

Privatization and Organization of Business Companies in Uzbekistan

Akmaljon Valijonov

Tashkent State University of Economics, Tashkent, Republic of Uzbekistan

Abstract: One of the prioritized focuses of economic reforms implemented in Uzbekistan is formation of competitive environment in the economy which can be achieved through stimulation of development of different ownership forms of enterprises based predominantly on private ownership. Business company is a well-spread form of entrepreneurial activity - JSCs and LLCs. These companies are formed in two ways simultaneously. Firstly, by stimulation of establishing business companies and, secondly, by organization of such companies on the base of state companies after their privatization. This article considers the particularities of organization of such companies through privatization because the process of their foundation (in particular, JSCs) was initiated by the state in parallel with the starting of privatization process.

Key words: Privatization • Ownership • JSC • LLC • A share • Share in the company

INTRODUCTION

In former Soviet Times almost all means of production and enterprises belonged to the state and there was no competitive environment in the economy. That was the reason for large-scale privatization, which must provide introduction of market mechanisms, in the same time the property must be handed over to efficient private owners.

The President of the Republic of Uzbekistan I. Karimov in his book “Uzbekistan: on the way to further implementation of economic reforms” pointed out that the result of the privatization must be solution of at least two main tasks: firstly, property of our state must “find” a real owner. Transfer of the property to the real owners and providing them with the fullest opportunities for entrepreneurial activity are the essence of economic reforms implemented in the Republic. Secondly, another important task which must be solved in the course of privatization is formation of mixed economy and stimulating competitive environment. Privatization allows to eliminate existing monopoly of separate enterprises and the whole spheres of activity, create opportunities for formation of free economy and competitive environment [1].

Main Part: There many definitions of the notion “privatization” in economic literature. In OECD’s Glossary of statistical terms privatization “privatization refers to

transfer of ownership and control of government or state assets, firms and operations to private investors” [2]. Collins English Dictionary gives such definition: “to transfer (the production of goods or services) from the public sector of an economy into private ownership and operation” [3]. The MacMillan glossary of modern economic theory defines privatization as “a policy of transformation of state ownership for asserts into private ownership or transfer of the operations which were previously under control of the state into the disposal of private business” [4].

In our opinion, if we are going to give a broad picture, privatization is a transfer of state objects on certain conditions: payment for them, increase in efficiency, etc.) to the private ownership entities in order to solve specific tasks which are set forth before the state and society.

Uzbekistan separated itself early from the former Soviet Union and chose an independent path towards a market economy: as early as November 1991, two months after Uzbekistan proclaimed independence and two months before the official collapse of the Soviet Union, the privatization law was passed [5].

In order to avoid different interpretation of the idea of privatization this term is officially defined by the Law of the Republic of Uzbekistan “About de-nationalization and privatization” and the main principles of de-nationalization and privatization were formulated. In accordance with this law privatization is purchasing of public ownership

facilities or state JSCs' shares from the state by physical persons and non-public legal entities [6]. The main principles of de-nationalization are as follows:

- To define de-nationalization and privatization forms taking the interests of enterprise's staff into account;
- Combination of payment-based and free of charge transfer of ownership while de-nationalizing the enterprises;
- Providing equal rights of citizens in obtaining a share of property to be privatized free of charge or on payment-free basis;
- Provision of social protection of all citizens while de-nationalizing and privatizing;
- "Glasnost" (publicity), state and public control over the realization of de-nationalization and privatization measures;
- Compliance with the requirements of anti-monopoly laws.

The right to make decision about de-nationalization and privatization of the facilities of Republican ownership is given to the Republic of Uzbekistan's Cabinet of Ministers or authorized by it governmental bodies.

The right to make decision about de-nationalization and privatization of the facilities of municipal ownership is given to the local governmental authorities.

The right to initialize the de-nationalization and privatization of enterprises is given to citizens, non-governmental legal entities of the Republic of Uzbekistan and legal entities of other states, enterprise's staff, administrator of state ownership facilities.

Taking into consideration the national particularities of transition to market economy in Uzbekistan our own approaches to implementation of privatization were developed and put into practice.

One of the particularities of the process of privatization is realization of program approach and stage-by-stage implementation of it.

At the first stage (1992-1993) so called "small privatization" was made which covered state housing fund, small commercial enterprises, the sphere of household services, small industrial enterprises and some other branches of economy.

Second stage (1994-1997) became the period of mass privatization implemented mainly through transformation of medium and big companies of food and consumer's goods industry, machine-building, construction, automobile and other industries into JSCs.

Since 1998 a new stage of privatization started which suggested privatization of big companies of key

industries of economy including active attraction of foreign investments in the course of this process [7].

