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COUNTRY PRESENTATION SUBMITTED BY GERMANY

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Privatization: Country Presentation by the Federal Republic of Germany for the Ad Hoc Working Group on Comparative Experiences with Privatization

I. The Concept of German privatization policy:

The concept of the German privatization policy is based on the principles of the so-called social market economy which stands for the attempt to combine the effectiveness of market forces and competition with the social goals to prevent unjust hardship for citizens or to alleviate the social burdens of structural change.

According to Germany's experience, private initiative based on self-interest and freedom of action, and stimulated by effective competition, is the most powerful mechanism for creating the wealth of nations and for developing their resources. The primary task of the State is therefore to create and maintain a framework of general rules ensuring effective competition as well as flexible and innovative structural change.

The social task of the State is to correct the unjust results of the competitive process without directly interfering in the markets; the main tool to this end is the organisation of financial transfer mechanisms e.g. the design of a progressive tax system, redistributing the income in favour of the poor, the creation of social security schemes against the great risks of life such as age, illness and unemployment.

This model has not been realised in every instance but it is a general guideline for all economic strategies including privatisation policies with the view to increasing economic efficiency and competition in favour of more growth, more innovation and more competitive and stable new jobs.

## II. Privatization programme in Germany

State enterprises on the federal level in former West Germany are mainly the heritage of the old German Reich and Prussia in the aftermath of World War II. The transfer of the whole command economy of the former German Democratic Republic (GDR) to the social market economy as a result of German unification in 1990 brought about a huge increase in State enterprises to be privatised in the eastern part of the country. Germany is therefore in the unique historical situation that it has to privatise not only a limited number of State enterprises in a well-functioning market economy in the western part of the country, but also a whole State economy in the eastern part of the country.

It is evident that privatisation in connection with a complete change of a command economy into a market economy has another dimension than privatisation as an effort to reduce the role of the State in certain areas of a mixed economy. Therefore the organisational procedures of privatization in West and East Germany differ, although the privatization concepts are based on the same principles.

### 1. Privatization in West Germany

According to the most recent annual report on participations of the Federal Republic in enterprises the number of direct and indirect federal participations has decreased to 381 enterprises by the end of 1991 from some 1000 enterprises at the beginning of the 80ies. This is a significant proof of the continuity of the German privatization policy.

The period from 1983 till 1990 was mainly characterized by the complete withdrawal from the several big industrial enterprises such as:

VOLKSWAGEN:

a big car manufacturer with a turnover of more than 76 billion DM in 1991.

The proceeds from the sale of the Federal participation since 1984 amount to 1.2 billion DM.

VEBA:

a group with activities in the fields of electricity (PREUSSENELEKTRA/VKR), chemical industry (HÜLS), mineral oil (VEBA OEL) as well as trade, transport and services (STINNES/RAAB KARCHER) with a turnover of nearly 60 billion DM in 1991.

Proceeds from the sale of the Federal participation since 1984: nearly 3.2 billion DM.

VIAG:

a conglomerate with activities in the field of electricity, aluminium production, chemical industry and ceramic technology, glass, metal packings, trade and services with a turnover of more than 23 billion DM in 1991.

Proceeds from the sale of the Federal participation since 1984: 1,976 m DM.

SALZGITTER AG:

a group with activities in the field of steel production and trade, construction of equipment, ships and wagons, mechanical engineering and information technology with a turnover of more than 10 billion DM in 1988/89.

Proceeds from the sale of the company to PREUSSAG AG in October 1989: 2,452 m DM.

In all, the Federation obtained some 10 billion DM as proceeds from the sale of participations and enterprises from 1984 till August 1991. Another 481 m DM came from the sale of companies out of the special funds of the railway (Deutsche Bundesbahn), the Credit Institute for Reconstruction (Kreditanstalt für Wiederaufbau) and the European Recovery Program. Two thirds of this sum were allocated to the Federal budget to reduce the Federal deficit and the tax burden and correspondingly to promote

growth and public welfare. One third was transferred to foundations, in particular for environmental purposes.

The enterprises sold could improve their competitive position and their rating in the capital markets. The stock market price of VEBA shares, for instance, rose markedly above average by 22 per cent between 1987 and 1991 on a DM basis (on a US \$ basis even by 60 per cent).

