



Privatization: Monthly Review

Focus

- In preparation of the Budget-2006 for the second Parliamentary reading FSPU passed to the government its draft of State Program of Privatization for 2005-2007.
- President V.Yushchenko imposed his second “veto” on the Law of Ukraine “About the Fund of State Property of Ukraine”.
- Government and FSPU form the list of state companies to be privatized in 2006. The hottest discussions are around “Ukrtelecom” privatization.
- Revision of property rights acquired in the process of privatization remains legally invalid. President V.Yushchenko imposed his “veto” on the Law of Ukraine “About Management of State Property companies”.



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Main Risks

The draft of the State program of privatization for 2005-2007 envisages mainly the fiscal purposes for privatization of big state companies. The absence of system approach creates **the pronounced risks for the national security in strategic industries and may inflict damages to the interests of general consumers in natural monopolies**. The absence of official strategy of privatization creates **risks of lobbying or political biases influencing the application of legal framework and formation of the privatization portfolio**.

Availability of big and attractive for investment companies may feed the fiscal needs by blowing up the budget with significant funds but simultaneously **government and FSPU may lose interest in system privatization**.

The legal inadequacy of revision of property rights **creates additional risks in the process of stabilization of Ukrainian economy by breaking down the investment activities of business**.

Law about management of state owned companies recently adopted by the Parliament

(initiated back in 2004) **perpetuates the parameters of the old system which dramatically needs reformation**.

Formation of policy and legal framework (November)

In November of 2005 the actions of authorities in privatization field were executed mainly in response to external influence – the pressure to adopt Budget-2006 in the Parliament. Between the Parliament from one side and the President from the other side there is significant difference in definition of functions and place of FSPU in the system of state executive power. For the first time the guidelines were defined for the legal regulations in the field of revision of privatization results.

Budget-2006

In the draft proposal of Budget-2006¹ (version initiated to the Parliament for the second reading) FSPU suggested to cut down significantly the amount of incoming revenues from state property privatization in 2006 – from 8.13 bln Hrn to 2.1 bln Hrn. This benchmark was defined using the changed list of state companies assigned by FSPU for privatization in 2006 (mainly companies of poor or zero liquidity). This list excludes attractive for investment companies, assigned by the government to cater for budget needs. Experts are voicing their apprehensions that in 2006 the country may come across unplanned incoming funds from privatization being “manual steered”².

The budget-2006 draft installs the additional source of incoming funds – from privatization of adjacent land plots. New legal arrangements for privatization are introduced that envisage the mandatory privatization of state companies together with land plots. The owners of the previously privatized companies have to buy out the pertaining land plots too. In case of rejection the sale of land plots should be done at land auctions.

It radically differs from the legal requirements stipulated by the current privatization legislature. Even now the buyer has a legal right to choose individually how to use the land

plot after privatization – to buy it or sign an agreement of long-term rent.

In order to safeguard the process of state companies’ privatization together with land plots separate points of the Land Code of Ukraine are amended to enable the privatization bodies to sell the land as well what was not envisaged by the Law.

The State program of privatization for 2005-2007

Within the last three years the process of privatization in Ukraine is regulated by the State program of privatization for 2000-2002. Several attempts (both at old and new regimes) to prepare the draft of the new government privatization program were a failure. The last attempt to prepare the privatization program draft for 2005-2007 was done to meet the requirements of the procedure of adoption for the draft Budget-2006. According to the Budget Code this program is a document which has to be passed to the Parliament together with the draft budget.

The last project of the State privatization program for 2005-2007 was prepared by FSPU and was passed to the government in mid-November. It didn’t radically differ from the old variants which were returned for editing by the former government of Y. Timoshenko.

The main purposes of privatization in 2005-2007 were as follows:

- to improve efficiency of the state segment of economy by means of optimization of its main assets,
- to guarantee incoming funds to the state budget.

The aim of the system formation of the private sector in industries not yet embraced by privatization (strategic branches of industry, natural monopolies) is still absent.

