participovať v druhej vlne kupónovej privatizácie. Štandardné metódy budú aplikované na predaj majority týchto akcií vtedy, kde bude strategický investor schopný skoro zaplatiť a okamžite do podnikov investovať. Predať akcie podnikov tejto kategórie bude hlavným zámerom "transakčných tímov", ktoré budú založené na FNM a MSPNM.

C. *Podniky s účtovnou hodnotou medzi 100 - 200 mil. Sk* - Podniky tejto kategórie budú najskôr pretransformované na akciové spoločnosti, ktorých akcie budú úplne privatizované štandardnými metódami; aj keď niektoré z týchto podnikov budú zahrnuté do druhej vlny kupónovej privatizácie.

Kritériá pre výber kupujúcich

Za účelom zvýšenia transparentnosti privatizácie pomocou štandardných metód a obnovenie dôvery k celému procesu, bude metóda výberu investora založená na súťaži pozostávajúcej z ľahko porovnateľných a kvantifikovateľných kritérií pre každý projekt (cena, výška prvej splátky, výška investičných záväzkov a celková spoľahlivosť kupujúceho). Nakoľko, pre rozvoj slovenskej ekonomiky je rozhodujúce pritiahnuť zahraničný kapitál, splátky založené na zahraničných úveroch budú preferované, aby boli podnetom pre zahraničných investorov

Urýchlenie realizácie štandardných metód pomocou transakčných tímov

- *Transakčné tímy* - FNM a MSPNM využije transakčných expertov na organizovanie medzinárodných verejných súťaží, výber vhodných investorov a rokovania s potenciálnymi kupujúcimi:

  Každý transkačný tím sa bude skladať z investičného/korporačného bankára ako lídra, západného účtovníka alebo finančného analytika, západného právnika a ak bude potrebné z tlmočníka a sekretárky. Okrem toho v transakčnom tíme bude slovenský účtovník a slovenský právnik;

  Program by nemal byť spočiatku príliš rozsiahly pokým sa MSPNM a FNM bude zameriavať na druhú vlnu kupónovej privatizácie a získa skúsenosti zo spolupráce so zahraničnými poradcami a konzultantmi;

Úžitok z vytvorenia transakčných tímov bude nasledovný:

- pomoc pri dohodnutí najlepších možných podmienok pre vládu a štátne podniky;
- výber a pritiahnutie zahraničných investorov;
- zvýšenie kúpnej ceny;
- zvýšenie a/alebo posilnenie investičných záväzkov;
- záruka za zachovanie zamestnanosti a školenie zamestnancov;
- poskytnutie technického, riadiaceho a marketingového know-how;
- zníženie počtu záruk poskytovaných vládou;
- zvýšenie príjmov do štátnej pokladne;
- zvýšenie pravdepodobnosti úspešného napredovania podnikov;
- poskytnutie kompetentných poradcov vláde, ktorí boli využívaní ponúkanými firmami
- vytvorenie komunikačných kanálov medzi vládou a zahraničnými investormi prostrednictvom západných špecialistov.

Transakčné tímy budú financované z USAID a EC PHARE na základe požiadaviek MSPNM a FNM.

- *Zameranie sa na priame predaje v rámci štandardných metód* - Keďže konkurencia je dôležitým cieľom aj preto sú verejné súťaže a dražby z dlhodobej perspektívy preferované. Avšak vzhľadom ku komplikáciám pri realizácii, dĺžke času, ktorý je na realizáciu potrebný, nedostatku skúseností a nízkej miere úspešnosti, budú verejné súťaže a dražby využívané iba v obmedzenej miere a iba pre atraktívne podniky, kde budú niektoré časti zaujímavé. Preferovanou štandardnou metódou budú preto priame predaje.

- *Obmedzenie počtu transformácií podnikov na akciové spoločnosti* - Vzhľadom k dĺžke času potrebného na zaregistrovanie akciovej spoločnosti, bude na privatizáciu menších podnikov využívaná metóda priameho predaja.

Objem majetku pre privatizáciu štandardnými metódami

V tejto časti bude objem štátneho majetku prezentovaný v dvoch formách:

Po prvé, celková účtovná hodnota základného imania štátneho majetku je meraná bez ohľadu na to, či predstavuje alebo sa skladá z majoritného alebo minoritného podielu. Tento výpočet je odvodený na to, aby sa odhadla skutočná veľkosť štátneho majetku, ktorý bude privatizovaný pomocou štandardných metód. Nasledovná tabuľka zobrazuje celkový štátny majetok k 1.1.1994 vrátane minoritného podielu vo FNM.

Celkový odhad skutočného objemu majetku privatizovaného k 1.1.1994

	Kupóny	Štandard. metódy	Celkom
Celkové vlastníctvo FNM	20	28	48
MSPNM a zakladateľské ministerstvá	85	138	223
štátny majetok celkom	**105**	**166**	**271**

*Čísla v mld. Sk.

Tabuľka zobrazuje, že za absolútnych podmienok asi 166 mld. Sk štátneho majetku bude privatizovaných štandardnými metódami (za predpokladu, že FNM nebude žiadny majetok dlhodobo vlastniť) vrátane priamych predajov majetku, predaja akcií na kapitálových trhoch, dražbách , verejných súťažiach a bezodplatných prevodoch atď.

Po druhé, celková účtovná hodnota základného imania je prezentovaná, ale upravená podľa definovaných privatizačných predpisov popísaných v časti 2.1.

Celkový odhad skutočného objemu majetku meraného ako celkový podiel kapitálu alebo celková účtovná hodnota základného imania s majoritou štátu k 1.1.1994

	Kupóny	Štandardné metódy	Celkom
Celkové majoritné vlastníctvo FNM	28	12	40
MSPNM a zakladateľské ministerstvá	121	102	223
štátny majetok celkom	**149**	**114**	**263**

*Čísla v mld. Sk.

Z dvoch uvedených tabuliek je zrejmé, že aj keď kupónový program bude zahŕňať objem majetku asi 105 mld Sk, podľa smerníc na meranie privatizovaného majetku bude tvoriť objem privatizovaného štátneho majetku 149 mld. Sk.

Okrem toho, aj keď štát bude vlastniť 166 mld. Sk majetku, väčšia časť tohto majetku obsahuje minoritné vlastníctvo štátu. Na základe tohto predpokladu bude štát majoritným vlastníkom v podnikoch s celkovou účtovnou hodnotou 114 mld. Sk.

Trvalé vlastníctvo FNM

Metodika vhodná na určenie koľko majetku bude FNM vlastniť natrvalo, vypracovaná nebola; MSPNM však odhaduje, že asi 20 mld. Sk z 10-12 strategických podnikov zostane vo FNM natrvalo.

Privatizácia štandardnými metódami

Časový rámec pre privatizáciu štandardnými metódami je oveľa dlhší než program kupónovej privatizácie. Očakáva sa, že privatizačný program bude v r. 1996 alebo 1997 postupovať rýchlosťou asi 15 až 20 projektov mesačne. Okrem toho, nakoľko vláda sa v súčasnosti sústreďuje na kupónovú privatizáciu, čo je kombinované s faktom najkratšieho času na realizáciu štandardných metód, odhaduje sa, že najmenej štandardných predajov bude vykonaných začiatkom jesene 1994. Po tomto období by mohol byť zámer zrealizovať 15-20 projektov mesačne dosiahnutý.

MSPNM v súčasnosti vypracováva presný časový rozvrh pre každý podnik, vrátane navrhovaných metód privatizácie a cieľového dátumu na sprivatizovanie podniku. Uvedený plán by malo MSPNM predložiť najneskôr po splnení časového rozvrhu vybraných 15-20 podnikov.

Pre urýchlenie programu štandardných metód je nevyhnutné okamžite vykonať nasledovné kľúčové kroky:

- Vytvoriť transakčné tímy na MSPNM a FNM;
- Vypracovať materiály pre predaj podnikov a distribuovať ich potenciálnym investorom;
- Vykonať domácu a medzinárodnú kampaň public relations;
- Vykonať nevyhnutné organizačné zmeny, aby sa FNM stal efektívnou organizáciou, schopnou realizovať štandardné metódy (viď. časť 5.0);

4.4 Strategické podniky

Súčasná vláda má v úmysle obmedziť sa 10-12 "strategických" podnikov, v ktorých by si chcela udržať dlhodobý vplyv. Zoznam bude zahŕňať tri podniky na výrobu a distribúciu elektrickej energie, plynárenský podnik, telekomunikácie a tri alebo štyri najväčšie zbrojárske podniky.

Pre podniky v oblasti energetiky a telekomunikácií uprednostňuje MSPNM nasledovný základný model vlastníctva:

- kupónoví akcionári;
- dočasné ponechanie akcií vo FNM až do doby nájdenia zahraničných strategických partnerov;
- dlhodobé vlastníctvo štátu prostredníctvom FNM.

Horeuvedená politika, vzhľadom k zoznamu strategických podnikov ako aj vzhľadom k modelu vlastníctva musí byť prerokovaná a odsúhlasená s Ministerstvom hospodárstva (MH) ako aj s Ministerstvom dopravy, spojov a verejných prác (MDSVP). MSPNM predpokladá, že politika odsúhlasená s MH bude následne schválená vládou.

Pred privatizáciou musí niekoľko ministerstiev vykonať nevyhnutné prípravné práce. Tieto práce zahŕňajú nasledovné prvky:

- ***Politika tvorby cien*** - Niektoré dotácie cien za elektrinu, teplo a plyn už boli znížené. Vláda uvažuje, že zostávajúce dotácie je potrebné postupne vylúčiť, aby sa odstránila neefektívnosť spotreby energie. Ministerstvo financií v súčasnosti pracuje na programe postupnej racionalizácie a zvyšovania cien za energiu na medzinárodnú úroveň. Program má za cieľ dosiahnuť primeranú náhradu hospodárskych nákladov a úroveň ziskovosti, čo by pomohlo pritiahnuť zahraničných a domácich investorov.

- ***Regulácia verejnoprospešných podnikov*** - Len čo sa odvetvia elektrickej energie, plynu a telekomunikácií stanú monopolmi, Protimonopolný úrad navrhuje vypracovať zákony regulácie, ktoré by vytvorili právnu štruktúru, práva a povinnosti verejnoprospešných podnikov ako aj regulačné inštitúcie a ich právomoci. Regulačný rámec musí byť uzákonený a uvedený do platnosti pred privatizáciou verejnoprospešných podnikov.

- ***Ochrana štátnych záujmov*** - Pre ochranu štátnych záujmov vo verejnoprospešných podnikoch je potrebné vykonať úpravy. Treba vziať do úvahy primeraný mechanizmus pre vykonanie tejto činnosti. Vláda ho, podľa zákona, môže predložiť parlamentu alebo je možnosť využiť stanovy energetických a telekomunikačných firiem ešte pred ich privatizáciou. Jednou z možností by bola štátna "zlatá akcia" v každom z týchto podnikov, ktorou by sa chránili záujmy štátu.

Vláda navrhne, na základe zahraničných skúseností, vhodný rámec pre tvorbu cien, reguláciu a privatizáciu energetických a telekomunikačných podnikov. Na financovanie prác konzultantov v tejto oblasti bude potrebná technická pomoc.

Modernizácia energetických a telekomunikačných podnikov si bude vyžadovať veľké investície. Vláda bude potrebovať zahraničných poradcov ako aj vhodné metódy pre pritiahnutie zahraničného kapitálu, či už vo forme strategických partnerov alebo predaja akcií na medzinárodných kapitálových trhoch.

Ako bolo skôr uvedené, MSPNM chce zahrnúť do kupónovej privatizácie 33% akcií energetických a telekomunikačných podnikov. Má v úmysle zahrnúť tieto akcie do druhej vlny kupónovej privatizácie.Časové rozvrhnutie, kroky spojené s návrhom a zriadením regulačného rámca a vykonanie cenovej reformy však závisia od rozhodnutia vlády. Bola by tiež potrebná parlamentná legislatíva.

MSPNM bude iniciovať rozsiahle diskusie s MH ohľadne potrebných krokov pre prípravu veľkých zbrojárskych podnikov na privatizáciu. Výrazný pokrok bol urobený pri konverzii niektorých častí týchto podnikov na civilnú výrobu. Veľké zbrojárske podniky však ešte stále čelia značným finančným problémom. Nakoľko tieto podniky majú veľký podiel na vytváraní pracovných miest, najmä v oblastiach s pomerne vysokou mierou nezamestnanosti, vláda im ešte stále poskytuje subvencie.

V uvedených podnikoch bude potrebné vykonať veľkú finančnú a výrobnú reštrukturalizáciu, vrátane konverzie, ešte skôr než budú sprivatizované. Vláda bude iniciovať prípravu podrobných programov na reštrukturalizáciu a prípadnú privatizáciu najväčších zbrojárskych podnikov. Pri príprave týchto programov bude potrebná pomoc zahraničných konzultantov.

Indikatívny akčný plán pre zakladanie a privatizáciu strategických podnikov je prezentovaný v nasledovnej tabuľke.

