

# **An Overview on Privatization Program**

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## **Introduction**

Private sector plays key role to contribute to the economic growth of both developed and developing countries of the world. Keeping this in view, Bangladesh Government did feel a strong need to put high priority for promoting private sector to spur rapid economic prosperity. The contribution of private sector to the total investment in Bangladesh economy is remarkable. Out of 24.33 per cent Investment-GDP ratio in the provisionally estimated GDP of FY 2006-2007, the share of private investment has been computed to be 18.73 per cent. Currently more than 75 per cent of total investment in the national economy is coming from the private sector, which has a significant contribution in the GDP growth of Bangladesh economy as well as demonstrates the significant presence of strong private sector in the economy.

## **Background of privatization**

After liberation most of the mills belonging to private sector were nationalized under the public ordinance 1972 and were placed under the control of Corporations. Due to the Corporation mis-management and poor corporate governance almost all such mills leaned towards virtual collapse. Thereafter, Government felt the need to switch to de-nationalization i.e. transfer of the mills back to the original owners with financial liabilities. This policy was fatal as the mill got sick and faced closure because the original owners could not afford to settle the liability mobilizing the fund from their own resources. Government in an attempt to resolve the problem made a Disinvestment Board which privatized 247 SOEs in between 1975 to 1981. To make a major shift towards privatization, new Industrial Policy was designed as a result of which more 125 SOEs got privatized in 1982. Government later in 1991 constituted an Inter-Ministerial Committee to design effective privatization policy to make the privatization programme effective but could not meet expectation.

## **Establishment of Privatization Commission**

To well run the privatization programme of the government, Privatization Board was constituted on the 20<sup>th</sup> March 1993 by the order of an administrative ordinance and it kept on working till July 2000 as per the guidelines and policy of the then Privatization Board. Government in order to provide speedy momentum to the privatization program felt the necessity to convert the Privatization Board in to a Commission, as a statutory body on 11 July 2000 as per provision of the Act 2000. The functions of the Privatization Commission are discharged as per the Act 2000, Policy (amended in 2007) and Regulations 2007.

## **Composition of Privatization Commission**

The Privatization Commission shall comprise the following members –

- A Chairman, of the rank and status of a State Minister to be appointed by the Government.
- Six members of the Parliament, to be nominated by the leader of the house.

- Two full time Members of the rank and status of Secretary/Additional Secretary of the Government.
- Secretary, Ministry of Industries, Ex-Officio.
- Secretary, Ministry of Commerce, Ex-Officio
- Secretary, Finance Division, Ministry of Finance, Ex-Officio
- Secretary, Ministry of Textiles & Jute, Ex-Officio
- Chairman, Securities & Exchange Commission, Ex-Officio
- President, Federation of Bangladesh Chambers of Commerce & Industry, Ex-Officio
- One Representative nominated by the government from any professional organization, for two-years term.

### **Objectives of Privatization Commission**

Below are the prime objectives of the Privatization Commission-

- The contribute to GDP and to promote rapid economic growth by way of increased employment opportunities, productivity through the efficient allocation and utilization of resources ;
- To make the non-performing SOEs in to profitable units ;
- Attraction of foreign investment to increase management & operational efficiency of the privatized SOEs including transfer of technology ;
- Revenue earnings ;
- Transfer of resources from loss making enterprises to alternative profitable sector.

### **Methods of Privatization**

Below are the methods for privatization of SOEs:

- Sale through tender (normally followed)
- Sale in the capital market
- Transfer of some portion of the shares to the employees of the enterprise in case of selling the shares through the stock exchanges
- Sale of government shares of the Private Ltd. Company (normally followed)
- Restructuring method
- Mixed sales method
- Management contract
- Leasing out
- Direct asset sale (liquidation)
- Also other options

### **Privatization process**

Privatization Commission takes through the following process for privatization of SOEs

- Finalization of SOEs-list obtained from the Government.
- Valuation of SOEs by enlisted firms.
- Finalization of SOEs valuation report and Preparation of profile by Privatization Commission.
- Invitation of open bid/tender.
- Evaluation of bid by Privatization Commission.
- Approval accorded by Government based on the recommendation of Privatization Commission.
- Issue of Letter of Intent (LOI) to the successful bidder.
- To obtain primary deposit.
- Inventory and processing of transferring SOEs.
- Agreement signing & registration

- To hand over physical possession of SOEs
- Follow up of post transfer progress.