During 2000-2012 the Government of the Republic adopted a number of resolutions on privatization intended for:

- Cardinal reduction of state share in authorized capital of the enterprises of leading strategic industries, increasing participation of private ownership in development of national economy;
- Intensive attraction of direct foreign investments into privatization process intended for modernization, technical and technological re-equipping of the enterprises;
- Updating the order of privatization, better management of state shares in business companies.

One of the beneficial direction was sale to state low-profitable, loss-making, economically impossible enterprises and low liquid facilities on the zero purchasing sum basis but on condition of taking by the investor of investment obligations.

Sales of state enterprises and facilities on the zero purchasing sum basis are held only on the basis of competitive bidding to choose investors which offered the best investments projects.

In the same time low-liquid facilities which are on the balance of state organizations in the regions are realized for zero purchasing price without holding a tender by means of making direct contracts with foreign investors in exchange for specific investment obligations.

Purchasing of privatized enterprises and facilities for zero price in exchange for investment obligations provides investors with the following advantages:

- An investor must invest money into purchased by it object;
- Previous liabilities (money to be paid into state budget and non-budget funds) which are hardly to be returned by the enterprise will be written-off, including penalties and fees;
- The profit of the owner - legal entities or physical persons will not be taxed.

In the sphere of privatization a number of tax privileges for entities buying state property was introduced. In particular, in accordance with Tax Code of the Republic of Uzbekistan [8]:

- Property realized in the process of privatization of state ownership will be free from VAT payment;

Table 1: Structure of production of GDP - distribution over forms of ownership (%) [9, 10]

Ownership forms	1995	2000	2010	2012
State	41,6	27,4	18,3	16,4
Non-state	58,4	72,6	81,7	83,6

- Tax will not be collected from amounts of wages and other incomes of the citizens subject to taxation if they are invested into purchasing of state enterprises' property, the shares of the companies being privatized as well as dividends if they are invested into authorized capital of legal entities by which these dividends are paid. In case of leaving founding members (participants" list, sales of the company, or while distributing the property of liquidated company between their participants within 1 year after realization of this privilege the incomes which were previously taxation-free must be taxed on general conditions;
- Property added to the purchased company as a result of investment obligations will not be considered as income.

Besides that if in the course of privatization of state property a company with foreign investments is formed such company will be granted tax and other kind of privileges.

Total number of privatized state enterprises during reformation years amounts to 31 000 [9]. As a result a share of non-governmental sector in gross domestic product of the Republic in 2013 increased to 83,6% (Table 1).

In accordance with Law of the Republic of Uzbekistan "About de-nationalization and privatization" one of the forms of privatization is transformation of state enterprise into business companies or JSC or LLC.

Business companies by the principles of their activity organization to a great extent similar to such form of legal entities as corporation as corporation which is wide-spread abroad. Corporation is a large business or organization that under the law has the rights and duties of an individual and follows a specific purpose [11]. Corporation is an organization formed with state governmental approval to act as an artificial person to carry on business (or other activities), which can sue or be sued and (unless it is non-profit) can issue shares of stock to raise funds with which to start a business or increase its capital [12].

Similarity between business companies and corporations is confirmed by researches' results. Analysis

of features of commercial organizations and definition of the notion "Corporation" allows to conclude that there exist 3 quite different types of corporation: JSC, LLC, ALC (Additional Liability Company) [13]. Business companies are classical, the most universal corporation form, which is common all over the world [14]. Corporation is a JSC, a legal entity intended for performing commercial or production activity and having capital divided into shares which belongs to their participants [4].

In accordance with Civil Code of the Republic of Uzbekistan business companies are commercial organizations with authorized capital divided into portions (contributions) or shares of its participants.

Organization of business companies on the base of state enterprises has the following advantages:

- Class of owners in the form of shareholders and the owners of shares in the enterprise is formed;
- Equity market (stock market) is developed and grows thanks to the emission of JSCs' shares;
- Multi-level system of business companies management is formed (General Meeting of shareholders (participants), Supervising Committee and Executive Board).

Besides that activity of business companies with a big share of state participation is regulated by private law which allows these companies to function in accordance with principles of market economy. Shareholders and the participants of business companies apart from the founders of state companies do not bear its liabilities and bear risks of losses in the amount corresponding to the value of their shares.

At the beginning of privatization many medium and even small state companies were transformed into JSCs. But the practice proved that stock companies are the most suitable for big businesses. That is why in further practice side by side with development of privatization processes medium and small companies were transformed into LLCs and private companies. JSCs were formed mainly on the base of big state enterprises and companies.