INDIKATÍVNY PLÁN ČINNOSTI PRE STRATEGICKÉ ODVETVIA

#	HLAVNÉ KROKY	ZODPOVEDNOSŤ	PRÍPRAVA	TERMÍN
1	Formulácia politiky pre zoznam strategických odvetví a metódy ich privatizácie	MSPNM, MH, MF, MDSVP		Do 10. mája 1994
2	Rozhodnutie vlády o horeuvedenom			polovica mája 1994
3	Príprava detailného plánu cinnosti, vrátane krokov, ktoré je treba vykonat pred privatizáciou	MSPNM	konzultanti	máj - jún 1994
4	Formulácia politiky tvorby cien elektriny, tepla a plynu	MF, MH	konzultanti	máj - júl 1994
5	Návrh regulacného rámca pre odvetvie energetiky a plynárenstva	MH, Protimonopolný úrad	konzultanti	máj - august 1994
6	Návrh zákona o telekomunikáciách a jeho predlozenie parlamentu	MDSVP, Ministerstvo spravodlivosti	konzultanti	druhá polovica r. 1994
7	Transformácia + Registrácia energetických, plynárenských a telekomunikacných spolocností	FNM		Po zavedení regulačného rámca a cenovej reformy
8	Kupónová privatizácia 33 percent akcií energetických, plynárenských a telekomunikacných spolocností	MSPNM, FNM		
9	Príprava investičných návrhov pre zahraničných strategických partnerov alebo kapitálové trhy	MSPNM, FNM	Medzinárodné investicné banky a konzultačné firmy	druhá polovica r. 1994
10	Príprava plánov reštrukturalizácie pre zbrojársky priemysel	MH	konzultanti	druhá polovica r. 1994
1 1	Reštrukturalizácia zbrojárskych podnikov pre ich privatizáciou	Restrukturalizačná komisia	konzultanti	1995
1 2	Transformácia a privatizácia zbrojárskych podnikov	FNM		1996

4.5 Reštrukturalizácia

Veľkú časť slovenských podnikov bude potrebné reštrukturalizovať, aby sa stali konkurencieschopnými na medzinárodných trhoch a finančne ziskovými. Pre rozsah potrebnej reštrukturalizácie je nevyhnutné poznať veľkosť podnikov, ktoré sú finančne insolventné. Koncom roka 1993, 57,5% všetkých podnikov bolo stratových, s celkovou stratou 42,5 mld. Sk.

Je zrejmé, že finančná insolventnosť je dôsledkom "skutočných" problémov podnikov, ktoré existovali v predošlom ekonomickom systéme. Je typické, že výrobky a výrobné technológie sú mnoho rokov (často viac než 20) za medzinárodnými konkurenčnými normami. Neefektívnosť (ak by bola meraná využitím ľudských zdrojov, energie a materiálov na jednotku výstupu) je niekoľkonásobne vyššia než je porovnateľná medzinárodná úroveň. Tieto podniky boli schopné v posledných rokoch prežiť iba vďaka neustále rastúcej zadĺženosti voči bankám a iným podnikom a v niektorých prípadoch, najmä v zbrojárskom priemysle, v závislosti na priamych vládnych subvenciách.

Diagnostické štúdie podnikov s najväčšími nesplatenými pôžičkami
Ministerstvo hospodárstva (MH) pripravilo zoznam 21 podnikov, pre ktoré majú byť diagnostické štúdie vykonané. Tieto podniky majú najväčšie nesplatené pôžičky voči bankám. Mnohé z týchto podnikov boli tiež stratové v r. 1992 alebo 1993. Tento zoznam zahŕňa niektoré štátne podniky (š.p.); niektoré už boli čiastočne sprivatizované a registrované ako akciové spoločnosti s majoritnou účasťou Fondu národného majetku (FNM).

Bohužiaľ, bolo tu veľké zdržanie v zabezpečení potrebného financovania z vonkajších zdrojov ako aj ťažkosti s dosiahnutím súhlasu niektorých podnikov financovať časť nákladov na štúdie (EC PHARE požaduje, aby 15% nákladov znášal podnik). USAID v podstate vyjadrila svoju pripravenosť financovať štúdie 15 podnikov. EC PHARE súhlasilo s financovaním 85% nákladov na štúdie 6 podnikov.

Zadávacie podmienky (ToR) týchto štúdií už boli pripravené, aj napriek očakávaným malým zmenám. Štúdie budú orientované na urýchlenie aktivity a budú sa skladať z troch fáz: (i) rýchla diagnóza na identifikovanie takých podnikov, ktoré majú zdôvodnenú možnosť stať sa konkurencieschopnými a ziskovými na základe finančnej prípravy ako aj odporúčaní pre reštrukturalizáciu alebo likvidáciu; (ii) príprava plánu reštrukturalizácie spolu s plánom privatizácie alebo likvidácie; (iii) realizácia príslušných plánov.

USAID a EC PHARE už vybrali konzultantov, ale kontrakty zatiaľ neboli podpísané. MH bude úzko spolupracovať pri príprave štúdií a ich realizácii. Za predpokladu, že súčasná vláda vyrieši urýchlenie procesu privatizácie, bude pre všetky zainteresované strany - vládu, podniky, USAID, EC PHARE, Svetovú banku a konzultantov - záväzné bezodkladne a bez akéhokoľvek ďalšieho zdržovania začať s prípravou štúdií.

Pre urýchlenú prípravu štúdií a koordináciu ich realizácie vláda súhlasila s vytvorením Reštrukturalizačnej komisie, ktorá sa bude skladať z vedúcich pracovníkov MH, MF, FNM, VÚB a IRB. Členovia tejto komisie budú čoskoro určení. Vláda už zabezpečila

záväznosť pre príslušné podniky a banky, aby spolopracovali pri rýchlej realizácii odporúčaných plánov.

Národná banka Slovenska v súčasnosti pracuje na príprave podrobného plánu na realizáciu procesu vyrovnania dlhu. Cieľovým dátumom pre tento plán je koniec júna 1994. Chápeme, že predbežná myšlienka je vytvoriť postup bez súdneho konania, aby sa urovnali vzťahy medzi veriteľmi a dlžníkmi bez splnenia určitých kritérií. Vypracovanie postupov a podmienok je v počiatočnom štádiu. Technická pomoc pre vytvorenie modelu a postupov by mohla urýchliť celý proces.

Štúdie priemyselných subsektorov

MH vyjadrilo záujem o prípravu štúdií v nasledovných priemyselných subsektoroch: textil a odevy, koža a obuv, sklo a tlačiarenstvo. Na zaradenie bolo vybraných 26 podnikov. Prednosť bude daná tým štátnym podnikom, ktoré potrebujú pomoc pri príprave privatizačných programov.

Štúdie budú financované z fondu japonského grantu, spravovaného Svetovou bankou. Predpokladá sa, že zadávacie podmienky budú dokončené do konca apríla 1994, aby mohli byť podniky zaradené do druhej vlny kupónovej privatizácie, čo najskôr vybrani konzultanti, a aby štúdie boli dokončené pred koncom r. 1994.

Likvidácia životaneschopných podnikov
Tie podniky, ktoré na základe diagnostických štúdií nepreukážu dobré vyhliadky pre životaschopnosť a ziskovosť, budú po reštrukturalizácii likvidované a ich majetok predaný.

Na Slovensku vstúpil do platnosti zákon o bankrote, ale skúsenosti ukazujú, že sú ťažkosti a zdržovanie pri aplikácii tohto zákona na urýchlenie likvidácie, nakoľko samotný zákon má nedostatky a súdy majú nedostatočnú skúsenosť v aplikovaní bankrotov.

Vláda sa preto zaujíma o prípravu návrhu na mimosúdne arbitrážne postupy alebo postupy vyrovnania, ktoré by mohli urýchliť likvidáciu a vyrovnanie dlhov. Túto otázku bude posudzovať člen misie Svetovej banky, naplánovanej na koniec apríla 1994, ktorý získal cenné skúsenosti z týchto postupov vo východnej Európe a v krajinách bývalého Sovietskeho zväzu. Ak to bude potrebné, môže vláda požiadať o technickú pomoc pri príprave rámca pre prípadné mimosúdne konania.

Privatizácia "ako taká"
Štúdie rozhodnú, ktoré podniky sú potenciálne životaschopné. Tie podniky, ktoré môžu byť privatizované "tak ako sú", dokonca za relatívne nízku cenu, budú zaradené do privatizačného programu a budú privatizované metódou odporučenou v štúdii, či už pôjde o kupónovú alebo štandardnú metódu.

Predprivatizačná reštrukturalizácia
Je však pravdepodobné, že štúdie určia, ktoré podniky nemôžu byť privatizované bez predchádzajúcej *finančnej reštrukturalizácie.* Vzhľadom k extrémne vysokému dlhovému zaťaženiu, ani potenciálne životaschopné podniky nebudú vedieť pritiahnuť

investorov. V takýchto prípadoch bude finančná reštrukturalizácia pre privatizáciu nevyhnutná a bude mať za cieľ vytvoriť konzistentnú štruktúru základného imania a dlhu s ostatnou prevádzkou podniku.

Finančná reštrukturalizácia bude vykonaná iba v tých podnikoch, kde všetky zainteresované strany - vlastníci (t.j. vláda), riaditelia, pracovníci, veritelia - budú súhlasiť s vykonaním reštrukturalizácie "skutočnej" prevádzky podniku, vrátane prepustenia nadbytočných pracovníkov a nahradenia riaditeľov neschopných vykonať obrat podniku k lepšiemu. Samotná finančná reštrukturalizácia sotva dosiahne obrat podniku k lepšiemu ak pôjde o inherentne neefektívny podnik. Okrem toho, ak by sa oneskorila nevyhnutná organizačná a fyzická reštrukturalizácia, podnik by sa mohol stať neproduktívnym.

Finančná reštrukturalizácia zahŕňa oddĺženie. V niektorých prípadoch môžu veriteľské banky vymeniť časť svojho dlhu za základné imanie, čím sa stanú akcionármi. Potom by mali mať silný záujem o úspešnosť reštrukturalizácie a ak by boli schopné, mohli by finančným riaditeľom poskytnúť odbornú pomoc. Vo väčšine prípadov vláda, ako vlastník bánk i štátnych podnikov, by sa mala zaručiť za časť odpísaného dlhu. Samotné odpísanie bude sotva odrážať uznanú stratu spôsobenú dlhom a nebude mať za následok skutočné hospodárske náklady. Môže to však spôsobiť rozpočtové výdavky (napr. platby úrokov z obligácií, vydaných na rekapitalizáciu bánk), ktoré bude treba poskytnúť v rámci celkových rozpočtových obmedzení tak, aby vláda bola schopná poskytnúť finančnú pomoc iba tým podnikom, ktoré majú najlepšie vyhliadky na úspešnú reštrukturalizáciu. Po vybudovaní vlastnej finančnej štruktúry by mali byť reštrukturalizované podniky povinné spoliehať sa iba na pôžičky z bánk, ktoré budú poskytovať úver iba po vyhodnotení úverového rizika, bez vládnych intervencií.

Ako bude vykonávaná finančná reštrukturalizácia, bude vo veľkej miere záležať od plánu, ktorý v súčasnosti vypracováva NBS.

V podnikoch s nadmerným počtom pracovníkov by bolo prezieravé znížiť počet pracovníkov pred privatizáciou. Táto aktivita, ktorá by mohla privatizáciu uľahčiť, by bola ľahšie realizovateľná, keby sa vykonávala súčasne so znížením dlhu.

Niektoré podniky by mohli mať hodnotné aktíva ako napr. pôdu alebo budovy, ktoré nemožno použiť pre budúcu prevádzku. Tieto aktíva by mali byť rozdelené a predané pred privatizáciou, čím by sa zvýšila hotovosť na financovanie reštrukturalizácie podnikov alebo na vrátenie do FNM.

Reštrukturalizácia po privatizácii

Po dokončení finančnej reštrukturalizácie ako aj znížení počtu pracovníkov, budú životaschopné podniky privatizované metódou odporúčanou konzultantami. Niektoré z podnikov vybraných pre kupónovú privatizáciu, by mali byť zaradené do druhej vlny. Pre realizáciu uvedeného bude potrebná urýchlená aktivita všetkých zainteresovaných strán, koordinovaných reštrukturalizačnou komisiou. Transformáciu podnikov na akciové spoločnosti je treba začať u tých podnikov, ktoré sú vybrané pre privatizáciu.

Životaschopné podniky, ktoré nebudú zaradené do druhej vlny kupónovej privatizácie, by mali byť privatizované štandardnými metódami. Noví vlastníci privatizovaných

podnikov budú mať najväčšiu úlohu pri reštrukturalizácii. Najdôležitejšie prvky reštrukturalizácie budú prevádzkovej povahy a budú zahŕňať nasledovné:

- Reorganizácia pre zmodernizovanie prevádzky, vyjasnenie kompetencií a zodpovednosti
- Noví súkromní vlastníci budú musieť rozhodnúť, či predchádzajúci vedúci pracovníci sú schopní spôsobiť obrat podniku k lepšiemu alebo bude potrebné menovať nových. V ťažších prípadoch budú títo vedúci pracovníci potrebovať špecialistov na zvrat, ktorých bude pravdepodobne potrebné najať zo západných krajín.
- Zavedenie moderných systémov riadenia, vrátane nákladového účtovníctva, trhovej analýzy a riadenia kvality.
- Zníženie nákladov prostredníctvom technologických zmien, zlepšenia prevádzky, šetrenia energie a materiálov.
- Zmeny v sortimente výrobkov, zavedenie nových výrobkov, zrušenie konkurencie neschopných a neziskových skupín výrobkov a rozčlenenie alebo uzavretie okrajových podnikateľských jednotiek.
- Vývoj nových trhov (zahraničných a domácich) a zlepšenie v marketingu.
- Maximálne efektívne využívanie aktív na zvýšenie výroby predajných výrobkov a na subdodávateľstvo.
- S najväčšou pravdepodobnosťou si to bude vyžadovať nové investície do moderného zariadenia, ktoré by mali vložiť noví majitelia.