This in turn increased the safety of the jobs. More efficient management due to privatization did not necessarily entail job reductions. For instance, the number of employees of the VEBA group increased by 57 per cent from 74,597 in 1987, the year of the full privatization of VEBA AG, to 116,979 in 1991. In the case of VIAG, it rose from 33,427 in 1988 (full privatization of VIAG AG) to 74,122 in 1991.

In 1991 a new programme was launched by the Federal Government. The last programme puts its main emphasis on three issues:

- Privatizing smaller Federal enterprises with specific tasks such as the FEDERAL GAZETTE PUBLISHING COMPANY and the NECKAR and RHEIN-MAIN-DONAU AG's (joint stock companies) in charge of the construction of the Main-Donau waterways and the construction and operation of hydro-electric power stations.
- Reduction of Federal real estate (estimated privatization potential 60 billion DM).
- Privatization of the German Telecom and the German railway and highway systems. These will be the greatest single tasks in the history of West German privatization.

The Deutsche Bundesbahn privatization projects envisaged for the current legislative term are shaping. According to the Federal Government's decision - based on recommendations of the Railways Government Commission - the reorganisation will be set out in three steps, beginning with the transformation of the Deutsche Bundesbahn and Deutsche Reichsbahn to a joint stock company.

Freight and passengers traffic as well as the track divisions are to be set up as independent organisational units within the joint company and later transformed into separate stock companies. The freight and passengers companies will be sold as far as possible to private shareholders, whereas the majority of the shares of the track company will remain in the hands of the State. The envisaged privatization of Deutsche Bundesbahn/Reichsbahn requires a revision of Article 87 of the German Constitution.

The draft of the General Railway Act (Allgemeines Eisenbahngesetz) establishes the right for domestic and in principle also for foreign railway enterprises to use the railway infrastructure of track companies which serve public transport without discrimination. This opening of the railway system for other enterprises is the central prerequisite for competition and for the marketing of the railway system. It is in line with the European transport policy which aims for the opening of the national railway systems.

The Federal Government intends to privatise the Post and Telecom services and to change the legal form of the three enterprises of DEUTSCHE BUNDESPOST/telecommunication/mail/post banking/into joint stock companies. The present monopolies for telecommunication and mailing are to be abolished after a transition period of 5 years with a possibility to prolong the transition for 3 years. In the long run a majority participation of private investors is envisaged. However, the Federation shall hold a majority of the shares at least until the abolition of the monopolies. Afterwards the Federation shall at least continue to hold the majority of the voting rights, for instance through the emission of preference shares without voting rights on the occasion of capital

increases. The Federation will guarantee a sufficient supply of infrastructure in the post and telecom sector by way of regulation, for instance by granting licences with conditions to enterprises. The concept for the privatization of the German highway system is still being debated within the Federal Government. It presupposes the installation of efficient systems enabling a private operator to levy adequate fees for the use of the highway.

Apart from these medium and long term projects several important privatization measures have already been realized in 1991/92. These include the privatization of the German Bond and Mortgage Bank, which resulted in the most successful stock-market introduction in the last two years, the creation of Europe's biggest haulage agency through the merger of the privatized former railway-subsubsidiary Schenker & Co. with the Stinnes-Rhenus-Group, and the sale of the Berliner Industriebank AG to the Major targets for 1993 are the sale of 55 per cent of the nominal capital of the INDUSTRIEVERWALTUNGSGESELLSCHAFT AG, a holding for industrial participations, real estate, transport and storage facilities and purchase of mineral oil with a turnover of 384.3 m DM in 1991, as well as the privatization of the Gesellschaft für Nebenbetriebe (GfN), whose responsibilities include the German autobahn petrol stations network. The legal form of GfN will have been changed into a stock corporation in the course of the second half of 1993 or early in 1994. In July 1992 the Federal Government decided to substantially reduce its stake in Deutsche Lufthansa AG with the view of a total disengagement in the long run. Due to the difficult situation of the air carriers privatization will not be possible without a consolidation of returns which Lufthansa will have to achieve by itself.