The narrowed aim changed mechanism of privatization portfolio formation: 1) bodies of executive power authorized to govern the state property develop the lists of uncompleted construction objects, inefficient state companies and enterprises which require non-governmental investments 2) government

¹ <http://www.kmu.gov.ua/document/21475299/budget.rtf>

² <http://www.business.ua/i670/a22329/>

proposes to sell these companies what may help to fill in the budget.

The draft Program envisaged the issues aimed at fiscal assignments in privatization: a) privatization of state companies together with the land plots including the way when package of shares belonging to the state and acquired for the land plots are included to the statutory fund of the company; b) sale of company for the budget purposes takes place in the form of competition (auction, open sale) without investment obligations by choosing the winner at the biggest bid and obligation to follow the sale conditions.

Such innovations can be rated as positive: a) suggestions that provide for the depth of privatization (e.g. an auction without starting price) b) adjusted privatization process of corporate rights of daughter companies, which were transferred to the statutory funds of holding companies; c) introduction of option to stimulate the work of companies' management and directors authorized to govern the state property; d) to carry out the mandatory ecological auditing for privatized objects for the companies included into the Law of Ukraine "About Ecological Auditing"; e) to safeguard against accumulation of low-liquidity companies by suggesting restructuring or even liquidation of objects dropped out from privatization.

The new Program excludes mandatory involvement in privatization of big strategic objects of the "industrial investors", what enabled the old regime to limit the access to privatization events.

Program envisaged the adoption of a package of 11 bills as the top priority issues, determined eventually the procedure of completion of certificate privatization.

The Law of Ukraine "About the Fund of State Property of Ukraine"

The law of Ukraine "About the Fund of State Property of Ukraine" was adopted by the Parliament on Sept.8, 2005. But on Oct.5 President V.Yushchenko imposed his "veto", underlying some points which contradicted the

Constitution of Ukraine. Parliament discussed the Presidential proposals and on Nov.3 this Law was voted for the second time.

But even the amended edition of the Law was "vetoed" by the President³ in his proposals underscored that even the new edition of the law indulged in issues contradicting to the Constitution of Ukraine. They were limited mainly to main topics:

- Attempts to delegate to FSPU the full authority of the owner of the state property, including management of all objects of state property. But Constitution of Ukraine stipulates the separation of these powers between the Cabinet of Ministers and other government bodies, authorized to govern the state property;
- the attempt to limit the subordination of FSPU to Cabinet of Ministers (only in the field of governing the state companies). But the Constitution of Ukraine stipulates that Cabinet of Ministers is the highest body of the system of executive power and FSPU is an integral part of this system.

The first attempts to regulate the process of revision of privatization results

Many statements by President V.Yushchenko and Prime-Minister Y.Yeahanorov signaled to the investors rather differently about their preferences of practical ways to revise the privatization results. Only in the second half of November President V.Yushchenko defined the priorities and the most general approach to solution of the problem.

The Presidential Decree №1615 of Nov.18, 2005 "About the priority actions to legalize black economy and combat corruption"⁴ put assignments to the government to prepare within three months action plan which had to ensure among the other tasks as follows: "stability and inviolability of property rights acquired in the accepted legally order in the

³ Proposals to the Law of Ukraine "About the Fund of State Property of Ukraine" – <http://www.rada.gov.ua>

⁴ <http://www.business-rada.kmu.org.ua/ua/news/270.html>

process of state property privatization in the period of 1994-2004”.

The Presidential Decree №1648 of Nov.24, 2005 validated the decisions by the Council of national security and defence of Ukraine of Oct.28, 2005 “About the actions to approve guarantees and improve efficiency of legal protection of property rights in Ukraine⁵. It was also stated that activities in this sphere should be carried out within the context of Memo of June 16, 2005 about guarantees and protection of compliance with property rights legislature. Most of all this actions were directed against the application of court cases procedures, fictitious bankruptcies and mechanism of double registrations of acts aimed at redistribution of property. The government should expedite the steps to form the Single Registry of State Companies, to complete the formation of the single system of state bodies of state registration of the property rights for real estate property and its limitations, as well the formation of the State Registry of real estate property and its limitations.

Limiting the ways of state property illegal privatization

The old regime in Ukraine widely used non-privatization methods of acquiring the property rights over the state property. This was used to buy the property in non-competitive ways at cheaper prices. At present legal framework is being developed to limit any illegal privatization of the state property.