Indikatívny akčný plán reštrukturalizácie je zobrazený v nasledovnej tabuľke. Je zrejmé, že podrobné kroky ako aj časový rozvrh je závislý od plánu reštrukturalizácie každého podniku, ktorý konzultanti pripravia.

INDIKATÍVNY AKČNÝ PLÁN REŠTRUKTURALIZÁCIE

#	HLAVNÉ KROKY	ZODPOVEDNOSŤ	PRÍPRAVA	TERMÍN
1	Diagnostické štúdie pre podniky s najväčšou zad´lženostou - Financovanie: 15 podnikov USAID, 6 podnikov EC-PHARE	MH	konzultanti	máj - júl 1994
2	Monitorovanie a posúdenie štúdií; rozhodnutie o realizácii	Reštrukturalizacná komisia		máj - august 1994
3	Likvidácia životaneschopných podnikov; vyrovnanie dlhov mimosúdnou cestou	MH		sept. - dec. 1994
4	Transformácia podnikov zaradených do privatizácie	MH		sept. - dec. 1994
5	Niektoré podniky privatizované "ako také" v druhej vlne kupónovej privatizácie	MH, MSPNM, FNM		prvá polovica r. 1995
6	Reštrukturalizácia pred privatizáciou - Finančná reštrukturalizácia Uvoľnenie nadbytočných pracovníkov a predaj niektorých aktív	MH, MF, FNM, Úverové banky MH	konzultanti	sept. 1994 - jún 1995
7	Privatizácia - štandardnými metódami - v druhej vlne kupónovej privatizácie	FNM FNM	konzultanti	1995 druhá polovica r. 1995
8	Reštrukturalizácia po privatizácii Hmotný majetok, vrátane nových investícií Organizácia, vrátane menovania nového vedenia, ak to bude potrebné	Noví súkromní vlastníci Dozorné rady a vedenie podniku	konzultanti	1996-1999

4.6 Ochrana štátnych aktív počas prechodného obdobia

Prvá vlna kupónovej privatizácie bola charakteristická dlhým "prechodným obdobím", od prípravy privatizačných projektov až po vysporiadanie vlastníckych práv novými vlastníkmi podnikov. V mnohých prípadoch toto prechodné obdobie trvalo dva roky i viac. Počas tohto prechodného obdobia, vedenie podnikov neriadilo podniky efektívne. Kombinácia dlhodobej tradičnej korupcie v predošlom režime a nedostatok kontroly museli nevyhnutne viesť vedenie podnikov k širokému zneužívaniu.

Prípady "rozkrádania majetku" boli často veľmi rozšírené. Jednou z metód boli pochybné "predaje", pričom v skutočnosti išlo o prevod hodnotných aktív štátnych podnikov do súkromných podnikov za nižšie ceny než bola ich skutočná hodnota. V obchodných firmách boli nákupy surovín a tovarov vykazované za vyššie ceny než bolo skutočne zaplatené, zatiaľ čo predaje boli vykazované za nižšie ceny než bolo v skutočnosti zaplatené. Zisky boli odvádzané do súkromných firiem riadených priateľmi a príbuznými riaditeľov štátnych podnikov. Aj keď tieto praktiky boli považované za protizákonné, boli možné iba pri nedostatku kontroly, ba je dokázané, že to často bolo v spolupráci so štátnymi úradníkmi, ktorí podporovali riaditeľov podnikov výmenou za politickú podporu alebo finančný zisk.

Tieto praktiky nespočívali iba v nedovolenom a nemorálnom prevode majetku štátu na osobné obohacovanie sa riaditeľov a ich politických spojencov, ale tiež diskreditovali samotný proces privatizácie.

Je zrejmé, že je nevyhnutné vykonať opatrenia, ktoré by zredukovali riziko zneužívania v druhej vlne privatizácie. Vláda v súčasnosti uvažuje podniknúť niektoré kroky v tejto oblasti (aj keď by bolo nereálne očakávať úplné odstránenie týchto rizík).

Najdôležitejším opatrením bude urýchlenie privatizačného procesu a skrátenie "prechodného obdobia".

Ďalším dôležitým opatrením je zavedenie dobre fungujúceho organizačného riadenia v privatizovaných podnikoch. Skúsenosti z prvej vlny jasne naznačovali, že najvážnejším obmedzením pri zavádzaní organizačného riadenia, boli ťažkosti s predchádzajúcimi riaditeľmi, aby zmenili svoje praktiky v riadení a nedostatok kompetentných a nepodplatiteľných nových riaditeľov. Požadované zmeny nebolo možné dosiahnuť iba zmenou chovania predošlých riaditeľov alebo menovaním nových. Sprivatizované podniky prekonávajú teraz prvé kroky v zavádzaní nových systémov. Tieto podniky by nemali iba odmeňovať riaditeľov za dobrý výkon a súdržnosť, ale mali byť tiež pripravené na vlastný finančný a prevádzkový audit, aby riaditelia boli zodpovední za svoje praktiky. Toto by malo byť vykonané bezprostredne po privatizácii.

Investičné fondy vykazujú neustále zlepšovanie kvality vedenia a členov dozorných rád. Skúsenosti získané z prvej vlny pravdepodobne pomôžu zvýšiť kvalitu organizačného riadenia a zväčšia počet perspektívnych riaditeľov a vedúcich pracovníkov. Nejde tu však o všeliek.

Zavedenie vlastných riadiacich systémov vo veľkom množstve sprivatizovaných podnikov je zdĺhavý a obťažný proces.

Tretím opatrením je zdokonalenie legislatívy a vykrytie početných medzier v zákonoch. Vláda pripravuje nový návrh zákona o konflikte záujmov, ktorý bude predložený parlamentu. (Dva iné návrhy zákonov, ktoré boli predložené predtým parlamentu bohužiaľ schválené neboli). Na práci sa podieľa tiež MSPNM pri posudzovaní zákona USA o etike, ktorá reguluje chovanie verejných činiteľov. Cieľom je zvážiť, či by podobný zákon o etike bol vhodný pre Slovensko. Ak bude návrh uvedeného zákona pripravený, bude sa pravdepodobne týkať nielen vládnych úradníkov, ale tiež riaditeľov štátnych podnikov. Dôležité je, že tieto zákony by mali nadobudnúť platnosť v lete 1994.

4.7 Regulovanie investičných fondov (IF)

Úspech kupónovej privatizácie, aby boli sprivatizované podniky efektívne a ziskové závisí vo veľkej miere na výkonnosti investičných fondov, ktorým občania zverili asi 75% všetkých kupónov vydaných v prvej vlne.

V prvej vlne sa nevenovala dostatočná pozornosť úlohe IF a ich prevádzke. Federálny zákon, na základe ktorého IF fungovali má niekoľko nedostatkov, spôsobených nedostatkom skúseností a novosťou celého systému. Napriek niekoľkým doplnkom zaradených do zákona a vyhláškam v Slovenskej republike, niektoré slabé stránky v oblasti regulovania IF v prvej vlne zotrvávajú.

Základný rámec sprostredkovateľov je nasledovný: najskôr investičná spoločnosť, často vlastnená domácimi bankami a poisťovacími spoločnosťami alebo súkromnými subjektami, sa musela zaregistrovať ako akciová spoločnosť. Investičná spoločnosť (IS) mohla potom požiadať o povolenie založiť investičné fondy (IF). Záujmy majiteľov IS (ktorí radili IF pri výbere portfólia) nie sú nevyhnutne identické s akcionármi IF a hlavne s občanmi, ktorí vložili svoje body do IF. Pre vyhnutie sa potenciálnemu konfliktu záujmov je nevyhnutné preskúmať, či riaditelia IF konajú v súlade s dlhodobými záujmami akcionárov IF.

V prvej vlne zákon nešpecifikoval žiadny časový limit, v rámci ktorého by mali IF zvolať svoje valné zhromaždenia a začať fungovať ako akciové spoločnosti. V súčasnosti, čo je asi rok od doby skončenia ponukových kôl v polovici r. 1993, iba asi 10 IF zvolalo svoje valné zhromaždenia. A týchto 10 IF rozhodne nepatrí medzi najväčších. Podľa mienky MH, niektoré IF, aby zrejme poskytli svojim riaditeľom voľnosť konať bez dozoru vlastných akcionárov (najmä investorov) spomalili vykonávanie nevyhnutných krokov, aby začali fungovať ako akciové spoločnosti.

Parlament nedávno schválil nový zákon, ktorý bude požadovať, aby nové IF (ktorým bude povolené zúčastniť sa na prvej vlne) zvolali valné zhromaždenia najneskôr dva mesiace po skončení ponukových kôl.

Ďalšou slabou stránkou zákona bola určitá dvojznačnosť, či IF môžu menovať členov nielen do dozorných rád spoločností, ale tiež do predstavenstiev (ktoré sú riadiacimi orgánmi spoločností). V skutočnosti, v niektorých prípadoch IF menovali členov predstavenstiev bez toho, že by bol jasný rozdiel medzi ich úlohou vlastníkov a riaditeľov spoločností. V niektorých prípadoch vznikol konflikt záujmov, keď členovia predstavenstiev spoločností boli tiež pracovníkmi iných organizácií.

Nový zákon konštatuje, že IF môžu menovať členov dozorných rád, ale nie členov predstavenstiev.

Horeuvedené zmeny v zákone sú krokom k správnemu smerovaniu. Pozornosť by ďalej mala byť venovaná smerniciam, ktoré môžu slúžiť riaditeľom IF ako návod pre vedenie a dozor akcionárov nad IF. Jednou z možností by bolo požadovať, aby IF predložilo navrhnutý kontrakt medzi IF a investičnou spoločnosťou, ktorá ho podporí ako aj navrhovanú investičnú stratégiu, na výročných valných zhromaždeniach akcionárov IF na schválenie.

Regulácia IF nemá za cieľ nevyhnutne obmedziť fungovanie IF, ale malo by chrániť záujmy veľkého počtu akcionárov, ktorí majú väčšinou malú prípadne žiadnu skúsenosť s finančnými investíciami.

Navrhuje sa, aby technická pomoc pomohla pri posúdení súčasnej legislatívy a navrhla modifikácie legislatívy a správy IF.

5.0 INŠTITUCIONÁLNE ASPEKTY

Vo zväzku I bol proces a problémy popisané do detailov. Táto časť poskytuje kľúčové návrhy, ktoré by mohli vylepšiť proces privatizácie.

5.1 Koordinačná privatizačná komisia

Minister pre privatizáciu nedávno navrhol vytvoriť komisiu pre koordinovanie realizácie kupónovej privatizácie. Táto komisia sa stretáva týždenne a skladá sa zo zástupcov MSPNM, FNM, MF, CKP, PVT (spoločnosť, ktorá vlastní RM-Systém). Bolo navrhnuté zapojiť do tejto komisie tiež zástupcov zakladateľských ministerstiev najmä Ministertstvo hospodárstva. Táto komisia má obmedzené trvanie do doby rozbehnutia privatizačného procesu.

Navrhujeme, aby permanentná komisia, zložená zo zástupcov MSPNM, FNM, MF a najväčších zakladateľských ministerstiev mala permanentný status a bola poverená plnením nasledovných úloh:

- Riadiť a monitorovať celý privatizačný proces a iniciovať riešenie problémov a odstraňovať ťažkosti;
- Riadiť proces kupónovej privatizácie;
- Riadiť program reštrukturalizácie a prípravný program pre pôžičku;
- Riadiť program SRP;
- Koordinovať technickú pomoc pre proces privatizácie.

Komisia by mala podávať správy ministrovi pre privatizáciu. MSPNM by malo vykonávať pre komisiu sekretárske služby. Úlohou sekretariátu bude tiež zodpovednosť za prípravu programu a plánu schôdzok, ako aj vypracovávanie mesačných správ o stave privatizácie. Mesačné správy by mali poskytovať prehľad o pokroku v oblasti privatizačných projektov na všetkých úrovniach: zakladateľské ministerstvá, MSPNM a FNM.

Kedykoľvek to bude potrebné, môže komisia vytvoriť pracovné skupiny a niesť zodpovednosť za návrhy riešenia špecifických problémov. Príklady takýchto pracovných skupín sú nasledovné:

- Pracovná skupina na katastrálnych úradoch, zodpovedná za vyhodnocovanie najväčších problémov v týchto úradoch a za vypracovanie plánu riešenia týchto problémov;
- Pracovná skupina na obchodných súdoch, zodpovedná za vyhodnocovanie najväčších problémov na týchto súdoch a za vypracovanie plánu riešenia týchto problémov;
- Pracovná skupina pre reštrukturalizačné štúdie, zodpovedná za monitorovanie a podávanie správ o pokroku v týchto štúdiách;
- Pracovná skupina pre špeciálny reštrukturalizačný program, zodpovedná za monitorovanie a podávanie správ o pokroku v tomto programe;
- Pracovná skupina pre technickú pomoc, zodpovedná za monitorovanie a podávanie správ o pokroku a potrebách technickej pomoci.

Členovia pracovných skupin môžu pochádzať z privatizačnej komisie ako aj z ministerstiev a iných zaangažovaných inštitúcií.

5.2 Fond národného majetku

FNM je sebestačným a nezávislým právnym subjektom riadeným svojím prezídiom, ktoré je menované Radou vlády.