In 90-s in the most JSCs, especially big ones, state still participated in the authorized capital. Participation of the state in business companies formed as a result of privatization of state enterprises was reduced after adopting the Presidential Decree of the Republic of Uzbekistan dated 24.01. 2003 No UP-3202 "About measures on cardinal increase of share and significance of private sector in the economy of Uzbekistan" [11].

In accordance with this Decree the participation of the state in authorized capital was declared inappropriate in the amount of more than 25% and this share must be sold to private capital stage-by-stage.

The most important standard which guaranteed the rights of investors participating in the privatization of state ownership facilities was established by the law of the Republic of Uzbekistan "About protection of private ownership and the guarantee of owner's rights" adopted in 2012.

In accordance with the article 24 of this law private ownership resulted in the process of privatization of state property is untouchable and the results of privatization can not be revised or abolished. Initiation of any issues in regard to revision or abolition of the results of privatization by state, controlling, law-enforcement bodies, as well as by the court procedures on the property, which was privatized after adoption of this law is not allowed [12].

The result of privatization and transformation of small and medium JSCs into LLCs was as follows: the number of JSCs with state share reduced from 2796 in 2003 to 302 in 2012.

Today development of business companies in the process of privatization is intended for increased participation of private capital in the ownership structure of these companies through sales of state shares in their authorized capital to the private sector entities.

The program of privatization of state ownership objects for 2012-2013 also includes privatization of state shares in the business companies established on the base of state enterprises [13]. The number of business companies in which state share and blocks of shares will be sold to private investors amounts to 25% of total number of state ownership objects included into current privatization program.

CONCLUSION

Privatization in Uzbekistan to a great extent facilitated reformation of ownership relations, expansion of private ownership onto production means and development of non-state sector of economy. Formation of business companies established on the base of private ownership is wide-spread and efficient form of privatization of state enterprises. The current stage of economic reforms is mainly associated with further deepening of privatization processes.

Inference: In order to go on with privatization development and formation of business companies the following measures must be implemented:

- Improvement of pre-sale preparation of privatized companies, good information support of the investors in regard to opportunities of investing into privatized blocks of shares and shares in business companies;
- Business companies in which state participation is necessary in strategic and socio-economic terms must be identified, in the same time share of the state in the other business companies must be sold to efficient private owners;
- State share management in business companies must be improved and the system of training of professional managers to control state shares must be developed. Participation of the state in these companies must be organized in such a way that on the one hand interruption of the state will be restricted as much as possible, on the other hand the state must have opportunity to influence the operation of these companies in order to fulfill the tasks of its participation in the capital of these business companies;
- Development of secondary stock market, simplification of the procedures of purchasing and sales of shares and bonds in the stock market;
- Improvement of the system of corporative management in privatized business companies, development of stimulation mechanisms in order to motivate enterprises to implement world principles of corporative management.

REFERENCES

1. Karimov, I., 1996. Uzbekistan on the way of deepening of economic reforms. Tashkent: Uzbekistan, pp: 167-169.
2. OECD Glossary of Statistical Terms. Date Views 14.10.2013 www.stats.oecd.org/glossary/detail.
3. Collins English Dictionary Date Views 14.10.2013 www.collinsdictionary.com/dictionary/English/privatization.
4. Macmillan dictionary of modern economics. Fourth edition. General editor David W. Pearce. Translation into Russian, 2008. Moscow: Infra-M.
5. Privatisation International Yearbook 1998. IFR Publishing. United Kingdom, p: 112.

6. Law of the Republic of Uzbekistan “About denationalization and privatization” #425-XII.of 19.11.1991.
7. Institutional foundations of forming mixed economy. Edited by I. Butikov, 2002. Tashkent: Konsuaditinform, pp: 27-28.
8. Tax Code of the Republic of Uzbekistan (approved by Law of the Republic of Uzbekistan of 25.12.2007 #3PY-136).
9. Main trends and indicators of economic and social development of the Republic of Uzbekistan during years of independence and forecast for 2011-2015, 2011. Tashkent: Uzbekistan.
10. Statistical review of the Republic of Uzbekistan for 2012. State Committee of the Republic of Uzbekistan on Statistics. Tashkent 2013.
11. Webster dictionary. Date Views 21.10.2013 www.merriam-webster.com/dictionary/corporation.
12. Legal dictionary. Date Views 21.10.2013 www.legal-dictionary.thefreedictionary.com/corporation.
13. Mogilevsky, S. and I. Samoilov, 2006. Corporations in Russia: legal status and activity basis. Text-book. Moscow: Delo.
14. Corporative Law. Text-book, edited by Shitkina I., 2007. Moscow: Wolters Cluver.