The Law of Ukraine “About governing the state property objects”, adopted by the Parliament on Nov.1, 2005 envisages as follows:

- Purchase of additionally emitted shares at the expense of special funds of the budget to preserve the fraction of corporate rights of the state in statutory funds of business entities (article 11, p.9).
- change of property owners in case of bankruptcy of state companies (article 14, p.5) where the state owns more than 25% (article 12, p.22) exclusively through the procedure of privatization;

- Prohibition for the state business entities, not liable for privatization, to carry out actions, which lead to change of owner status (art.12, p.10)
- Transfer of the state corporate rights into the statutory funds of the state holding companies with conditions of only current management or business awareness (art.13,p.3).

On Nov.29, 2005 President V.Yushchenko sent his proposals in regard of this Law to the Ukrainian Parliament.

It appears that state authorities delegated functions of sales of state property besides FSPU to the other state bodies. The state property was changing its status of ownership without proper control; funds obtained in sales were not coming to state budget.

Especially big size transactions in sales of state property were taking place in Ministry of Defence of Ukraine. The order of the Cabinet of Ministers “About priority tasks of social and economic development of Ukraine for 9 months of 2005 and urgent actions”, which was adopted on Nov.9, 2005, assigned for the Ministry of Jurisdiction to present by the end of 2005 the drafts of the corresponding legal documents which put under FSPU’s jurisdiction all sales of military property except weapons, ammunition and special military equipment. Such deals should follow privatization legislature requirements applying the procedure of open competitive sales (auctions, competitions)⁶.

Process of revision of privatization results

In November FSPU summarized the privatization results of three quarters of 2005. FSPU keeps permanent control over the fulfilment of sale-purchase agreement obligations at sales of state companies. In case of inadequate fulfilment of contract obligations FSPU starts claiming through the court in order to return back the privatized entity to state property and resell it.

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http://www.kmu.gov.ua/control/uk/publish/printable_article?art_id=24579003

⁵ http://www.president.gov.ua/documents/p_3552.html

FSPU keeps an eye over 5190 deals of former state entities where sales obligations are to be followed through. Inspection of contract obligations at 1697 companies (32.7%)⁷ took place in the 3rd quarter of 2005. 189 contracts were found to be inadequately respected. It is positive that the number of inadequate follow-ups of contracts is shrinking down: 2002 – 16,7%, 2004 – 13,6%, 2005 – 11.1%.

The main violations were found in small business companies and at uncompleted construction sites. In most cases the terms of payments for privatized objects were delayed. The general amount of investments to the privatized companies has grown up in 2005 – 4774.96 mln Hrn, 552.9 mln US\$, 72.0 mln E – and in general exceeds the planned by contracts amounts. 57% of all investments came to the strategic companies. Some privatized companies were poorly invested in and general shortage of investments is 384.17 mln Hrn, 13.1 mln US\$.

Table 1

Packages of shares returned in 2005 to state property status by court decisions and orders of FSPU⁸

Title of business entity	Share packages	Date of return
VAT "Sevastopol Instrument-Building plant Parus"	50% + 1 share	28.03.05
VAT "Krivirizhstal"	93,2%	16.06.05
VAT Vasilivsky autorepairs plant	30,0%	25.07.05
VAT Kamianets-Podilsky plant of agricultural machinery	25% + 1 share	29.08.05
VAT "Lviv ATP-24657"	16,06%	31.08.05
VAT „Kolomia Silmash"	25% + 1 share	31.08.05
VAT "Olexandriya Autorepairs plant"	30,0%	27.09.05

By the beginning of October the growing number of returned to state property entities were registered: 190 business entities (packages of shares – 78, whole property complexes – 34, objects of uncompleted construction – 78). Out of them 84 business entities has been resold (packages of share -41, whole property complexes – 36, objects of uncompleted construction -36). Funds obtained from re-sales constitute 65 mln Hrn what in 2.1 times

exceeds the original gains. In regard of 2008 objects FSPU continues its work in courts to claim the business entities back into state property status.