FNM realizuje privatizačné projekty a má nasledovné hlavné funkcie a zodpovednosť:

- Transformovať štátne podniky na akciové spoločnosti;
- Organizovať dražby a verejné súťaže;
- Navrhovať a finalizovať predajné kontrakty ;
- Spravovať portfólio kontraktov/zmlúv dokončenej privatizácie;
- Spravovať portfólio akcií v novoprivatizovaných a.s., v ktorých má ešte FNM akcie.

Posledný doplnok zákona o privatizácii navrhuje nasledovné zmeny:

- Prezídium FNM, ktoré sa skladá z deviatich členov na čele s prezidentom, bude menované vládou a musí byť schválené parlamentom;
- Minister pre privatizáciu nemôže byť členom prezídia FNM;
- Prezídium menuje dozornú radu FNM;
- Minister financií nemôže byť členom dozornej rady;
- Predseda výkonného výboru (riaditeľ zamestnaný vo FNM na celý úväzok) je automaticky menovaný za viceprezidenta prezídia FNM.

Nové prezídium a nový predseda výkonného výboru boli menovaní v týždni počínajúc 11. aprílom 1994.

Podľa zákona 92/91 musí FNM predložiť parlamentu rozpočet na schválenie najneskôr do 30. aprila. Postup s rozpočtom je nasledovný:

- Schválenie dozornou radou;
- Schválenie prezídiom;
- Schválenie hospodárskou radou vlády;
- Schválenie parlamentom.

Revízia rozpočtu pripraveného začiatkom r. 1994 bývalým vedením bude pravdepodobne potrebná ako dôsledok novej privatizačnej politiky, ktorá kladie veľký dôraz na kupónovú privatizáciu. Možno predpokladať, že nové priority budú viesť k zmenám v štruktúre a budúcej pracovnej náplni FNM.

V priebehu mája sa FNM bude sťahovať do nových priestorov, ktoré sa nachádzajú v budove, kde teraz sídli. Budova sa v súčasnosti upravuje na priestory pre asi 170 osôb a všetky pracoviská budú prepojené počítačovou sieťou.

Proces prijímania pracovníkov začal s cieľom rozšírenia počtu zamestnancov na plánovanú úroveň 170. Riaditeľ každej sekcie je zodpovedný za naplnenie stavu vo svojej oblasti.

Komisia IT už bola vytvorená a každý riaditeľ predložil potrebné špecifikácie. Verejná súťaž, s cieľom získania novej siete atď, bude pravdepodobne zrealizovaná v blízkej budúcnosti, aby nový systém bol k dispozícii po presťahovaní do nových priestorov.

Najväčšie problémy a možné riešenia:

- **Pomalý rozhodovací proces** - Rozhodovanie vo FNM je veľmi centralizované. Zdá sa nám, že noví riaditelia sa pod predchádzajúcim vedením necítili bezpečne vo svojom postavení, preto nevydávali rozhodnutia. Nakoľko všetky závažnejšie rozhodnutia smerovali na vrcholové vedenie, začali sa tým vytvárať problémy.

  Prezídium musí vykonať alebo potvrdiť mnoho rozhodnutí (napr. schvaľovanie kontraktov pre priame predaje, schvaľovanie špecifikácií pri privatizácii metódou verejných súťaží atď.).

  Príklad: koncom februára 1994, 101 privatizačných projektov, ktoré mali byť realizované formou verejných súťaží bolo postúpené na FNM. Iba 3 z nich boli dokončené. Veľká časť z nich sa zastavila kvôli rozhodovaciemu procesu vo FNM, mnohé z nich na úrovni prezídia, teda na riadiacej a administrativnej úrovni FNM.

  Pre väčšiu efektívnosť organizačnej práce je potrebné vytvoriť nové postupy.

- **Nevyhnutne potrebný organizačný rozvoj** - Nové vedenie/noví riaditelia sa budú musieť naučiť rozumieť svojim novým úlohám a zodpovednosti a spoločnej internej práci ako aj so zainteresovanými ministerstvami a inými úradmi; okrem toho rozšírenie organizácie o 50% vo veľmi krátkom čase bude obrovskou úlohou.

  Pre splnenie tejto úlohy je nevyhnutné okamžite menovať vedúceho odborníka, zodpovedného za výber nových pracovníkov. Úlohou tejto funkcie je formalizovať popis novej štruktúry, pripraviť náplne práce s popisom úloh a zodpovedností pre každého riaditeľa, jeho zástupcu a veľkú skupinu odborníkov.

- **Najatie najkvalifikovanejších slovenských odborníkov je rozhodujúci faktor úspechu** - FNM bol naposledy postihovaný veľkými zmenami, keď mnoho pracovníkov tejto organizácie odišlo alebo sa práve chystá odísť. Ide tu zrejme o fakt, že podľa nášho chápania nie je FNM atraktívnou organizáciou pre vysokokvalifikovaných odborníkov, ktorých tak potrebuje. Čiastočne to závisí aj od kompenzačnej politiky.

  Jedno z riešení by bolo zamestnať skupinu slovenských odborníkov na báze kontraktu na určitý čas, kde by sa im ponúkla finančná kompenzácia porovnateľná s tým, čo by títo odborníci získali v súkromnom sektore. Treba rozhodovať citlivo, avšak pritiahnutie vysokokvalifikovaných pracovníkov je kritickým faktorom pre úspešnosť FNM.

- **Zahraniční investori/organizačné posilnenie prostredníctvom transakčných tímov** - Podľa nášho názoru by mal byť FNM takým druhom inštitúcie, ktorá by mala hlavnú zodpovednosť za pritiahnutie a služby zahraničných investorov, aj keď zahraniční investori by podľa zákona mali rokovať s ostatnými zainteresovanými

stranami (vedenie š.p., zakladateľské ministerstvá, MSPNM). Najväčšie organizačné posilnenie potrebuje FNM práve v tejto oblasti, aby mohol túto úlohu splniť.

Dlhodobí zahraniční poradcovia budú potrební pre plnenie úlohy poradiť/usmerniť zahraničných investorov zaujímajúcich sa o účasť v privatizačnom procese. Títo poradcovia budú úzko spolupracovať s transakčnými tímami, s MSPNM a zakladateľskými ministerstvami ako aj so Slovenskou národnou agentúrou pre zahraničné investície a rozvoj.

Značný počet štátnych podnikov má potenciál byť v zornom poli záujmu zahraničných investorov. Niektoré z týchto štátnych podnikov už bolo transformovaných na akciové spoločnosti s akciami držanými vo FNM; iné sú v procese transformácie a budú teda riadené FNM. Niektoré z týchto podnikov budú predané zahraničným investorom prostredníctvom priamych predajov, iné prostredníctvom medzinárodných tendrov. FNM potrebuje v tejto oblasti posilnenie, pretože má veľmi malú skúsenosť a odbornosť pre rokovania so zahraničnými investormi.

Hlavnými úlohami bude:

- vyhodnotenie, dokončenie a aktualizovanie metód a postupov;
- definovať priority podnikov, ktoré majú byť predané zahraničným investorom;
- pripraviť informačné memorandá pre podniky, ktoré majú byť predané zahraničným investorom;
- vytvoriť akčný plán pre každý podnik;
- vytvoriť kontakt so zahraničnými investormi, či už cez priame predaje alebo verejné súťaže;
- viesť rokovania a uzatvárať transakcie.

Každý projektový tím by sa mal skladať z investičného bankára ako vedúceho tímu, západného finančného analytika/účtovníka, západného právnika a títo by boli doplnení slovenským účtovníkom, slovenským právnikom a sekretárkou, vrátane prekladateľov. Tímy by mali podliehať priamo riaditeľovi príslušného odboru a spolupracovať s pracovníkmi FNM. S tímami by malo pracovať mnoho prekladateľov. Zhruba sa odhaduje, že každý tím by mal byť schopný uzavrieť asi 8 transakcií ročne.

- **Portfólio akcií FNM** - FNM vlastní k 25. marcu 1994, dočasne alebo trvalo, akcie 562 spoločností.

V tých spoločnostiach, kde má FNM menej než 10%, bol plán predchádzajúceho vedenia FNM predať akcie čo najskôr. Tam, kde FNM mal viac než 34%, bol plán zúčastňovať sa na výročných valných zhromaždeniach akcionárov. FNM vybral 29 spoločností, kde plánuje mať trvalé vlastníctvo akcií.

FNM potrebuje vypracovať:

- jasnú politiku pre naloženie s akciami;

- jasnú politiku pre predaj akcií - ktor je zodpovedný, kto môže rozhodnúť komu ich predať, za akú cenu atď;
- jasnú politiku pre vykonávanie vlastníckych práv (účasť v predstavenstve);

Aktivity, ktoré by mali byť podniknuté, by mali obsahovať nasledovné prvky:

- Privatizácia: znížiť v priebehu r. 1994 vlastníctvo akcií FNM v každej spoločnosti na menej než 50% pomocou metód: priamy predaj, predaj cez kapitálový trh a kupónová privatizácia;

- Predaj všetkých zostávajúcich akcií v spoločnostiach, kde vlastní FNM zanedbateľné množstvo, napr. prostredníctvom kapitálového trhu;

- Program SRP - EBRD: intenzifikovať proces holdingovej štruktúry s účasťou FNM, EBRD a ďalších investorov;

- Vypracovať a realizovať systém správ managementu za účelom monitorovania stavu portfólia zostávajúcich akcií;

- Zvýšiť kapacitu funkcie manažérskeho portfólia (napr. 1 odborník na 10 spoločností, v ktorých FNM vlastní akcie);

- Vykonávanie vlastníckych práv v spoločnostiach, kde FNM vlastní akcie, pomocou externých odborníkov, ktorí by reprezentovali záujmy FNM v predstavenstvách spoločností. Hlavným cieľom týchto odborníkov zastupujúcich FNM by malo byť zameranie sa na komerčné ciele, t.j. zvýšenie hodnoty akcií a tvorba dividend pre akcionárov. Externí odborníci by mali byť vybraní z domácich alebo zahraničných osôb: skúsení komerční právnici, priemyselní odborníci a investiční bankári.

- **Portfólio kontraktov o predaji vo FNM** - FNM v súčasnosti vlastní portfólio 586 kontraktov o predaji, t.j. kontraktov s novými vlastníkmi bývalých štátnych podnikov. Každý z týchto kontraktov je rozdielny.

  FNM musí teraz čeliť mnohým problémom, keď napr. nový vlastník netvorí zisk v kúpenej spoločnosti, ktorý by mu umožnil splácať jeho záväzky voči FNM. V súčasnosti je mnoho prípadov, keď FNM bol požiadaný o predĺženie a preplánovanie splátok.

  FNM musí preto rozhodnúť ako naložiť s týmito prípadmi. Je potrebné vytvoriť novú politiku a nový mechanizmus. Odňatie akcií je jasne vymedzené zákonom. Avšak, zákon jasne neurčuje, kedy odňať majetok. Jednou z možností by bolo opätovné poštátnenie.

  FNM potrebuje mať vlastnú legislatívnu kanceláriu, ktorá by sa zaoberala týmito problémami.

- **Veľký balík prípadov vlastníckych práv a reštitučných nárokov** - Ľudia, ktorí majú reštitučné nároky môžu dostať peniaze, štátne obligácie alebo majetok spravovaný FNM. Reštitučné nároky sú po vyriešení platené z reštitučného fondu.

FNM má veľký balík nevyriešených reštitučných nárokov: 12 000 nevyriešených, 700 vyriešených. Reštitučné nároky na vrátenie majetku je potrebné vyriešiť pred privatizáciou.

Odbor, ktorý sa zaoberá touto problematikou je nedostatočne obsadený pracovníkmi a potrebuje ďalšie ľudské zdroje.

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Indikatívny plán činnsoti - Fond národného majetku

#	Hlavné kroky	Zodpovednosť	Príprava	Termín
1	Vytvorenie transakčných tímov	FNM, MSPNM		jún 1994 - december 1995
2	Presťahovanie sa do nových priestorov	FNM	FNM	máj 1994
3	Úprava rozpočtu a doplnenie počtu pracovníkov	FNM	FNM, konzultanti	máj 1994
4	Zriadenie fukcie náboru pracovníkov	FNM	konzultanti	máj - september 1994
5	Vytvorenie právneho odboru	FNM	FNM	jún 1994
6	Zriadenie nového MIS	FNM	konzultanti	jún - september 1994
7	Nábor pracovníkov	FNM	FNM, konzultanti	jún - september 1994
8	Realizácia výcvikových programov	FNM	FNM, konzultanti	september 1994 - marec 1995
9	Realizácia špeciálneho reštrukturalizačného programu EBRD	FNM, MH	EBRD	júl 1994
10	Sformulovanie novej politiky pre predaj akcií	FNM, MSPNM	FNM, konzultanti	jún 1994
11	Sformulovanie novej politiky pre vykonávanie vlastníckych práv	FNM	FNM, konzultanti	jún 1994
12	Sformulovanie novej politiky pre riadenie portfólia predajných kontraktov	FNM	FNM, konzultanti	jún 1994
13	Sformulovanie novej politiky pre pritiahnutie zahraničných investoeov	FNM, MSPNM,	FNM, MSPNM, konzultanti	jún 1994

5.3 Ministerstvo pre správu a privatizáciu národného majetku

Úlohou MSPNM je riadiť a schvaľovať privatizačné projekty. Štruktúra ministerstva je jasná a ministerstvo z tohto hľadiska pracuje efektivne. Hlavným súčasným problémom je problém kapacity právnej sekcie a v menšej miere aj troch privatizačných sekcií. Ďalším problémom je zlepšenie kvalifikačnej úrovne pracovníkov MSPNM a zlepšenie kontaktov s potenciálnymi zahraničnými investormi. MSPNM potrebuje tiež posilniť svoje oddelenie pre zahraničné styky a public relations.

