

CO-OPERATIVE REPUBLIC  
OF GUYANA

# Privatisation Policy Framework Paper



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# PRIVATISATION POLICY FRAMEWORK

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## INTRODUCTION

A state sector engaged in economic activity developed in British Guiana long before the colony became the independent state of Guyana. At Independence, economic entities structured along the lines of British Public Corporations existed in Telecommunications, Electricity Supply, Air Transport, Agri Products Marketing, and others. Those institutions were established to contribute to national development and, through sound management, generally did fulfill important tasks.

After Independence in 1966, the Government pursued policies of mismanagement not only of the national economy but also in the state-owned entities. Political interference, compounded by poor management, seriously affected the performance of these corporations. Bedevilled by rampant corruption, low morale and non-existent accountability, this sector failed to contribute to general economic development, operating as it did in an environment not conducive to proper utilization of resources. This unhealthy state of affairs worsened with the massive increase in the size of the state sector in the 70's and 80's, occasioned by the policy of purchasing huge foreign owned companies operating in Guyana in sugar, bauxite, trading, printing, manufacturing, shipbuilding, shipping, etc. Many locally-owned businesses were also acquired in similar fashion, thus adding to the unmanageable and uncontrollable state of the economy. The State also established its own new industries.

The economy, dominated by this inefficient state sector under what was effectively a one-party administrative dictatorship, experienced a steady deterioration, starting in the 1970's and worsening sharply in the 1980's. As the economic and financial deterioration of the country continued, its debt position gradually worsened and, by 1985, Guyana was declared ineligible for foreign loans. External pressures and fiscal management considerations prompted the previous Government into agreeing to a Divestment policy, as part of a Structural Adjustment Package recommended by the IMF/World Bank in 1989.

Following the elections of 5 October 1992, which the PPP/CIVIC coalition won, the new Government undertook the drafting of a comprehensive reform programme in accordance with its Economic Manifesto. The PPP/CIVIC alliance went to the electorate at the historic 1992 elections with a comprehensive Manifesto on its economic and social objectives.

### *The framework for this is spelt out in the Manifesto:*

- ▶ The economic and social objectives of the PPP/CIVIC Government will be to promote sustainable development for a just, free, and humane society.
- ▶ In our wider concept, development is not just economic growth but also human development. Our development strategy aims at promoting ecologically balanced economic growth and development with social justice, and concern for meeting the basic needs of each and every citizen.

### *The PPP/CIVIC has a defined role for the private sector. The Manifesto declares:*

- ▶ The PPP/CIVIC Government will do all that is in its power to promote local business, and the development of an economy in which Guyanese businessmen play a significant role. To expand the base of local business while at the same time seeking to attract foreign capital, the Government will encourage overseas Guyanese to return and invest in Guyana.
- ▶ The PPP/CIVIC Government will cultivate a genuine partnership with foreign investors from the Caribbean and further afield, who will be encouraged to invest in Guyana wherever possible in joint ventures with local businessmen or the State.

One way of encouraging such investment is through privatisation. The PPP/CIVIC has no interest in expanding the state-owned business. It intends to put a halt to the divestment of national assets at give-away prices and with rampant racketeering as practiced by the former regime.

Privatisation was started by the previous Government under pressure of a completely devastated economy within the frame-work of an Economic Recovery Programme. It took the form of “divestment” of public enterprises, under conditions and terms which were highly criticised for their lack of transparency. **Public opinion holds that transactions have been concluded too hastily, have failed to achieve optimal prices for state assets divested, did not consider participation of Guyanese in the process and did not secure preservation of national assets.**

It is perceived by Guyanese that Privatisation was embarked upon without sufficient public education on the benefits of the process and with too much haste, resulting in insufficient preparatory work being undertaken prior to negotiations with potential private sector investors. A policy objective of raising money for the fiscal budget is not sufficient to explain privatisation to a population which has been conditioned in the past to regard state ownership as beneficial in and of itself. There must be published objectives that address these concerns and beliefs. **The objective of raising money alone raises the spectre of ad-hocism, recklessness and of desperation, giving rise to doubts as regards the reasonableness of the amounts received from divestment of assets/interest in Public Corporations. Nonetheless, while maximisation of the proceeds of divestment is emphasized in Guyana’s current debt position, the future operational efficiency of the Corporation cannot be ignored.**