The influence of the new policies on the real process of privatization results revision

Experts see changes in the situation around arousing public attention companies enlisted for re-privatization and attribute them to the political influence after statements of President V.Yushchenko and Prime-Minister Y.Yehanurov in regard of complete ban on re-privatization. The examples of adopted decisions about legality of privatization of State shareholding company (SSK) "Ukrudprom" and closed shareholding company (CHC) "Norht-Donets Association "Azot".

SSK "Ukrudprom"⁹ is the Ukrainian biggest iron-ore producer in Ukraine. It was the object of fierce competition of the owners of metallurgical companies. That is why it was decided to sell this business entity complex according to a special Law "About the particulars of privatization of state shareholding company "Ukrudprom", adopted by the Parliament on Apr.9, 2004. During summer-autumn of 2004, 9 out of 10 subdivisions of SSC "Ukrudprom" have been sold. New owners were the biggest financial-industrial groups – Company "System Capital Management", group "Privat" and "Smart-group" Ltd.

After the victory of "orange revolution" SSK "Ukrudprom" and "Krivirizhstal" were immediately enlisted for re-privatization. On Apr.2005, 62 people's deputies sued in the Constitutional Court about the compliance with the Constitution of the Law according to which SSK "Ukrudprom" was privatized. FSPU made an attempt to prohibit the additional emission of shares by the new owners up to the final solution of the issue of privatization legality.

Unlike "Krivirizhstal" the situation around SSK "Ukrudprom" developed following the

⁷ http://www.spfu.gov.ua/ukr/law/spfu_3029.html

⁸ http://www.spfu.gov.ua/ukr/news_big.php?id=1277&noanon=s&all_news=&page=1

⁹ Business News, №91, Nov.22, 2005. – page.7

different scenario and decisions in regard of legality of its privatization were taken at a later date when state authorities categorically rejected the policy of re-privatization.

On Oct.30, 2005 the Constitutional Court spread the news of rejection of law suit initiated by people's deputies. Thus, the way of privatization of SSK "Ukrudprom" was proved to be legal. On Nov.21 FSPU publicly stated that the inspection of investment obligations of SSK "Ukrudprom" are fulfilled "adequately". In other words FSPU agreed that there are no reasons to revise the privatization results of SAK "Ukrudprom".

CHC "North-Donets Association "Azot"¹⁰ was founded on Dec.24, 2004 using the property of the state enterprise "Association "Asot" with participation of the company Worldwide Chemical LLC "the seller of mineral fertilizers), which won the competition for choice of best investor. The competition obligations envisaged the investment of \$120 mln for the development of the newly founded company. Unlike the current Ukrainian practice the investor obtained 60% of statutory fund package of shares and the state owned only 40%.

This company is also an object of fierce competitive struggle involving different financial-industrial groups among which stood out the group of bank "Finances and Credit". The noise provoked the interest of the General Attorney's office to this company. Under the influence of re-privatization disposition of the first "orange revolution government" in March 2005 the Pechersk first instance Court and in June the Appellation Court announced as illegal the formation of CHC "North-Donets Association "Azot". The law suit case was reviewed in the Supreme Court of Ukraine, and on Nov.23, 2005 it cancelled both decisions of the previous courts.

In addition to that the Parliament still has the advocates of return of strategic companies and their share packages to state ownership

(nationalization). On November 18, 2005 the bill №8480 "About return to state property status (nationalization) of share package of SSC "Ukrudprom" was registered. This bill stipulates the return to the owners of the company SSC "Ukrudprom" of 1.445 bln Hrn¹¹. On November 23, 2005 socialist M.Rudkovsky initiated in the Parliament the draft law №8489 "About the nationalization of the property in Ukraine"¹².

The attempts to stop the process of re-distribution of property

The policy of re-privatization provoked the massive process of re-distribution of property in Ukraine. Double registration mechanism became one of the tools of capturing the property by the competitors.

According to the Ukrainian legal framework any share holder owning not less than 10% of shares has the legal right to convoke the meeting of shareholders and appoint the new registrar. But the presence of two registrars enables to take out portions of shares without control of other shareholders. As a result of such transactions the legal owners have lost their legal rights in certain instances.