Tieto problémy sú známe už dlhší čas. Predchádzajúce vedenie sa nevenovalo riešeniu kapacitných problémov. Potrebné je rozbehnúť nasledovné aktivity:

- Schválenie podstatne väčšieho rozpočtu pre MSPNM vládou/parlamentom;
- Najatie skupiny slovenských právnikov a podnikových analytikov;
- Zorganizovanie výcvikových programov;
- Public relations.

Zorganizovanie výcvikových programov
Kvalita práce pracovníkov MSPNM by mohla byť zlepšená výcvikovou činnosťou. Z uvedeného dôvodu bolo navrhnuté vyvinúť a zrealizovať výcvikový program pre pracovníkov MSPNM. Pracovníci FNM by mohli tiež participovať na tomto výcviku. Výcvik by zahŕňal tieto oblasti: stratégia podniku a plánovanie, marketing, organizácia, finančná analýza atď., t.j. problematika potrebná pre porozumenie ako riadiť spoločnosť v ekonomike voľného trhu. Výcvik by mohol mať formu 3-4 týždňových kurzov rozložených na obdobie napr. 3-4 mesiacov. Navrhuje sa, aby sa s realizáciou výcvikového programu začalo až po zvýšení počtu pracovníkov na MSPNM, napr. niekedy začiatkom jesene 1994, aby sa tým nevytvorili ďalšie kapacitné problémy.

Realizovaním výcvikových činností by sa MSPNM mohlo stať atraktívnejším pracoviskom a prispelo by sa tým k prekonaniu problému, ktorý má ministerstvo s pritiahnutím a udržaním kvalifikovaných pracovníkov kvôli nízkym mzdám.

Skupina právnikov/analytikov štátnych podnikov
Niekoľko štátnych podnikov má kapacitné problémy ohľadne právnych záležitostí a tiež odbornými radami pri aktualizácii privatizačných projektov. Preto sa navrhuje, aby MSPNM vytvorilo skupinu právnikov a podnikových/finančných analytikov, ktorí by boli ad hoc k dispozícii vedeniu štátnych podnikov pri príprave aktualizovaných privatizačných projektov.

Zahraniční investori/organizačné posilnenie prostredníctvom transakčných tímov
Veľké množstvo podnikov určené pre čiastočnú alebo úplnú privatizáciu prostredníctvom predaja zahraničným investorom prípadne s potenciálom pre účasť zahraničného investora je v súčasnosti rozpracovaných na úrovni zakladateľských ministerstiev a MSPNM. Pre urýchlenie privatizačného procesu a posilnenie pozície vlády v procese rokovania sú západné zdroje nevyhnutné. Navrhuje sa sformovanie transakčných tímov, ktoré by sídlili na MSPNM. Zloženie a úlohy transakčných tímov sú v podstate tie isté ako pre transakčné tímy vo FNM; hlavný rozdiel bude v tom, že kontakt s potenciálnymi zahraničnými investormi by bol v skoršom štádiu.

Public relations
Oddelenie public relations má zodpovednosť udržovať každodenný kontakt s tlačou vo všetkých oblastiach týkajúcich sa privatizácie a podujíma sa koordinovať kampane public relations tak na domácej ako aj medzinárodnej úrovni.

Budúcnosť MSPNM
MSPNM má obmedzený čas trvania. Jeho aktivita bude vrcholiť pravdepodobne v r. 1994 a začiatkom r. 1995. Navrhuje sa vypracovať plán ďalšieho využitia každého odbornika pracujúceho na MSPNM napr. pre potreby FNM

6.0 MONITOROVANIE VÝKONNOSTI A INFORMAČNÉ SYSTÉMY

V súčasnosti je veľmi ťažké, ba vôbec nemožné, poskytnúť rýchle informácie týkajúce sa programu privatizácie a vysledovať stav ktoréhokoľvek podniku v tomto procese. Nie je tu žiadna súvislosť medzi informačnými systémami hlavných vládnych inštitúcii zapojených do privatizačného procesu (zakladateľské ministerstvá, MSPNM a FNM).

Na zakladateľských ministerstvách solídne informácie obyčajne fungujú dosť neformálnym spôsobom medzi štátnymi úradníkmi v sekcii alebo odbore zodpovednom za privatizáciu. Z nášho pohľadu je tento systém dostatočný pre tie ministerstvá, ktoré spravujú pomerne malý počet podnikov (zdravotníctvo, kultúra atď.).

Ministerstvo hospodárstva je však zodpovedné za vypracovanie privatizačných projektov asi 350 podnikov. V súčasnosti nie je schopné poskytnúť informácie o presnom stave podnikov, na ktoré dozerá. Bolo nám oznámené, že asi 100-150 podnikov doteraz nemá privatizačný projekt na MSPNM.

Informačný systém MSPNM poskytuje zoznam podnikov, ktoré majú projekty na ministerstve a umožňuje vidieť v akom stave sa projekt v procese posudzovania (v rámci MSPNM) v súčasnosti nachádza. Databázový informačný systém je prepojený cez sieť a prístupný pracovníkom MSPNM.

Informačný systém vo FNM nie je prepojený s MSPNM. FNM nemá žiadnu možnosť odhadnúť, aký počet privatizačných projektov môže očakávať a kedy ich môže dostať.

Okrem toho databázový systém je založený na zhromažďovaní údajov v jednotlivých počítačoch odkiaľ sú informácie postúpené do výpočtového oddelenia prostredníctvom diskiet. Tento systém je nespoľahlivý.

Informačný systém FNM obsahuje údaje o projektoch, ktoré mu boli postúpené z MSPNM. Informácie FNM sú založené na schválených projektoch (čo sa líši od počtu podnikov, ktoré boli prípadne rozdelené), pričom porovnávať počet podnikov je ťažké.

Vytvorenie integrovaného informačného systému, ktorý by spájal všetky relevantné inštitúcie bude nákladné a dlhotrvajúce. Neodporúčame vyvinúť taký systém skôr než väčšina privatizačných projektov už nebude na zakladateľských ministerstvách.

Veríme však, že je dôležité zriadiť informačný tok medzi MSPNM a FNM. To je možné buď vo forme integrovaného systému pre obidve inštitúcie alebo na báze formálnych správ, kde by MSPNM poskytovalo FNM zoznamy všetkých svojich privatizačných projektov s ich súčasným stavom. Prvé riešenie by bolo lepšie, ale nákladnejšie na realizáciu. Druhý nápad by bol ľahko realizovateľný za použitia databázového systému MSPNM.

Informačný systém vo FNM potrebuje nevyhnutné zdokonalenie. Potrebný je zdokonalený databázový systém ako aj vytvorenie siete. Bude to kritické vtedy, keď FNM dostane projekty z druhej vlny a rýchlo sa zväčší počet pracovníkov. Informačný systém FNM je dôležité zdokonaliť aj z toho dôvodu, aby bol schopný

rýchlejšie poskytovať presné informácie potenciálnym investorom. Prípravné práce zdôvodňujúce funkčnosť nového systému už boli začaté. Tento nový systém by mal byť schopný poskytovať pravidelné informácie o pokroku v privatizácii.

FINANCIAL RESTRUCTURING OF ENTERPRISES AND BANKS, BANK CONCILIATION PROGRAMME IN POLAND

Background, the Law, and General Observations

DRAFT
FOR DISCUSSION PURPOSES ONLY

17 June 1994

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FINANCIAL RESTRUCTURING OF ENTERPRISES AND BANKS (FREB)

I. Background

In the 1990 the Government of Poland decided to initiate reorganization of a Polish banking system. To begin the process, nine regional branches of National Bank of Poland (NBP) were commercialized - converted into the commercial banks. The commercialization in that context means conversion into the form of a joint stock company wholly owned by the State Treasury.

The former banking system of Poland did not include any commercial banks and consisted basically of the central bank Narodowy Bank Polski (National Bank of Poland NBP), several savings and specialized banks and well over thousand cooperative banks.

The main function of that system was a distribution of government subsidies. In the centrally planned economy, centrally distributed subsidies were main sources of financing state owned enterprises. Production plans were matched with finance plans. Banks were used as channels for collecting the information on capital requirements of industries and distributing funds according to the approved budgets.

At this stage, banking system did not have to make any judgement of the investment projects. These analyses were made by the governmental planning agencies. Financing decisions were made by the government and budgets were approved accordingly.

These decisions were driven mostly by foreign currency needs of the country, regardless financial effectiveness of the projects.

In such an environment and with such objectives, banking system did not develop its own technics and procedures of dealing with commercial loans. Moreover, it did not achieve any experience relevant to requirements of the market economy.

As a heritage of the old regime, newly created nine commercial banks were left with their traditional clients (former NBP clients) which are by large big state owned enterprises. Bank's portfolios were not developed on a basis of creditworthiness of the borrowers. After the split, the nine banks continued to lend to the state-owned enterprises, having little experience in how to evaluate risk or seek other customers. Most of the enterprises were domestic market and Soviet block markets oriented.

The change of the political system caused the need for a market reorientation. Some of the state owned enterprises have lost major markets and have inherited over-staffing, inefficient technologies and basically no understanding of western cost and financial controls. These companies cannot become profitable and are non-viable under current ownership arrangements.

Though many of state-owned enterprises in 1990 and 1991 indicated problems with paying back their debts, banks kept financing them, rolling over the loans, capitalizing unpaid interest.

Most of these companies are heavily indebted to the commercial banks and many of these loans are delinquent. The banking system is suffering from a portfolio that contains as much as 20 to 35 percent of its assets in non-performing loans by large to the state owned enterprises.

These are critical characteristics to the context for the new program on Financial Restructuring of Enterprises and Banks (FREB).

The financial restructuring of banks' loan portfolios is an important element of the banking reform process. The improvement of the quality of banks' assets and strengthening of their capital base are preliminary and necessary steps in the bank privatization programme.

II. Act on Financial Restructuring of Enterprises and Banks.

The Act on Financial Restructuring Enterprises and Banks was passed by the Polish Parliament in February 1993 and will soon be amplified by a Ministerial Decree. This is a special time-bound enabling legislation which obliges the state owned commercial banks to play a key role in fulfilling the Act's crucial aims.

There are several objectives of that program of which the main are :

1. To solve the debt overhang of the state enterprises.

2. To restructure enterprises with realistic prospects of functioning effectively in a competitive environment.

3. Eliminate enterprises that are financially and functionally insolvent and have no realistic chances of independent existence.

4. Speed up privatization of the state sector.

5. Recapitalize the banks.

6. Prepare the banks for privatization.

7. Strengthen the financial sector by resolving the portfolio problem in state owned commercial banks.

The Financial Restructuring Act contains two sets of provisions prescribing:

* The conditions under which state-owned commercial banks may receive their recapitalization.

* The method by which state-owned commercial banks may restructure enterprises.

The Financial Restructuring law envisages the recapitalization of selected banks. The recapitalization of the banks shall take place with a strong financial assistance of the World Bank's Enterprise and Financial Sector Adjustment Loan (EFSAL) through an issue of zloty-denominated Treasury bonds. The bonds will be redeemed with proceeds drawn from the Polish Bank Recapitalization Fund (containing donor money reprogrammed from the unused currency stabilization fund of 1989, GOP budget funds, and the new World Bank loan). The total available to banks through this fund is $ 1.5 billion.

According to the plan as agreed between the government of Poland and the World Bank, selected state owned commercial banks will be eligible for recapitalization provided that they fulfil certain conditions:

* Obtain a financial audit.

* Identify and separate non-performing loans on the basis of portfolio reviews performed by international accounting firms in 1991 and 1992.

* Create separate loan work-out department (this has already been done in all state owned commercial banks).

* Submit a strategy plan for restructuring the loan portfolio to the Ministry of Finance.

The above conditions should be fulfilled by March 1994. Banks are obliged to sell their non performing loans within twelve months after the Financial Restructuring Law became effective. The recapitalization itself will be conducted *ex ante*, providing an incentive for the banks to maximize the collection of the bad loans they have already provisioned as doubtful, and thus improve their capital base beyond the increase achieved through recapitalization. The banks will not be obliged to sell the loans if any of the following events take place:

* A conciliation or arrangement agreement has been concluded.

* The debtor has been declared bankrupt.

* Liquidation proceeding against debtor has been initiated in accordance with the law on privatization of state-owned enterprises.

* The debtor has been servicing its debt obligation for a period of no less than three months.

* The debtor is the Treasury Agricultural Property Agency.

The main tools banks will have for portfolio restructuring are:

1. Conciliation Proceedings; newly-expanded out-of-court settlement process. It is based on the debtors initiative. They prepare and present to the bank plans of restructuring their debt and operations of the debtors enterprise. It is also required

that the debtor's enterprise shall be commercialized, therefore the submission to the bank must be accompanied by the submission to the relevant government agency (by large Ministry of Privatization). This allows the bank to rely on the ownership transformation as a means of ensuring that the restructured entity will function in a more efficient manner, thus improving it's ability to satisfy the obligations imposed by the agreement.

This agreement is binding, and must be accepted by the creditors whose loans amount to at least 50 % of the value of the debtor's total debt. The loans excluded from the calculation include such obligations as social insurance, unpaid wages, pension obligations, secured and mortgage loans and withholding tax obligations.

The law envisages the reduction of the tax-based obligations accordingly to the treatment of other claims. The State Treasury, which is a major creditor in many of the enterprises, will refuse to sign the conciliation agreement **only** if it is discriminates against the Treasury.