Without institutional arrangements to support the policy, the integrity of the process was called into question and allegations of cronysm and kickbacks result. **Serious investors far prefer a process which has the respect of the general public as this precludes a simmering resentment against themselves and the possibility of harassment by future administration. This is particularly true in the case of foreign investors, a vital consideration in capital-short Guyana.**

**It was these concerns that precipitated the new Government administration’s action to broaden the concept, instruments and support measures of the privatisation process, placing high emphasis on transparency, preservation of national assets, equal opportunities to all Guyanese and true partnership with foreign investors.**

The first step in our Government’s commitment to privatisation is the publication of this Policy Paper on Privatisation of Public Enterprises. The paper takes the view that privatisation is a new approach towards increasing production and productivity and allowing market forces to govern economic activities. The transfer of certain public enterprises to the private sector will alleviate the administrative and financial burden of the Government. **However, the Government’s interest on privatisation goes beyond budgetary concerns. The Government is aiming for increased efficiency and productivity of these enterprises through infusion of new investments, technology and efficient management.**

Our privatisation policy identifies economic areas, which could be more effectively and efficiently undertaken by entrepreneurs within the broader context of our Government’s commitment to encourage market forces and promote private enterprise to an important role as engines of economic growth. In other words, we believe that a sound privatisation policy is complementary to the Government’s desire to promote a vibrant private sector.

## II. STATEMENT OF POLICY

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As a matter of national policy to sustain the economic and social development of Guyana, the Government has decided to adopt a privatisation strategy implemented in a streamlined and transparent manner for reducing its presence in the economy and as a key component of Guyana's Private Sector Development Programme. Elements of this strategy include:

### GENERAL

- ▶ Liberalising the economy in order to create a more competitive and market driven environment.

### SPECIFIC

- ▶ Streamlining the public sector through a far reaching administrative reform programme aimed at making government bureaucracy more responsive to developmental needs.
- ▶ Removing excessive bureaucratic intervention on the market place without, however, sacrificing Government's essential role as regulator.
- ▶ Broadening the base of ownership and competition in the local economy through facilitation of the expansion of the equity market and support for small and new business formation.

### SCOPE OF THE PROGRAMME

- ▶ All commercially-oriented state-owned enterprises.
- ▶ Private Sector participation would be considered also for those state enterprises which provide basic services **to the extent** that they would improve efficiency and provide better services to users.

### III. OBJECTIVES

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The privatisation programme is aimed at transferring to the private sector management, ownership and/or control of certain public enterprises presently owned/controlled by Government. This will be implemented in a streamlined and transparent manner. Specific objectives are:

- a) Improvement of economic efficiency and reduction of the financial administrative burden on Government;
- b) Expansion of the role of private sector and mobilisation of savings for productive investment;
- c) Promoting modernisation through new investment, new technology and efficient management to stimulate growth;
- d) Minimisation of expansion plans of enterprises to be privatised; and
- e) Enhancement of the competitive environment to increase efficiency, provision of greater employment opportunities and reduction of costs to users/consumers.

### IV. GUIDELINES FOR PRIVATISATION

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A set of operating guidelines would be provided by the Privatisation Unit to ensure that each transaction adheres to a standard set of procedures. Specifically, the guidelines would ensure that:

- i. The programme would be implemented in an open and transparent way.
- ii. Technical preparatory work such as audit, valuation and legal opinion are conducted in advance;
- iii. All enterprises considered for sale would be widely advertised so that the process and criteria for pre-qualification of bidders (where appropriate) are made public prior to the sale;
- iv. A wide range of privatisation options and modalities including total privatisation, joint ventures, public offering of shares, employee and management buy-outs, leasing management contracts, fragmentation, or any combination of the above would be considered depending on what is suitable for a specific enterprise; (see Section v).
- v. The process would be based on open competition and no privileged position, protection (e.g., monopoly rights, etc.) would be extended to the private sector and;
- vi. Employees participation in privatisation would be encouraged, and measures would be taken to address any possible adverse impact that may result from divestment to workers in the enterprise.