### Payment process

Privatization Commission has formulated easy and incentive oriented payment procedures for the investors. Rebates are available to the buyers for making accelerated payments. Current payment system is reflected below:

Sl. No.	Description	Time Line	Amount
<b>(a) For direct sale through tender</b>			
1.	Earnest Money	At the time of the submission of bid	2.5% of the quoted price
2.	Down payment	Within 30 days of the issuance of Letter of Intent (LOI)	32.5% of the quoted price
3.	Half yearly installment	Half yearly (within three years after making down payment)	65% of the quoted price
4.	75% payment at a time	Within 30 days of the issuance of Letter of Intent (LOI)	15% rebate on quoted price
5.	100% Payment at a time	Within 30 days of the issuance of Letter of Intent (LOI)	20% rebate on quoted price
6.	Payment of stock and stores	As per stipulated conditions in the agreement	As per rules
7.	Payment of Liabilities	As per stipulated conditions in the agreement	As per rules
8.	An additional rebate of 5% of the total sales price will be granted if the buyer makes the full payment in freely convertible foreign currency.		
<b>(b) For sale of shares</b>			
1.	Earnest money	At the time of the submission of bid	30% of the quoted price
2.	Rest of the payment	Within 60 days of the issuance of Letter of Intent (LOI)	70% of the quoted price
3.	Rebate is not applicable for the buyers of shares		

### Steps to pass through for investors' participation

Interested investors can participate in privatization program passing through the following procedural steps.

Step-1: To consult the enterprise profile designed by the Privatization Commission.

Step-2: To check the advertisement published in the news paper inviting bid follow the web-site information of the Privatization Commission.

Step-3: To procure tender documents from the Privatization Commission.

Step-4: To submit the tender documents along with the earnest money @2.5% of the price quoted, in the form of Bank draft/pay order etc. (payment may be made both in

- local or foreign currencies). The bidders will get 60 days time for submitting tender for first time and 30 days time for the second time.
- Step-5: Letter of Intent (LOI) will be issued to the successful bidders by Privatization Commission after the necessary approval.
- Step-6: Successful bidder is needed to make down payment of sales price and unsuccessful bidders will get refund of the earnest money.

### **Liabilities of the SOEs under sale**

In order to encourage the investors and to lighten the burden thereof Government has been taking over all current and long term liabilities of the SOEs under sale without involving the buyers.

### **Achievements**

The Commission in an aim of making the sick, closed and un-profitable State Owned Enterprises (SOE) into performing units is devoting active efforts to intensify transfer-process in full swing. Since 1993 Privatization Board and thereafter Privatization Commission did privatize 74 SOEs out of which 54 & 20 SOEs were privatized through outright sale and offloading of shares respectively. In between December 2006 to December 2007 six SOEs were transferred to the buyers.

In 2007, government designed comprehensive program to privatize 26 SOEs and in the meantime tender has been floated for 10 enterprises and the remaining are now lying at different procedural stages. Out of these ten enterprises, two SOEs namely Partical Board and Veneering Plant, Chittagong, and National Sugar Mills, Kishoreganj are now awaiting final approval for transfer.

The Commission is working to collect the list of new SOEs from concerned Ministries for the inclusion in the privatization program for implementation.

### **Constraints**

Privatization Commission experiences problems for which SOEs can not be privatized in due time. Below are the key problems being encountered:

- Non availability of list of new SOEs in time.
- Some of the SOEs being taken up for privatization are riddled with problems like land litigations, court cases, attachment of assets by the court, absence of title deeds, non-renewal of land lease agreement in time, non-availability of updated financial statements, non payment of outstanding liabilities of the bank etc.
- Lack of accountability and transparency during valuation process.
- Inadequacy of post transfer support to the privatized SOEs.
- Marketing problems are now acute in some of the privatized SOEs for fiscal anomaly.

### **Ways to overcome the obstacles**

Extending the degree of realism, it is to be acknowledged that Privatization cannot be accomplished in a vacuum without the support of all the stakeholders including the various concerned government agencies, departments and organizations. Below are the possible measures to address the constraints –

- To ensure transparency and accountability, it's necessary to reconstitute the Commission of the Privatization Commission taking 50% professional experts from private sector.
- To overcome the resistance of vested interest groups with a firm hand.
- To strengthen of the regulatory framework.
- To be realistic while determining value of the assets of the SOEs.

- To review the judicial process if possible by assigning a particular bench in the High Court to quickly dispose of the cases pertinent to SOEs.
- To modify the existing organizational chart of the Privatization Commission retaining provisions for the inclusion of sector-based professional experts.
- A high powered Board may be constituted to ensure accountability of the concerned Ministry, Corporation and the Privatization Commission pertinent to SOEs.
- The code of corporate governance i.e. internal & external auditing, financial & non-financial reporting, preparation and submission of audited balance sheet, networth, standard accounting procedures, time bound reporting, assets and liability management, risk managements and conflict resolutions, regulatory compliance of SOEs should be followed strictly.

### **Conclusion**

Privatization program can better work provided the constraints of its implementation are accurately identified and resolved accordingly initiating appropriate steps. A broad based reform covering all sectors accompanied by transparency, good governance, continuity and consistency of policies is an essential pre-requisite for effective privatization. Privatization Commission is striving to maximise privatization proceeds making privatization program more participatory by raising awareness through seminars, publications, interviews and dynamic website. But the program can hardly achieve set targets unless high priority issues get addressed properly. Active regulatory support is imperative for viable & effective reforms by analysing policy options developing relevant recommendations agreeing on priorities adopted particularly by the India, Pakistan, Malaysia, Sri Lanka etc.