The bank proper for the initiation of the proceeding is a bank, or a group of banks, whose loans to the debtor constitute either at least 10 % of all the debtor's debt obligations, and no less than ZL 1 bln ($ 58,000), or at least 20 % of all debtors debt obligations.

If the bank fails to institute the proceedings within 30 days of the date of the submission by the debtor, any other bank that is the debtor's lender may start the procedure.

Except specific conciliation proposals, the debtor's submission is accompanied by debtor's financial statements, lists of creditors and debtors, a list of guarantees granted to the debtor and executory titles against it.

The bank is not obliged to initiate the proceeding.

The conciliation agreement contains the parties' commitments to fulfil the agreed restructuring programme, and may include.

- deferral of payment deadlines,
- reduction of interest on receivables,
- foregoing calculation of interest at a specified time on all or a portion of receivables,
- provisional capitalization of interest due,
- delay the moment when the principal and interest is repaid,
- swapping part or of or all receivables for shares,

- writing off a portion or all receivables, including interest,
- provision of new loans, credits or credit guarantees to the debtor.

The process gives greater authority to the banks, than they would have under a court-run bankruptcy. On the other hand, it also requires greater involvement of banks in corporate governance. In the process, banks will play the roles of advisor, work-out manager, enterprise restructurer, credit and equity provider, and privatization advocate. Conciliation includes creation of detailed plans covering timetables, staffing patterns, marketing plans and capital requirements. In many cases it will lead to negotiated debt write-downs and liquidation on some assets of the enterprise.

The conciliation process is available to any bank to use, but only the selected state commercial banks will be eligible for recapitalization.

2. Public sale of debt is another newly created instrument introduced by the Financial Restructuring Law. This option will enable the banks to reduce their problem loan exposure in relatively quick and effective manner. This will also allow to release some of the bank's bad loans reserves.

Creation of the market of such loans is a key element to the successful use of that portfolio restructuring technic.

3. Debt-to-equity conversion, in the case of state-owned enterprises, may be achieved in one of two ways:

A. The first is the submission of an application to the Minister of Privatization. If the conciliation agreement envisages privatization, it must be signed by the Minister of Privatization or his representative. He is obliged by law to commercialize the enterprise within 30 days of the signing of the agreement, in accordance with the Law on Privatization of State-owned Enterprises.

B. The conversion of debt to equity may also be achieved through a new path introduced in the Financial Restructuring Law. Creditors, that hold at least 30 % of a debtor's debt and that had extended the credit before June 30, 1992, or purchased the debt at a public sale, may apply for conversion.

If the debt is not repaid within a month of the time application, the Minister of Privatization transforms the enterprise into a Treasury-owned joint-stock company, and submits an application to the Securities Commission with the request that the company's stock be publicly floated.

The converting creditor, receives the stock held by the State Treasury in a proportion equal to the ratio of its claims to the value of the debtor's assets diminished by the amount of unconverted liabilities (if the debtor's book value is positive), or the ratio of its claims to the sum of the debtors liabilities.

This new privatization path may be used in respect to both state-owned enterprises

III. OBSERVATIONS OBJECTIONS AND CONCERNS

A. Although the BCP programme is working to slowly clean the balance sheets of the nine state banks covered by this programme, not enough is being done to strengthen the credit control procedures that will minimise the probability that the banks will face another bad debt wave in the near future. This is not to say that institution building programmes have not been implemented. They have, as all nine banks have developed Loan Work Out Departments and have undergone some training programmes. However, there still seems to be a need for a stronger institution building programme, particularly in the credit analysis and granting areas where the state banks are particularly weak.

B. The recapitalisation programme is heavily biased in favour of the banks. Not only do the banks carry out the main role in conducting the proceedings, but other creditors (particularly those with a relatively small share of all of the enterprises' debt) are excluded during the proceedings, the rational probably being that their receivables were lost anyway.

The proceedings are, as intended, beneficial to the banks and, at least partly, to the enterprises entering the debt conciliation, but they may have drastic effects on other creditors of the enterprises. Furthermore, the claims of the other creditors remain on the enterprises undergoing BCP so that the financial restructuring for the enterprises may not be complete. Therefore, this leaves open the possibility that as a result of the BCP proceedings, the banks benefit from the re capitalisation, but the enterprises may still not be financially healthy to successfully pursue their turn-around plans

C. Under this model, re capitalisation of the banks is relatively straight forward. The financial restructuring of the enterprises entering the BCP is also a technicality although much more difficult to do. The problem has resulted in the lack of a critical analysis of the organisational and operational restructuring proposals of the enterprises entering the BCP.

Given the mechanics of the programme, there is a real danger that the requirement that the operational restructuring (business plans, etc.) is given a very low priority and viewed only as a check list item that needs to be filed before the proceedings can go through and the re capitalisation take place. The

result is that the enterprise will receive a short breathing space but will likely be facing operational and financial difficulties in the near future. It is critical to have reputable third parties (international consulting firms) review the enterprise restructuring plans, and to ensure that the banks cannot approve these on their own.

D. It is also important to ensure that the banks pay a penalty for the re capitalisation programme. In this model, the amount allocated to each bank corresponded roughly to the total non performing loans as of 31-12-91. This means that in fact the re capitalisation was done prior to the BCP proceedings, and the result was a dash for the money. Perhaps a wiser system, would have provided the banks with a re capitalisation percent (on bad loans written off) that represented some serious penalty for the banks, or perhaps sharing the re capitalisation funds with other creditors.

E. It is the opinion of some consultants working in Poland that the financial restructuring programme at the enterprises is devoid of any serious and critical analysis of the future of these enterprises and is generally biased against implementing liquidation proceedings. Under these circumstances, the Polish authorities and the Western donors should recognise the opportunity costs of temporarily "protecting" these enterprises through isolated financial restructuring where the banks are the only true beneficiaries.

GAZETA BANKOWA, 14.08.94

THE OMBUDSMAN'S OBJECTIONS

Whole BCP Section of the Financial Restructuring of Banks and Companies Act is objected by the Ombudsman.

Firstly, the Ombudsman objects to the discrepancy of the regulations with the constitutional rule of the equality with law. In opinion of the Ombudsman, the act guarantees privileged position to the banks entering the BCP against the other creditors. On the other side, the creditors with their receivables included in the BCP stand on the much better position than the creditors with their receivables not included.

Secondly, right of a citizen to appeal to court has been violated : debtor and creditors included in the BCP lose the opportunity of obtaining the court protection. Parties and participants in the legal proceeding are not supposed, after entering the BCP, to claim their receivables in this way, because the previous proceedings are suspended. Simultaneously, the executive decisions issued are announced invalid,

Besides a comprehensive dose of the legal argumentation, few interesting examples are enclosed as justification of the ombudsman's objections. These are the cases, when the banks were taking advantage of their privileged status in the BCP. The most striking case is the BCP of the Injections Molding Machines Plant Ponar-Zywiec SA, when the receivables of the Bank were reduced only by 15%, while all the other receivables were reduced by 30%. The interest rate level of the credits left to be paid was settled on the level of the refinance credit NBP interest rate, increased by 1 percentage point, while the interest of the other receivables (but not the receivables of the bank) equal only to
10% a year.

Such terms of the BCP are possible only on the grounds of the act regulating the way of entering the agreement (it should be supported by the creditors of at least half of the total receivables, including the bank carrying on the proceedings). If a bank enters BCP alone (or altogether with other banks) they usually achieve the necessary majority at the board of creditors which makes them able to carry their points in spite of objection of all the remaining creditors. Banks are also in the favorable position of applying pressure to the debtors who remain their clients.

The act states that the settlement should treat the debtors on "non-unfair terms", but the expression is far from being precise and it could be interpreted only by the courts examining the objections of the creditors who do not agree with the letter of the act. However," Gazeta Bankowa" has not come across a case when a court would take such objection into consideration.

ANNEX

TRANSLATION FROM POLISH
W&C Draft January 14, 1993

L A W

dated December 19, 1992

on Financial Restructuring of Enterprises and Banks and Amendments to Certain Laws

CHAPTER 1

General Provisions

Art. 1

The law regulates:

1) bank arrangement proceedings,

2) public sale of bank receivables,

3) acquisition of shares of joint-stock companies owned wholly by the State Treasury for receivables,

4) procedure of transferring resources for increasing own funds of state-owned banks and banks with the majority of 50% of shares owned by the State Treasury.

Art. 2

Rights and obligations of a bank as set forth in chapters 2-3 apply accordingly to all banks.

Art. 3

Rights and obligations of a bank as set forth in chapters 2-3 apply accordingly to the Industrial Development Agency S.A. Joint-Stock Company.

Art. 4

Whenever this Law refers to:

1) companies - shall mean joint-stock and limited liability companies,

2) shares - shall mean stocks in joint-stock companies and shares in limited liability companies.

3) statutes - shall mean statutes of joint-stock companies and deeds of partnership and acts of creation of limited liability companies,

4) net book value - shall mean, in reference to a company, the sum of its own capital adjusted to financial result, and in reference to a state-owned enterprise, the sum of its own funds adjusted to financial result.

Chapter 2

Bank arrangement proceedings

Art. 5

On the request of the debtor who has ceased to repay its debt to the bank or who will not be able to pay back the debt in the future - the bank, subject to provisions of Articles 7 and 8 and Article 56 par. 2, may initiate bank arrangement proceedings in order to reach an arrangement between debtors and creditors.

Art. 6

1. Bank arrangement proceedings shall concern:

   1) only a debtor that is a state-owned enterprise, a joint-stock company that is owned wholly by the State Treasury, or a company whose stocks owned by the State Treasury, state-owned enterprises and joint-stock companies owned wholly by the State Treasury constitute as a whole more than 50% of its equity; and

   2) the Agricultural Property Agency of the State Treasury, in portion to the liabilities assumed by the Agency - according to appropriate legal provisions on management of the Agricultural Property of the State Treasury - after liquidation of state-owned agricultural enterprises.

2. If the debtor is the Agricultural Property Agency of the State Treasury, receivables of a particular state-owned agricultural enterprise, liquidated and acquired by the Agency, are subject to bank arrangement proceedings.

Art. 7

1. A bank may initiate arrangement proceedings singlehandedly or on behalf and upon the consent of a group of banks, in the case when:

1) the bank receivables from the debtor constitute at least 10% of all the total amount of liabilities of the debtor, but the value of the bank's receivables is not less than 1,000,000,000 zlotys, or;

2) the bank's receivables constitute not less than 20% of the total amount of liabilities of the debtor.

2. If the debtor is the Agricultural Property Agency of the State Treasury, the receivables referred to in Sec. 1 shall be calculated on the basis of an approval protocol of the assets, receivables and liabilities of a state-owned agricultural enterprise, prepared by the founding body of the enterprise and the Agency.

3. The total amount of debtor's liabilities, referred to in par. 1, means an amount that remains after subtracting the following amounts from the balance total drawn up for the end of three month's period preceding the day on which the request was submitted:

1) equities - in the case of a company,
2) own funds - in the case of a state-owned enterprise, adjusted to financial result.

Art. 8

A bank that is competent to initiate bank arrangement proceedings is:

1) a bank whose sum of receivables towards the debtor is the highest amongst all bank receivables,

2) another creditor bank, if the bank referred to in subpar. 1, has not initiated bank arrangement proceedings within 30 days from the date of submission of the request to initiate proceedings by the debtor, and in the case referred to in Article 10 par. 1, within 30 days from the date of presentation or supplementation of an economic recovery program by the debtor.

Art. 9

1. A debtor should attach the following documents to the request to initiate bank arrangement proceedings:

1) arrangement proposals, in particular proposals of the debtor's economic recovery program;
2) balance sheet and account of results;
3) extract from the registration entry;
4) register of creditors, including foreign creditors, giving their first and last names or business names and addresses, mentioning debts and dates of their payment as well as indicating whether the debts were pledged or mortgaged or foreign;
5) list of issued guarantees;
6) list of executory titles against the debtor;
7) register of persons or firms that have incurred obligations towards the debtor, listing dues and payment dates; and
8) proposals of deductions according to rules set forth in Art. 13.

2. Provisions of Sec. 1 shall respectively apply when the subject of bank arrangement proceedings are the receivables referred to in Art. 6 sec. 2, however:

1) instead of an extract from the register the debtor shall attach the decision of the founding body regarding liquidation of the state-owned agricultural enterprise; and

2) information specified in subparagraphs 2 and 4-7 refer to a liquidated enterprise.

3. If the debtor is a state-owned agricultural enterprise, arrangement proposals that also include an asset management program after the enterprise has been acquired by the Agricultural Property Agency of the State Treasury, require consent of the Agency.

4. If the debtor is the Agricultural Property Agency of the State Treasury, arrangement proposals shall include an asset management program after the liquidation of the state-owned agricultural enterprise.

Art. 10

1. The bank may make the initiation or progress of bank arrangement proceedings conditional on presenting or supplementing a program of economic recovery of the debtor or an asset management program referred to in Art. 9 Secs. 3 and 4, giving the debtor not less than 30 days to do this.

2. If the debtor is a state-owned enterprise, the bank makes the initiation of a bank arrangement proceedings conditional on the submission by the debtor of a motion addressed to:

1) the Minister of Privatization, requesting the transformation of the enterprise into a joint-stock company owned wholly by the State Treasury pursuant to the provisions of the Law on Privatization of State Enterprises, dated July 13, 1990 (Dz.U. No 51, item 298 of 1991, No 60, item 253 and No 11, item 480) or,

2) parent body to contribute the enterprise or organized parts of its assets to a company pursuant to art. 37 par. 1 subpar. 2 of the Law on Privatization of State Enterprises.