The biggest noise in Ukraine was raised around Nikopol FerroAlloy Plant¹³ when the same control package of shares was fixed as belonging to two different owners – state and consortium of companies, controlled by group "Interpipe". This started the law suit in regard of legality of property rights by group "Interpipe". As it was indicated by the experts the instigator behind the conflict was the group "Privat" – its main competitor.

The government delegated to the State commission of securities and stock market (SCSSM) the task of taking steps to solve the existing conflict and initiate the documents preventing the similar situations in the future. As the result of inspection by SCSSM it was

¹¹ <http://www.rada.gov.ua>
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http://www.rada.gov.ua:8080/pls/zweb/webproc4_1?id=&pf3511=26216

¹³ <http://nzf-yes.net>; <http://glavred.info/article/2005/11/30/103150-2/html>

¹⁰ Business Capital-city, №48, 28.11.2005. – page.27;
<http://uatoday.net/news?class=1&categ=1&date=1132758780&mat=35528&phtml>

discovered that 27 share issuers have double registrars inclusive 11 which are really problematic¹⁴. They had already shown the signs of corporative wars¹⁵. SCSSM had to initiate some proposals to solve the conflicts.

Table 2

Packages of shares returned in 2005 to state property ownership by court decisions and orders of FSPU¹⁶

Title of share issuer	Title of registrar
Group "Privat"	
OSC "Priкарпаттяoblenergo "	"United fund registrar"/ "Inter-Service registry"
OSC "Lvivoblenergo "	
OSC "Poltavaoblenergo "	
OSC "Chernigivoblenergo "	
OSC "Sumioblenergo "	
OSC "Nikopol FerroAlloy Plant2	"Oliver-registrar"/"Slavutich - registrar"
OSC "Prosyansk GZK"	"Slavutich -registrar"/ PK "Variant"
Group "Finances and Credit"	
OSC "Luganskoblenergo "	CSC "F.C.I."/ SB "Ukrsochbank"
CSC "Kyiv shipbuilding and repairs Plant"	CSC "Service-registry"/ "NTB" Ltd
Konstantin Grigorishin	
OSC "Dniprospecstal"	"United fun registrar "Zaporizhya"/ "Alfa-Invest"
Ex-menagement NAK "Naftogas Ukraine "	
OSC "Cherkassygas"	"Unist registry consulting "/ AIFK "Ukrprivest "

Privatization in 2005 and preparation for 2006

Process of privatization is yet sluggish in Ukraine. FSPU continues to sell preferably small companies of group A. During January-October 2005 751 companies were privatized, out of them 469 refer to group A or 62.4% of total number of objects¹⁷.

It is obvious that in 2005 government and FSPU are lacking time to start any big privatization project. Even more so the problem with budget shortages after sale of "Krivorizhstal" package of shares lost its urgency. Now government and FSPU form the list of state companies to be sold in 2006. In his statements President V.Yushchenko, government and FSPU representatives most

frequently mention "Kriviy Rig mining and concentrating complex for oxidized ores", "Odessa port plant", "Nikopol FerroAlloy Plant", "Ukrtelecom"¹⁸ as most suitable objects to meet the budget needs.

Table 3

Info about the number of entities which lost state property¹⁹

	Total	Inclusive as to groups				
		A	B, Г	Д	Е	Ж
2004	1236	774	38	264	37	123
2005						
January	43	24	4	12	2	1
February	7	5	0	2	0	0
March	117	71	1	34	1	10
April	85	64	0	13	3	5
May	89	47	1	32	2	7
June	77	52	0	19	1	5
Total for 1st half of 2005	418	263	6	112	9	28
July	94	56	0	21	3	14
August	79	56	1	17	2	3
September	113	65	0	37	2	9
October	47	29	1	11	1	5
Total for 10 months of 2005	751	469	8	198	17	59

On November 23, 2005 government initiated to the Parliament the draft Law of Ukraine №8488 "About introduction of changes and signing off legislation that lost jurisdiction in privatization of OSC "Ukrtelecom"²⁰. That draft envisaged to lift ban on privatization of "Ukrtelecom" and proposed to cancel the Law of Ukraine "About peculiarities of OSC "Ukrtelecom" privatization". In fact, government plans to carry privatization of OSC "Ukrtelecom" using general regulations and efficient ways of sale of "Krivorizhstal".

