

Any import contracts, irrespective whether they are subject to registration or evaluation with the Ministry for Foreign Economic Affairs, Investments and Trade must be recorded by authorized banks and, in the case of imported goods, also by customs agencies.

## **11. PRIVATIZATION**

### **11.1 General Provisions**

The primary law governing matters related to privatization of state property in Uzbekistan is the *Privatization Law*.<sup>26</sup> The *Privatization Law* defines the legal concept of privatization in Uzbekistan, which consists of citizens' and private legal entities' acquisition of state-owned facilities or shares in state-owned JSCs. Privatization in Uzbekistan has lagged behind that of a number of other CIS countries. In the first few years following independence, only apartments and very small businesses (*e.g.*, shops) were privatized, while nearly all industrial enterprises and other medium and large enterprises were kept firmly under state control. However, in late 1998 the Government began to actively promote the privatization of major enterprises in a number of key sectors of the economy. Government Resolutions passed in 2005, 2006 and 2007 envisaged an ambitious privatization program for the forthcoming years. As of January 2009, few of the major enterprise privatizations envisaged by this resolution have been completed, although preliminary work in preparing some of the other enterprises for privatization is underway. In most cases, only 49% of shares in the charter capital of large and important enterprises are offered for privatization.

### **11.2 Facilities Subject to Privatization**

The Government of Uzbekistan determines the facilities subject to privatization under a program of privatization of state-owned facilities during the current and forthcoming years.

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<sup>26</sup> Law "On Denationalization and Privatization" dated 19 November 1991, as amended.

The State Committee of the Republic of Uzbekistan on Management of State Property (the “State Property Committee”) is the key agency involved in the process of privatizing state property. Decisions issued by the State Property Committee are binding upon ministries, departments, concerns, associations, organizations (conglomerations), institutions, and local government authorities.

### **11.3 Forms and Conditions of Privatization**

Privatization in Uzbekistan is usually carried out through 1) transformation of a state enterprise into a joint stock company or other business company and sale of shares in such company; or 2) sale of state assets into private property.

State property is usually sold to individuals and legal entities on a competitive basis, under auctions and tenders, and in other ways, such as direct negotiations, permitted by the laws of Uzbekistan.

### **11.4 Limitations on Facilities Subject to Privatization**

The Government of Uzbekistan has specified a list of enterprises and items of state property which are, and which are not, subject to very limited denationalization, privatization, or purchase. This list primarily includes strategic state-owned facilities that affect national interests. The Government has also specified a list of facilities that may be privatized or denationalized only at the discretion of the Government.

In July 2007, the Government introduced the “golden share” mechanism, which provides the Government with veto power for certain of the most important decisions to be taken by a strategic JSC. The ‘golden share’ does not have any value or percentage in the charter capital of the JSC. Such “golden shares” have been introduced only to certain strategic companies to enable their privatization without risking national interests.

Pursuant to the *Privatization Law*, the following objects are not subject to denationalization and privatization: land (with certain exceptions, as provided in Section 7), subsoil and other natural resources, and objects of cultural and historical value.

## 11.5 Opportunities Available to Foreign Investors

The *Privatization Law* expressly states that, together with citizens and private legal entities, foreign citizens and legal entities, as well as stateless persons residing outside of Uzbekistan, have the right to acquire privatized state-owned facilities.

Foreign investors may participate in the privatization process through the acquisition of:

- Shares in the course of competitive or investment tenders, auctions at stock exchanges, and direct negotiations;
- All or part of an enterprise's shares, enabling them to establish joint ventures or enterprises based entirely on foreign capital;
- Assets of liquidated (bankrupt) enterprises in open competitive bidding, with requirements announced in advance of the auction;
- Real estate at auctions and via direct sale by tender; and
- Competitive sale of state-owned facilities based on investment projects.

Foreign investors may also participate in the privatization process by means of:

- Investment in state enterprises, by increasing the charter capital and transforming the state enterprise into a state/joint stock form of ownership and selling part of the shares equivalent to the increased charter capital to a foreign investor;
- Concession agreements;
- Allocation and exchange of shares in privatized state enterprises in investment funds, securities companies, and investment banks established with the participation of foreign capital; and
- "Turn-key" construction by a foreign investor of a new enterprise where the state holds title to land, or completion of construction of an unfinished structure where the state holds title to part of the structure.