3. Provision of par. 2 shall not apply to state enterprises which must obtain the permission of the Council of Ministers to become privatized pursuant to separate regulations, unless the Council of Ministers agrees to their privatization, or to state-owned agricultural enterprises.

Art. 11

Bank arrangement proceedings, subject to provisions of Article 12, apply to all receivables, except for the following receivables:

1) from social insurance,
2) from employment contract,
3) from a pension or an annuity contract,
4) secured by a pledge, with the exception of pledges obtained later than after 30 days prior to the submission of a request to initiate bank arrangement proceedings, and statutory pledges as set forth in the Law on Tax Liabilities, dated December 19, 1980 (Journal of Laws No 27, item 111, Journal of Laws 1982, No. 45, item 289, Journal of Laws 1984, No. 52, item 268, Journal of Laws 1988, no. 41, item 325, Journal of Laws 1989 No. 4 item 23, No. 33, item 176, No. item 192, No. 74, item 443, Journal of Laws 1990, No. 34, item 198, Journal of Laws 1991, No. 100, item 442, No. 110, item 475, Journal of Laws 1992, No. 21, item 86, No. 53, item 251),
5) secured by a mortgage, with the exception of mortgages obtained during the month proceeding the initiation of the bank arrangement proceedings and compulsory mortgages and law mortgages under the Bank Law dated January 31, 1989 (Journal of Laws 1992, No. 72, item 359),

6) receivables which are a result of installments for income tax taken by the debtor, who was obliged as payer subject to the Law on Personal Income Tax dated July 26, 1992, (Journal of Laws No. 80, item 350, item 442 and Journal of Laws 1992, No. 21, item 86).

Art. 12

1. Receivables secured by a pledge or mortgage may be subject to bank arrangement proceedings only upon the consent of the creditors.

2. If a receivables has not been subject to a bank arrangement because of the lack of consent of a creditor, referred to in par. 1, after baking arrangement becomes final and valid, the debtor may convey the ownership of the thing incumbered by a pledge or mortgage to the creditors resulting in complete satisfaction of creditors on account of debts secured by a pledge or a mortgage that have not been covered by bank arrangement.

3. Extending bank arrangement to cover debts secured by a pledge or mortgage does not cause the pledge or mortgage to expire until the time when the bank arrangement proceedings are completed on conditions set forth in Art. 36.

Art. 13

Under bank arrangement proceedings, prior to the achievement of the bank arrangement, the debtor's receivables and liabilities are deducted by the State Treasury and budgetary units on terms set forth in the law on tax commitments and reciprocal liabilities of the debtor and creditors subject to arrangement proceedings - on terms set forth in Art. 498-508 of the Civil Code.

Art. 14

1. Public announcement on the initiation of arrangement proceedings shall be placed by the bank in at least one national newspaper and put up in the seat of the bank and its branches as well as in the seat of the debtor.

2. The bank arrangement proceedings are considered to be initiated on the day of the first announcement in the press, referred to in sec. 1.

3. The bank shall separately notify about the initiation of arrangement proceedings the following entities, upon receiving receipt requirement:

1) all creditors, referred to in art. 9 item 4.
2) appropriate tax bodies,
3) Minister of Privatization.

4. To the notification of creditors refereed to in para. 2 subpar. 2 , the bank attaches a request for consent to subject their receivables to bank arrangement proceedings. No response within 21 days from the date of receipt of the

notification means a refusal to subject pledged or mortgaged receivables to bank arrangement proceedings.

Art. 15

The bank directing the bank arrangement proceedings sets forth the specific procedures and time for the performance of actions under these proceedings and oversees the implementation of the bank arrangement.

Art. 16

1. Bank arrangement proceedings lead to reaching a bank arrangement which covers:

1) commitment on the part of the debtor to undertake certain actions with the purpose of instituting recovery proceedings in the debtor's enterprise, and if the debtor is the Agricultural Property Agency of the State Treasury, commitment to implement an asset management program for a liquidated state-owned agricultural enterprise;

2) commitment on the part of the creditors to undertake actions in support of the implementation of the debtor's recovery program;

3) determination of rules for converting receivables into shares if the agreement anticipates such change;

4) determination of manner of payment of costs of the bank arrangement proceedings; the State Treasury is exempted from the obligation of paying the costs; and

5) determination of manner of execution of the receivables after the bank agreement becomes effective.

2. Actions referred to in par.1 subpar. 2 may involve debt restructuring and providing the debtor with easier access to new financial resources, involving in particular:

1) deferral of payment deadlines,
2) reduction of interest on receivables,
3) foregoing calculation of interest at a specified time on all or a portion of receivables,
4) provisional capitalization of interest due,
5) delay the moment when the principal and interest is repaid,
6) swapping part of or all receivables for shares,
7) writing off a portion or all

receivables, including interest,

8) provision of new loans, credits or credit guarantees to the debtor.

3. Decisions the purpose of which is to see to the execution of bank arrangement proceedings and to extend control over its implementation may involve the following things:

1) creation of a board of creditors to control the implementation of provisions of the bank arrangement; to be composed of representatives of the Ministry of Finance if the bank arrangement covers receivables of the State Treasury,

2) transfer to the designated creditor, for a specified period, the right to vote arising from shares, provided creditors deem it indispensable, by appointing an attorney at law,

3) commitment on the part of a shareholder of the debtor's company to alienate shares or to encumber shares with the right of lien in favor of the creditors.

4. The powers of persons who sit on the board of creditors, referred to in par. 3 subpar. 1 in respect of monies due for performing these functions shall be set forth in the act of nomination.

Art. 17

1. If the debtor is a state-owned enterprise: [rest of sentence deleted], then:

1) The Minister of Privatization shall transform the enterprise into a joint-stock company owned wholly by the State Treasury, pursuant to procedure and rules provided for in the Law on Privatization of State-Owned Enterprises, not later than within 30 days of the date of signing the arrangement act,

2) The Minister of Privatization shall agree to the contribution of the enterprise or organized parts of the enterprise's assets to the company, pursuant to Art. 37 par.1 subpar. 2 of the Law on Privatization of State Enterprises and shall agree to swap receivables for shares of this company according to rules, referred to in Art. 16, par. 1 subpar. 3 within 30 days of the date of signing the arrangement act,

2. Provisions of par. 1 shall not apply, if:

1) transformation of an enterprise pursuant to procedure and principles contained in the

provisions of the Law on Privatization of State-Owned Enterprises, or

2) liquidation of an enterprise pursuant to procedure specified in Art. 37 par. 1 subpar. 2 of the Law on Privatization of State-Owned Enterprises -
- is not a condition contained in the arrangement act.

3. Provisions of par. 1 shall not apply to state-owned enterprises whose privatization requires the consent of the Council of Ministers pursuant to separate regulations, unless the council of Ministers agrees to their privatization or to state-owned agricultural enterprises.

4. Once the Minister of Privatization transforms a state-owned enterprise into a joint-stock company owned wholly by the State Treasury or contributes the enterprise or organized parts of the enterprise's assets to the company, pursuant to Article 37 par. 1 subpar. 2 of the Law on Privatization of State-owned Enterprises - this company becomes a party to bank arrangement proceedings as a debtor.

5. Upon the date of taking decision on liquidation of a state-owned agricultural enterprise in order to transfer assets of the enterprise on behalf of the Agricultural Property Agency of the State Treasury - the Agency becomes a party in the bank arrangement proceedings.

Art. 18

1. Bank arrangement should take into account the interests of creditors on unprejudiced basis.

2. Bank arrangement may provide for granting special benefits to creditors who possess small receivables.

Art. 19

1. Tax authorities shall introduce modifications to debtor's tax liabilities as a consequence of concluded bank arrangement.

2. Minister of Finance, by way of an ordinance, shall determine procedures according to which the tax authorities will make changes in the tax liabilities of the debtor as a consequence of concluded bank arrangement.

Art. 20

1. The conclusion of a bank arrangement shall take effect when a proposal for an arrangement that specifies the procedure of realization of all

receivables covered by the bank arrangement shall be accepted by the debtor and the creditors who own jointly more than 50% of the receivables covered by the procedure, and by the bank which conducts the bank arrangement proceedings.

2. Bank arrangement, referred to in par. 1 is binding for all creditors, unless art. 11 and art. 12 par. 2 provide otherwise.

3. To be valid, the bank arrangement should be concluded in writing.

4. An arrangement covering receivables of the State Treasury shall be signed on behalf of authorized representative of the Minister of Finance or a person authorized by him.

5. An arrangement concluded on the terms set forth in Art. 17 par. 1 shall be signed on behalf of the State Treasury by the Minister of Privatization or a person authorized by him.

6. Representative of the Minister of Finance, referred to in par. 4 may decline to sign a bank arrangement only if the receivables of the State Treasury were treated to the prejudice of other receivables, unless provisions of Art. 18 par. 2 specify otherwise.

7. Provisions of the Law on Privatization of State Enterprises shall not apply to the sale or encumbrance of shares owned by the State Treasury when implementing a bank arrangement.

Art. 21

1. The bank shall give a public notice about the conclusion of a bank arrangement pursuant to procedure set forth in Article 14 par. 1, and will indicate the place where one can become acquainted with the arrangement's terms.

2. Notice about the conclusion of a bank arrangement shall be provided by the bank separately and promptly to:
1) all creditors, referred to in Art. 9 item 4,
2) competent tax authorities,
3) Minister of Privatization.

Art. 22

1. Creditor who did not sign a bank arrangement and whose receivables were covered by the arrangement has the right to lodge an objection within 30 days from the day

a notice about the conclusion of a bank arrangement is published in the press.

2. The objection with its justification is lodged in writing in a regional court - economic court appropriate for the seat of the debtor.

3. At the request of the court where the objection was lodged pursuant to par. 2 above, the bank shall promptly hand over complete documentation of the bank arrangement proceedings.

Art. 23

1. In court proceedings, cases falling under the bank arrangement proceedings are reviewed pursuant to regulations of the second book of the Code of Civil Procedure - non-litigious proceedings, accounting for the provisions of this Chapter.

2. The person who lodges an objection in court shall effect a fixed registration fee.

3. The Minister of Justice in an ordinance shall specify the amount of registration fee to be effected for the lodged objection.

Art. 24

1. The court shall dismiss the objection if the concluded bank arrangement does not violate the provisions of the Law; if the opposite is the case, the court annuls the bank arrangement and discontinues the bank arrangement proceedings.

2. The decision of the court shall have to be justified.

3. The decision of the court cannot be appealed.

Art. 25

1. Bank arrangement becomes final if no objection was lodged against the arrangement or a court decided to dismiss the objection in the period specified in Article 22 par. 1.

2. The bank shall make an announcement that the bank arrangement became final and valid in a way set forth in the provision of Article 14 par. 1.

3. Creditors whose receivables were covered by the bank arrangement are bound by this arrangement from the moment it becomes final and valid.

Art. 26

1. Final and valid bank arrangement shall constitute an executory title in the understanding of the provisions of the Code of Civil Procedure.

2. At the request of the authorized person, the bank shall issue an extract from the arrangement decision that is certified as final and shall collect a payment for doing so according to a list of legal fees in civil law cases.

3. Every person who is entitled to pursuant to a final bank arrangement may apply to the regional court - economic court appropriate for the seat of the debtor to give an enforcement clause to the executory title.

3. Provision of par. 2 shall not violate regulations on execution.

Art. 27

1. If a debtor does not implement the obligations arising from the bank arrangement, the bank that conducted arrangement proceedings, on its own initiative or at the request of another creditor, referred to in par. 2:

1) applies to the regional court - economic court with a motion to annul the bank arrangement, or

2) satisfies the creditor who was injured by the non-performance of the bank arrangement by the debtor.

Art. 28

Court proceedings related to annulment of bank arrangement shall be regulated by the provisions of Article 23 par. 2 and Article 24 pars. 2 and 3.

Art. 29

The court shall dismiss the motion, if a debtor performs obligations arising from the bank arrangement; if the opposite is the case, the court annuls the bank arrangement.

Art. 30

The bank shall make an announcement about the dissolution of the bank arrangement pursuant to provisions of Article 14 par. 1.

Art. 31

1. The dissolution of the bank arrangement by the court may occur not later than within three years from the date it becomes final.

2. In the period referred to in par. 1, the implementation of the statute of limitation concerning receivables covered by the bank arrangement proceedings shall be suspended.

Art. 32

In the case of a dissolution of a bank arrangement by the court:

1) the actions of the debtor performed pursuant to the bank arrangement shall remain in effect and the paid out or executed amounts are not subject to reimbursement,

2) creditors shall continue to be entitled to the part of the receivables not repaid by the debtor covered by the bank arrangement proceedings,

3) bank arrangement proceedings cannot not be instituted again with respect to the same debtor, unless the subject of the bank arrangement proceedings are receivables of another state-owned agricultural enterprise whose receivables have already been subject to the bank arrangement agreement.

Art. 33

If a debtor provided certain creditors with benefits that were greater than the ones provided for in the arrangement, then within 2 years from the day the arrangement becomes final each creditor may suit {jointly and severally}* the debtor and creditor, who obtained undue benefit, for the payment of an amount that had been deducted from the receivables of the party making the request. The creditor who obtained undue benefit is liable only up to the amount of this benefit.