## V. MODES OF PRIVATISATION

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In identifying modes of privatisation, efforts will be made to ensure that whenever possible, selected modalities will maximize public involvement in the process. Such modalities will include:

**A. Disposition of interest via competitive bidding (see Appendix I).**

To ensure transparency of operations and whenever feasible, any disposal of Government property whether in the form of shares or assets shall be carried out through competitive bidding.

**B. Public offering of shares (including sale of minority holdings in private sector firms).**

Public offering of shares involves the offering for sale to the general public, all or large blocks of the Government shareholding in public enterprises. The choice to employ this method will depend upon the structure and earning potential of the enterprise and the existence of the equity market or other mechanisms to facilitate transfer of shares. Institutional investors such as Life Insurance Companies and Pension Funds will be encouraged to acquire available shares in Public Enterprises. The mechanics of sale will follow the procedures set forth under competitive bidding. (Appendix I).

**C. Employee Stock Ownership**

The privatisation policy underlines the Government's commitment to provide an opportunity for all employees to own part of the shares of the enterprise in which they work. Under this policy, at least ten (10) percent of the capital stock of an enterprise for privatisation shall be reserved for acquisition by its employees. The employees/employers must agree on the modality of the acquisition process while the Government will set the purchase price. Employee Share Ownership Plans (ESOP) are envisaged as a possible mechanism.

**D. Buyout of an enterprise by its Management and employees**

This scheme involves the purchase of an enterprise by its management and employees based on financing that is arranged by them. To ensure transparency of the transaction, the proposal or bid of the employees and management must be judged by the Government as the best offer based on established criteria for the privatisation of the enterprise.

**E. Management Contracts and Leasing**

Management contract involves the contracting of private sector management expertise to manage a state enterprise for an agreed period and compensation. This modality entails the transfer of management responsibility, but does not result in the transfer of ownership.

In leasing, private sector participation is involved when rights to use assets of a public enterprise are granted to a private operator under contract for an agreed period and compensation.

**F. Other Modes**

Other modes will be considered in the course of policy implementation, as may be required by the unique requirements of specific cases. For example, liquidation is an option available to Government in cases where the only rational decision seen after full appraisal and valuation is to liquidate the operation of an enterprise. The Guyana Glassworks Limited and Soap and Detergents Limited fall into this category.

## VI. INSTITUTIONAL FRAMEWORK (SEE APPENDIX II)

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In order to achieve the objectives of the GoG's privatisation programme a new privatisation body would be formed to coordinate the implementation of the programme and will be constituted as follows:

- i. The present function of the Public Corporations Secretariat (PCS) and the National Industrial Commercial Investment Limited (NICIL) would be combined;
- ii. A Privatisation Unit (PU) headed by an Executive Secretary would be established under the purview of the Cabinet to establish procedures and carry out privatisation transactions.
- iii. The privatisation Unit would have access to a small core of specialists including a privatisation expert, a financial and an investment specialist, a corporate lawyer and an information systems specialist, and would be assisted by technical teams, as required, for the privatisation of specific enterprises;
- iv. A cabinet level Privatisation Board would also be appointed by the President, and would be responsible for ensuring that all procedures and safeguards that are established, guarantee transparency, and are consistently followed in each privatisation operation. The Privatisation Board would be an advisory body and would consist of five individuals, and would include a prominent member of the Private Sector, the Ministers of Finance, Trade and Agriculture as well as one Labour and one Consumer representative.
- v. The Privatisation Unit would prepare, for Cabinet, broad guidelines on operating policies and procedures for implementation of the programme, identify priority entities for privatisation, develop action plans for implementation, conduct a public relations campaign and help to build national consensus in support of the Government's programme (see Appendix III).



## VII. REGULATORY FRAMEWORK

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Where necessary as in the case of utilities or in the case of sugar – the pricing of Farmers’ Cane, the formula for computation of the Sugar Levy or the pricing of local sugar – a regulatory framework shall be in place prior to the transfer of interest to the private sector. Such regulations shall be designed to ensure that consumers’ interests are protected especially in terms of price, quality and availability of essential goods and services.