Most of the public property targeted for privatization continues under the jurisdiction of the Länder and the local communities. So far, this privatization potential is being explored reluctantly only. There are some positive examples, though, for instance in the field of the sewage industry. The Federal Government ist

currently developing model contracts and supporting model privatizations in specific areas such as airports and sea ports in order to give more incentives for privatization on the sub-federal level.

## 2. Privatization in the New Länder (East Germany) - Treuhandanstalt

By January 1993 the Treuhandanstalt had privatized some 11, 200 enterprises, which represent more than 80 per cent of its original stock of enterprises. In this context it obtained sales proceeds of more than 40 billion DM, guarantees for 1.4 m jobs and investment pledges of some 173 billion DM. Foreign investors acquired 548 enterprises or stakes in enterprises. They guaranteed 122,501 jobs and made investment pledges for 17.4 billion DM. The most important foreign investors are France, Great Britain, the USA and Switzerland. At the beginning of 1993 only 2,442 enterprises were still in the stock of the Treuhand, among them 143 enterprises with more than 500 workers and 1,800 enterprises with up to 100 workers.

Only half of the remaining enterprises can continue to operate, the remainder consisting of mainly "empty" corporations or of enterprises in the process of sale or restitution to its former proprietors. The main branches within the residual stock of the Treuhandanstalt are mechanical engineering, the production of iron and metal, the chemical industry, energy supply and mining.

At present the Treuhandanstalt is negotiating with investors about most of the remaining enterprises. Its intention is to find active owners for all enterprises which are worth while restructuring. Some sectors (e.g. services and food) have already been nearly completely privatized.

In implementing its successful privatization programme the Treuhandanstalt has continuously improved its procedures:

- Small and medium-sized bidding enterprises or potential investors wishing to set up such enterprises are given priority in privatization initiatives providing the opportunity to acquire businesses without real estate but with a subsequent option of purchase thereof.
- Nearly 2,000 enterprises (a quarter of all the privatized enterprises) had been privatized on the basis of Management-Buy-Out-schemes on very favourable conditions by the end of 1992.
- New intelligent forms of privatization have been implemented. They make use of equity investment companies with public or private refinancing which can in particular acquire dormant minority equity holdings in small enterprises. At present 80 private equity investment companies are active in this field in Germany all of which have declared their interest in an engagement in the New Länder.
- The Treuhandanstalt's weekly invitations to tender for small and medium-sized enterprises according to branches with the assistance of investment bankers were extremely successful. For 1993 10 additional invitation rounds for tenders are envisaged.
- In addition small enterprises up to 50 workers were offered for sale per catalogue through savings banks and communities mainly to East German applicants who had good concepts for restructuring. The great success of this action (100 out of 150 enterprises have been sold, half of them to MBO-privatizers, the other half to West German investors) has led to a new invitation round for 220 bigger enterprises with up to 150 workers.

- Furthermore the Treuhandanstalt used investment banks, ad-hoc-stock-exchanges for individual enterprises and important international industry meetings and expositions for the placement of its offers.

For the purpose of the surveillance of the commitments made by the purchasers of its enterprises the Treuhandanstalt has set up a system of contract controlling which is currently staffed with 200 lawyers and economists.

The priority of privatization over restructuring by the State also applies to the enterprises referred to as "industrial kernels" in the current public debate. A limited number of these enterprises cannot be sold in the short run in view of the difficult business cycle situation. In these cases the Treuhandanstalt examines if liquidation is inevitable or if there are realistic chances of restructuring with justifiable financial support within an appropriate period of time.

The first so-called management companies which were conceived for the management of several enterprises during this transition period were set up six months ago. At present another three management companies are prepared for the active management of shares. Altogether 69 enterprises of different industries with a total of some 32,000 workers are in preparation for privatization in those management companies. It should be stressed that there is no guarantee for the maintenance of enterprises or jobs. Furthermore, there will be no global holding for East German industries.

### III. Outlook

The Treuhandanstalt will finish its operative task in 1994 after only four years of activity. In the course of its work it has gained experiences which are of great importance for the transformation processes in Eastern Europe. Through its consulting company it has become an important consulting instrument in the East European reform States.

The Federal Government is committed to pursue its successful privatization policy. The opinions about the value of the privatization potential differ. In any case, a double-digit billion amount of proceeds seems possible. Higher results could be achieved if the good example set by the Federation were followed by corresponding efforts of the States and communities.