Art. 34

1. After instituting arrangement proceedings until they are discontinued, the arrangement becomes final or it is repealed by the court:

1) arrangement proceedings and bankruptcy proceedings that are in progress become suspended,

2) receivables covered by the bank arrangement proceedings cannot be repaid,

3) execution of receivables covered by the bank arrangement proceedings cannot be initiated or continued against the debtor; execution proceedings initiated earlier shall be suspended,

4) mortgages or liens cannot be registered.

2. Once the arrangement decision becomes final, the suspended conciliatory, bankruptcy or execution proceedings in respect of the receivables covered by the arrangement decision shall be terminated, and the executory documents with a writ of execution shall become unenforceable by operation of law.

Art. 35

1. The bank shall discontinue bank arrangement proceedings if no bank arrangement is reached within four months from the date of the institution of the bank arrangement proceedings.

2. If bank arrangement proceedings were initiated in regard to a state-owned enterprise, the period referred to in par. 1 shall be six months.

3. The bank shall make an announcement about the discontinuance of bank arrangement proceedings in a manner set forth in Article 14 par. 1.

Art. 36

1. The bank that conducts bank arrangement proceedings at the request of the debtor, upon ascertainment that all obligations that arise from the arrangement have been implemented, the bank arrangement proceedings shall be considered to be concluded.

2. The conclusion of the bank arrangement proceedings shall be announced by the bank in a manner set forth in Art. 14 par. 1.

Art. 37

Bank arrangement proceedings cannot be instituted three years after the date this law enters into force.

Chapter 3

Public Sale of Bank Receivables

Art. 38

The bank is authorized to conduct public sale of due bank receivables at market price.

Art. 39

Due bank receivables are transferable:

1) by way of an auction sale,
2) pursuant to a publicly announced offer,
3) as a result of negotiations undertaken on the basis of a public invitation.

Art. 40

1. The bank shall announce its intention to offer for sale due receivables pursuant to procedure set forth in Article 14 par. 1.

2. Not later than 14 days prior to the public announcement referred to in par. 1, the bank shall notify:

1) the debtor;

2) entities that provided the security for repayment of the bank's receivables;

3) a state administration body that represents the State Treasury, if the debtor is a company whose shares are owned by the State Treasury; and

4) the parent body and the Minister of Privatization if the debtor is a state-owned enterprise.

Art. 41

The transfer of rights of a receivable, referred to in Article 40, shall take place in accordance with the provisions of the Civil Code relating to a change of creditor, with the following exceptions:

1) the consent of the debtor is not in any case required,

2) the transfer of rights cannot be performed for the benefit of the debtor or an entity whose relation with the debtor is one of dependence or

domination as set forth in the Law on Public Trading in Securities and Trust Funds, dated March 22 1991 (Dz. U. No 35, item 155, No 103, item 447)..

Art. 42

During the public sale of due bank receivables the provisions related to the confidentiality of turnover and bank account statements of the Law the Bank Act shall not apply.

Chapter 4

Purchasing Shares of Joint-stock Companies Owned Wholly by the State Treasury in Exchange for Receivables

Art. 43

1. Creditors who own jointly at least 30% of the value of due receivables in respect of a state-owned enterprise or joint-stock company owned wholly by the State Treasury may request an exchange of receivables for shares on principles set forth in this Chapter.

2. The condition for exchanging the receivables for shares of the State Treasury is that the debtor's liability arise before June 30, 1992.

3. The provision, referred to in par. 2 shall not apply to receivables acquired pursuant to a procedure set forth in Chapter 4.

Art. 44

In order to exchange receivables for shares creditors, referred to in Art. 43 par. 1, shall submit a request containing a list of due receivables to the enterprise or joint-stock company owned wholly by the State Treasury and, where appropriate, the Minister of Privatization or another body of state administration representing the State Treasury in the company.

Art. 45

1. If within one month from the date of the submission of the request, referred to in Article 44, the due receivables included in the list have not been satisfied, the Minister of Privatization or another state authority representing the State Treasury in a company, whichever is appropriate, shall:

1) announce, following procedure set forth in Article 14, par. 1, the intention to exchange receivables for shares, or,
2) submit to the Securities Commission, through the intermediacy of the entity operating a brokerage firm, a motion requesting agreement to introduce to public trading the shares of the joint-stock company owned wholly by the State Treasury, for the purpose of exchanging the shares for receivables.

2. If the debtor is a state-owned enterprise, prior to the performance of actions, referred to in par. 1, the Minister of Privatization shall transform the state-owned company into a joint-stock company owned wholly by the State Treasury.

3. Provision of par. 2 shall not apply to state-owned enterprises whose privatization requires the consent of the Council of Ministers pursuant to separate regulations, unless the Council of Ministers agrees to their privatization.

Art. 46

1. The announcement, referred to in Article 45 par. 1 subpar. 1 has to contain the balance sheet and the account of results of the debtor, define the procedure for purchasing shares and the period for submission of proposals to exchange receivables for shares, not longer than three months from the end of the period referred to in Art. 45 par. 1 and contain an invitation to purchase shares.

2. The Minister of Privatization or another state administration body, as a representative of the State Treasury, shall draw up a list of creditors who have expressed their readiness to exchange their receivables for shares and performs a conversion of the receivables into shares in that company.

Art. 47

1. A motion, referred to in Article 45 par. 1 subpar. 2 should contain:
a) the business name and seat of the issuer,
b) basic information on the issue concerning the type of issued security, the size and value of the issue, and the projected date of introduction of the shares into circulation.

2. The motion should contain an attached copy of the articles of incorporation, information on the members of the board of directors (management) of the company and an audited balance sheet and account of results for the period ending not earlier than six months prior to the date of submission of the motion.

3. In the case of fulfillment of conditions specified in pars.1 and 2, the Securities Commission shall give its consent, referred to in Article 45 par. 1 subpar. 2 within 14 days from the date of submission of the motion.

4. Upon the receipt of consent from the Securities Commission, the Minister of Privatization or another state administration body that represents the State Treasury in the company shall make an announcement, pursuant to procedure set forth in Article 14 par. 1 on the intention to convert receivables into shares.

5. Announcement, referred to in par. 4 should additionally contain an audited balance sheet and account of results of the debtor and should specify the manner of acquiring shares and the period for submitting a proposal to exchange receivables for shares, not longer than 3 months after the end of the period, referred to in Art. 45 par. 1.

Art. 48

1. The provisions of Article 5 of the Law on Privatization of State Enterprises shall not apply to the transformation of state-owned enterprise into a joint-stock company owned wholly by the State Treasury, referred to in Art. 45 par. 2.

2. When acquiring shares in exchange for receivables, the provisions of Article 29 of the Law on Privatization of State Enterprises shall not apply.

Art. 49

Upon the conversion of receivables into shares, the obligation of the debtor in respect of that receivable is considered settled.

Art. 50

1. When converting receivables into shares, if the parties do not agree on the terms of this conversion within 30 days after the end of the period for submission of proposals to exchange receivables for shares, referred to in Art. 46 par. 1 and in Art. 47 par. 5, the creditor is entitled to file a claim towards the State Treasury, unless provisions of Art. 51 par. 1 specify otherwise, as the owner of the shares, to convert the receivables into shares according to the following principles:

1) if the net book value of the company is not negative, the creditor in exchange for the receivable takes over the share in the company capital in the proportion equal to the quotient of the company's book assets minus the company's debts that have not been converted into shares.

2) if the net book value of the enterprise is negative, the receivable is convertible into share capital of the company in the proportion equal to the quotient of the value of receivables to the total value of the company's liabilities on the day the balance sheet was prepared.

2. The net book value of the company is determined on the basis of:

1) balance sheet prepared by the company and audited by a certified auditor, for the end of the month following after the month during which the motion was submitted.

2) the initial balance of a joint-venture company owned wholly by the State Treasury in the case specified in Article 45 par. 2.

3. The buyer of the share may, at his or her own cost, entrust the performance of an audit of the balance sheet of the company to persons authorized to audit balance sheets and chosen by him or her.

4. Provision of par. 1 does not exclude limitations on the trading of shares as provided for in other laws.

Art. 51

1. Conversion of receivables into shares cannot infringe upon the rights to acquire shares of the debtor on preferential terms by the procedure defined in the Law on Privatization of State Enterprises - pending the completion of the procedure of making shares available to the employees.

2. Provisions of the articles of incorporation of joint-stock companies owed wholly by the State Treasury concluded after this law comes into force that limit trading in shares are regarded as not reserved, within the scope defined by this law.

Chapter 5

Procedure of Transferring Resources for Increasing Own Funds of State Banks

Art. 52

1. The Minister of Finance shall transfer on behalf of the State Treasury to state banks and to banks in which the State Treasury's stake in share capital exceeds 50%, treasury bonds and monetary resources for the purposes of increasing the banks' funds and reserves.

2. Resources, referred to in par. 1 above shall be transferred to the bank that meets the following requirements:

1) has an audited financial report containing an analysis of the quality of the bank's loan portfolio prepared by an entity with experience in this area,

2) had separated loans with reduced quality,

3) has set up a separate organizational division to manage loans, referred to in par. 2 above,

4) has presented a loan portfolio restructuring plan, in respect of the loans referred to in par. 2 above.

Art. 53

1. Banks that shall receive resources under procedure referred to in Art. 54 cannot extend loans or guarantees to debtors whose creditors were separated in accordance with Art. 52 par. 2 subpar. 2, with the exception of a case when the provision of new funds arising from the terms of the bank arrangement agreement, or when a debtor is the Agricultural Property Agency of the State Treasury.

2. The Minister of Finance shall define, by way of an ordinance, the date before which banks referred to in par. 1 above are obligated to sell the unsettled receivables in respect of debtors whose credits were separated in accordance to Art. 52 par. 2 subpar. 2, unless provisions of par. 3 provide otherwise.

3. Obligation set forth in par. 2 shall not concern cases in which:

1) a conciliation or arrangement agreement was concluded with a debtor,
2) the debtor was declared bankrupt,

3) liquidation proceedings were initiated in respect of the debtor under procedure described in

Art. 37 par. 2 of the Law on Privatization of State-owned Enterprises or Art. 18a of the Law on State Enterprises dated September 25, 1981 (Dz. U. of 1991, No 18, item 80, No 75 item 329, No 101, item 464),

4) a debtor is repaying the full amount of loan on a current basis for a period not shorter than 3 months.

5) a debtor is the Agricultural Property Agency of the State Treasury.

Art. 54

The Minister of Finance, by way of an ordinance, shall specify:

1) banks to which Treasury bonds and monies shall be transferred,

2) appropriation of the amount assigned in the Budget Law for the increase of the bank's own funds and reserves, amongst banks referred to in par. 1.

3) actions to be taken by the bank in order to ensure effectiveness of use of the financial resources, referred to in Article 49, allocated to them.

Chapter 6

Amendments to Laws in Force, Final Provisions

Art. 55

In the Law on State Enterprises dated September 25, 1981 (Dz.U. of 1991, No 18, item 80, No 75 item 329, No 101, item 444, and No 107, item 464) the following changes are being introduced:

1) in Article 46 par. 3, a second sentence is added with the following wording:

"In the case of liquidation of a state enterprise, the sale of fixed assets may also be conduced on the basis of a public offer or through negotiations undertaken on the basis of a public tender or as a result of negotiations undertaken pursuant to a public tender.",

2) in Article 48 the period is substituted with a comma and the following words are added: "with the exception of Article 18, par. 1."

Art. 56

In the Law on the Financial Economy of State Enterprises, dated January 31, 1989 (Dz. U. of 1992 No 6, subpar. 27), the following changes are being introduced:

1) in Article 4

a) par. 4a is added with the following wording:
"4a. Enterprise receiving fixed assets in circumstances referred to in par. 9 increases its own parent fund by the value equal to the amount of reduction of the parent fund effected by the transferring enterprise."

b) pars. 6 and 7 shall have the following wording:

"6. Decrease of the parent fund in cases envisaged in pars. 3,5,9 and 10 shall take place only in such circumstances when the transferred assets in the form of fixed assets or acquired buildings and premises constituted the basis for establishing this fund.

7. The amount by which the founding (parent) capital is reduced in the instances envisaged in para. 3,5,9 and 10 is obtained by multiplying the value of transferred fixed assets or acquired buildings and premises by the coefficient of the share of the parent capital in the total value of the parent capital and the enterprise's fund according to its condition on 1 January (after revaluation) of the year in which this property has been gratuitously transferred or acquired."

c) the following wording is added in pars. 9 and 10:

"9. The parent fund shall be reduced in the case of a donation, in accordance with Article 46a of the Law on State Enterprises, dated September 25, 1991, in the form of owned buildings made to another state enterprise on the condition of taking over by this said enterprise of an appropriate part of the parent fund determined in accordance with the provisions of pars. 6 and 7.

10. If the enterprise makes a donation in accordance with Article 46a of the Law on State enterprises on behalf of budgetary units or gminas /unions of gminas/ in which schools operate, as well as a hospital and outpatients' enterprise clinics and workers' hotels, it can decrease its parent fund in accordance with the provisions of pars. 6 and 7."

2) in Article 6 in par. 2 subpar. 6 is added with the following wording:

> "6. The amount of reduction of the value of property in the form of enterprise's apartment buildings, day-care centers, kindergartens and other employee welfare establishments, in connection with their donation to other legal entities."

3) in Article 12 par. 4 the words: "until the conclusion of the statutory economic activity, specified in the regulatory decision to open liquidation" are substituted with these words: "until the day of the opening of the liquidation, specified in the regulatory decision to liquidate."

Art. 57

The law enters into force 14 days after its promulgation.

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PRESIDENT OF THE POLISH SEJM