Within the period between January and November 2005 the budget fulfilment in privatization fund was only 24,49%, including to the general fund – 10, 92%.

But "Krivorizhstal" sale enabled not only to fulfil the plan but even to significantly exceed the budget plan of privatization funds. On November 25, 2005 company Mittal Steel transferred on FSPU band account all the money for the object – 24.2 bln Hrn.²¹.

¹⁴ Business Capital-city, № 46, 14.11.2005. – page.26

¹⁵ Facts, №212, November 15, 2005. – page.10; Day, №210, November 15, 2005. page.5

¹⁶http://www.spfu.gov.ua/ukr/news_big.php?id=1277&noanons=noanons&all_news=&page=1

¹⁷ <http://www.spfu.gov.ua/ukr/reports/analit/200510.pdf>

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http://www.kontrakty.com.ua/show/ukr/print_article/30/4620056408.html

¹⁹<http://www.spfu.gov.ua/ukr/reports/analit/200510.pdf>

²⁰ <http://www.rada.gov.ua>

²¹ <http://www.unian.net/news/ukr/news-91266.html>

Table 4

Надходження коштів від приватизації державного майна до Державного бюджету, тис. грн.²²

Incoming funds	Yearly plan, thousands of Hrn.	Actually, thousands of Hrn.		% of plan fulfillment
		From beginning of year up to 01.11.2005	From beginning of year on 25.11.2005	
General fund	6911181,1	750835,6	754991,4	10,92
Total	6985309,7	716244,9	1710553,6	24,49

Draft Budget-2006, sent by government for the second reading, plans distribution of 24.2 bln Hrn in the following way: to return to the former owners - 4.3 bln. Hrn, finance the budget 2006 – 6 bln Hrn, set up the stabilization fund – 3 bln Hrn and the rest – for innovative and investment projects²³.

State corporate rights management (November)

The Law of Ukraine “About state property objects management”

On November 1, 2005 Parliament adopted the Law of Ukraine “About state property objects management”. The draft was prepared by V.Semenyuk in 2004 when she was still the people’s deputy. It had some positive features as it was the first attempt to shape up legally the existing system of management. The law endeavored to inventor and systematize functions performed by different managing subjects – from Cabinet of Ministers to one single state shareholding company (art.5-11). It strengthened legally management on behalf of the state being one of the owners.

Alongside with this the Law did not undertake the change of ideology of functioning of the existing system of state company management. For several years the Ukrainian and foreign experts reiterate about the top priority of its reformation. The main principle of the system was yet preserved – the state property objects are governed by different state subjects. But all previous experience had shown that this disintegration of functions substantially limits

unification to one strategy in policy of state property management and leads to excessive duplicating of functions and, hence, swelling of administrative expenses. Besides, it promotes the black zones of uncontrolled illegal actions where the state property interests significantly suffer and innovating development of the enterprises is suppressed.

President V.Yushchenko imposed “veto” on this Law²⁴ and it was defined as “contradictory to the Constitution and Ukrainian legislature and conceptually incomplete”. It had also the list of state companies and hierarchy of state bodies, authorised to govern the state property and went into distribution of functions among them. The Law was dwelling upon subjects relevant to the other laws and did not comply with corporate legislature and Civil Code of Ukraine. The Law intruded into Privatization legislature sphere by expanding the groups of entities not liable to privatization.

Formation of a Single Registry of state property

On November 15, 2005 Head of FSPU V.Semenyuk announced about the onset of the inventory of state property and formation of a Single Registry of state property²⁵. With this purpose in mind FSPU organized the Joint work group headed by V.Semenyuk representing 17 state bodies. The computerized system “Legal entities” was networked in the hierarchy of state bodies with multilevel approach.