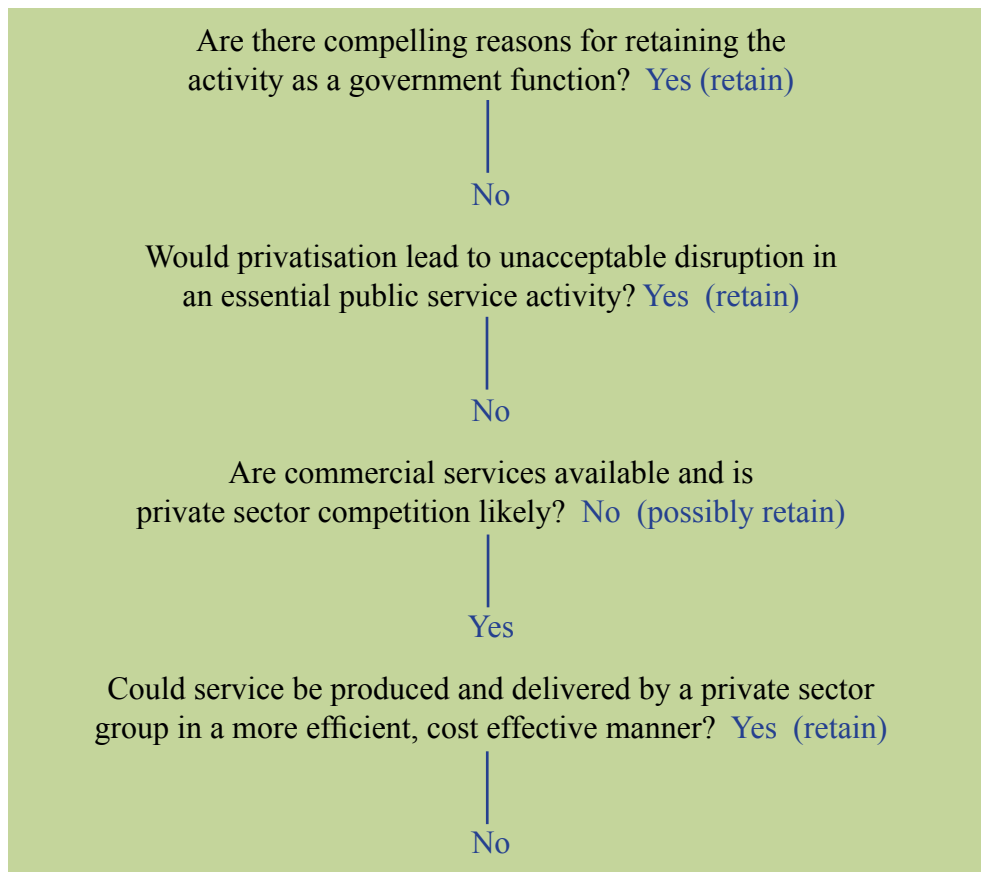
Not only will the regulatory framework be in place before any transfer of interest but special attention shall be directed towards ensuring that regulatory powers are established in such a way as to adequately balance the needs of consumers and investors.

Further, the National Environmental Protection Act will be implemented to support sustainable development and protection of the environment. Where necessary regulatory bodies will take account of the provisions of this Act.

## VIII. ENTERPRISE SELECTION AND PRIORITISATION

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The decision tree approach published in **Privatisation and Development** by the International Centre for Economic Growth in 1987 is to be applied to first identifying entities for enterprise restructuring and eligible enterprises for ownership restructuring, as follows:



## Eligible

Those enterprises identified to remain with Government will be considered suitable for restructuring while those judged eligible for transfer to private sector will be referred to the Privatisation Unit for further review and recommendation. In the process of privatisation, an enterprise may undergo a brief period of enterprise restructuring as may be required in order for transfer to be carried out on terms which are beneficial to both Government and private investors. This may also require the enactment of legal instruments to facilitate the process of transfer of interest, especially in Government entities with no share capital.

An assessment of eligible enterprises will be undertaken to determine the priority ranking of identified enterprises for transfer to private sector. The ranking of enterprises will take into account the following considerations.

