ALBANIA RESPONSE

INTOSAI WORKING GROUP ON THE AUDIT OF PRIVATISATION

THE ROLE OF THE STATE AS MINORITY SHAREHOLDER IN PRIVATE BUSINESSES

QUESTIONNAIRE

INTRODUCTION

The purpose of this questionnaire is to gather information from Members of the Group about the issues the state needs to address where it is a minority shareholder in private businesses, the challenges faced by the SAI in examining how the state addresses these responsibilities, and the impact of the SAI's work.

BACKGROUND

The topic ‘The Role and Responsibility of the State as Minority Shareholder in Privatised Businesses’ was discussed at the sixth meeting of the INTOSAI Working Group on the Audit of Privatisation (Warsaw, October 1999).

The discussion examined both the role of the state and key issues that SAIs are likely to have to address in examining how effectively that role is carried out. It was agreed that this subject merited further examination by the group.

Issues Affecting the State

- The state needs to protect the taxpayer's interests, even though it is not in control of the business.
- The state will have objectives in being a minority shareholder, and it needs to ensure these objectives can be met.
- The state may have taken special powers (e.g. a golden share). Such powers are however usually not general, but closely defined e.g. the right to approve changes in ownership of the business. As regards the general running of the business, such special powers are unlikely to afford the state any greater protection than that enjoyed by any other minority shareholder.
- Unlike a private minority shareholder, the state may not in practice be able to dispose of its investment if it is dissatisfied with the way the business is being run by those in control. For example, where the state's minority shareholding is retained for strategic economic reasons the state may be in double jeopardy: the actions of others could create additional obligations for the state, going beyond its original investments and the concept of limited liability, resulting in the moral hazard of implicit guarantees.

- The state may not have access to sufficient market-focused skills necessary to understand the nature of the business, and the risks to which the state is exposed. And even if it is able to monitor the business's performance intelligently, it may not be able to influence those in control.
- Has the state been able, in practice, to protect its interests as a minority shareholder?

Issues Affecting the SAI

- The SAI is likely to be the auditor of the government body which holds the minority stake.
- Does the SAI also have audit access to the private business for the purpose of monitoring how the government body responsible for the state's shareholding is exercising its rights and responsibilities?
- If the SAI does not have audit access to the business, how can it effectively examine these arrangements?
- Does the SAI have access to the market-focussed skills necessary to check whether the state is doing all it can to protect the taxpayer's interests in relation to the minority shareholdings?
- Has the work of the SAI assisted the state in protecting the taxpayer’s interests?

The questionnaire is divided into two parts

Part 1: The Role of the State

Part 2: The Role of the SAI

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Part 1: The Role of the State

General Information

1 Is the state a minority shareholder in any private business established in your country?

Yes (go to Q2)

✔ **No (no further responses necessary)**

Any additional comments?

The Audit Law does not give power to the Albanian SAI to audit such businesses. In this law it it stated that "the State Supreme Audit Institution, in accordance with its competencies supervises:

- the economic activity of juridical persons which the State own more than half of the quotas or shares, or when debts, credits and obligations are guaranteed by the State."

As such, the SAI has no audit access to any entities in which the state has only a minority shareholding.