The Single Registry contains the data on July 1, 2005: 1) legal entities of only state property status, business companies with corporate rights and balanced users of state property; 2) state property, state real estate owned by entities (including organizations financed from the budget), their associations, institutions and organizations, including property which is now rented, transferred to concession and state property which was not included to the

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²⁵http://www.rada.gov.ua:8080/pls/zweb/webproc4_1?id=&pf3511=18705

²⁵

http://www.spfu.gov.ua/news_big.php?id=1224&noanons=noanons&all_news=&page

²²http://www.spfu.gov.ua/ukr/news_big.php?id=1277&noanons=noanons&all_news=&page=1

²³ <http://www.rada.gov.ua>

Statutory Funds of business organizations set up during privatization and incorporation.

On November 11, 2005 the state governing bodies provided information about 31353 legal entities, out of them 22511 were recognized as subordinated to the specific management by the corresponding body. Out of this number 3460 legal entities (21.8%) own 263997 state objects of real estate. The formation of the Single Registry is still on.

Inventory and filling it in with information about the whole property complexes assigned to the state enterprises and organizations where the decision was taken to put it on rent has been done completely: 266 rental agreements – 12272 state objects (real estate).

There are 58000 entities not included to the Statutory Funds of business associations during privatization but still kept on its balance sheets. The work is not yet completed in regard of those objects which were not included to the statutory funds of business associations during incorporation.

The Registry also contains information about 1439 business associations of different organizational and legal forms set up with state participation.

The portfolio contents of state corporate rights. Profitability of state property objects management

As of November 24, 2005²⁶ FSPU controls 1195 state business entities, including: 970 open share holding associations, set up during privatization and incorporation; 17 state holding companies, national and state share holding associations, 114 share holding associations set up with FSPU participation, 94 associations Ltd. Besides, the other state bodies of executive power control 138 business associations.

The official statistics on November 11, 2005 informs that the state corporate rights have the segment of small share packages up to 10% -

21.7%, share packages from 10% to 25% - 18.2%, from 25% to 50% - 36.0%. Total representation in the general quantity of state corporate rights goes up to 75.9% (at the beginning of the year – 77.6%). Thus, the most part of state corporate portfolio is still to be released.

Table 5

Change of structure of state corporate rights²⁷

	On 15.01.2004		On 01.01.2005		On 24.11.2005	
	number	%	number	%	number	%
Total including:	1538	100,0	1311	100,0	1195	100
Up to 10%	306	19,9	287	21,9	259	21,7
from 10% to 25%	255	16,6	236	18,0	217	18,2
from 25% to 50%	626	40,7	495	37,7	430	36,0
from 50% to 75%	146	9,5	127	9,7	117	9,7
from 75% to 100%	130	8,4	110	8,4	106	8,9
100%	75	4,9	56	4,3	66	5,5

By November 24, 2005 from the beginning of the year this amount of dividends was transferred from state corporate rights to state budget: 1742.292 mln Hrn or 422,8 of yearly plan. Incoming revenues to the budget from rented and leased objects make up 248.926 mln Hrn or 157.55% of the yearly plan²⁸.

FSPU reanimated the idea about restoration of payments for exploitation of state distributing gas pipelines (the first attempt to transfer them into concession was done in 2003)²⁹. According to the privatization legislature they are not liable to privatization. The state distributive pipelines were once transferred to NAK “Naftogas Ukraine”. The company in its turn transferred them free of charge to 55 regional companies providing gas and developing natural gas network (oblast and local natural gas companies), part of which are non-governmental.

Now the Ministry of fuels and energy and FSPU develop the joint order about concession payments from these companies. Experts forewarn about the issues that are still unsettled: a) definition of concession period (legally possible up to 49 years) b) the choice

²⁷http://www.spfu.gov.ua/ukr/news_big.php?id=823&noanons=noanons&all_news=&page=1

²⁸http://www.spfu.gov.ua/ukr/news_big.php?id=1277&noanons=noanons&all_news=&page=1

²⁹ Commentaries:, №6, November 11, 2005 - page.10

²⁶

http://www.spfu.gov.ua/ukr/news_big.php?id=1273&noanons=noanons&all_news=&page=1

of mechanism of concession payments (it can considerably boost up the rate of payments for natural gas); c) signing the agreements between the owners of the natural gas pipelines and plots of land which they cross; d) organization of tender agreements and choice of concession holders.