### Desirability Factors

- ▶ ***Contribution to National Treasury*** – This is a measurement of the long term effect of enterprise transfer on Government’s budget and upon the economy as a whole.
- ▶ ***Contribution to attainment of sectoral objective*** – This considers the effect of enterprise ownership transfer to the attainment of the sector objectives in which an enterprise is located.
- ▶ ***Broad ownership*** – In accordance with the privatisation objectives, it is highly preferred that the transfer of an enterprise will promote and encourage widespread ownership, particularly among Guyanese investors, whenever this is feasible.
- ▶ ***Enterprise efficiency and productivity*** - In its broadest sense, the transfer of interest in certain public enterprises to private sector is a process to increase efficiency and make these enterprises responsive to market forces.

### Feasibility Factors

- ▶ ***Ease of effecting transfer*** - The profound changes which will be brought about by privatisation will have far-reaching impact in terms of the timing and manageability of the overall implementation of the privatisation programme. This factor is measured in terms of the complexity of the requirement for restructuring and the need for legislation or regulatory measure to be put in place.
- ▶ ***Business attractiveness to private sector*** - This factor is determined by the enterprise’s track record performance in terms of profitability, market share and future prospects.

## **IX. ENTERPRISES ELIGIBLE FOR PRIVATISATION/ RESTRUCTURING**

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The initial list of enterprises for review by the Privatisation Unit will include those listed below:

1. Shares in Demerara Distillers Limited
2. Shares in Seals and Packaging Industries Limited
3. Shares in Forte Crest (Pegasus)
4. Shares in GBTI
5. Guyana Pharmaceutical Corporation
6. Guyana National Engineering Corporation
7. Guyana Stores Limited
8. Guyana Oil Company Limited
9. Guyana Stockfeeds
10. National Edible Oil Company
11. Hope Coconut Industries Limited
12. Guyana National Printers Limited
13. Guyana National Cooperative Bank (GNCB)
14. Guyana Cooperative Agricultural & Industrial Development Bank (GAIBANK)
15. Guyana Mortgage Finance Bank
16. Guyana Glassworks Limited
17. Guyana Sugar Corporation
18. Guyana Electricity Corporation
19. Linden Mining Company (LINMINE)
20. Guyana Airways Corporation

The Government's strategy regarding private sector participation in the main public enterprises will take account of the substantial levels of investment that will be needed to ensure long term viability in each case.

## X. TIME TABLE FOR IMPLEMENTATION

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- i. Following Cabinet approval the Privatisation Policy Framework will be laid in Parliament.
- ii. The Privatisation Unit will commence review of enterprises for priority action (i.e. all actions such as audit valuations and legal opinions would be completed and bidding documents would be issued).
- iii. A Soap and Detergents Agreement of Purchase and Sale was signed by April 30, 1993 and steps are in progress to deal with the sale and/or liquidation of Guyana Glassworks Limited.
- iv. The first phase of privatisation will include sale of shares in Companies such as Seals and Packaging Industries Limited (SAPIL), Forte Crest etc. Preference will be given to workers.
- v. A timetable for the privatisation/restructuring of the remaining public enterprises will be announced after the Privatisation Unit has completed its initial analysis, submitted its proposals to the Privatisation Board and has received direction from the Cabinet.
- vi. To ensure that the public is kept abreast of progress further details of the implementation schedule shall be announced periodically, beginning December 31, 1993.

## APPENDIX I

### RULES OF COMPETITIVE BIDDING

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Established mechanics and procedures of competitive bidding will be adhered to viz:

- i. Adequate publicity and notification so as to attract the greatest number of interested parties;
- ii. Sufficient time frame between publication and date of bidding;
- iii. Dissemination of selling prospectus to all interested parties. They will include the bidding rules and any pre-qualification requirements as may be required by the Government. Pre-qualification of bidders is necessary for transactions wherein the Government believes that the future success of the enterprise operation is equally important as the proceeds from the sale. Pre-qualification would provide for the evaluation and selection of prospective bidders on the basis of the capability of a bidder to bring better management, technology, financial resources and markets;
- iv. Equal opportunity afforded to all interested parties to inspect the enterprise or assets to be sold;
- v. Confidentiality of sealed bids;
- vi. Bonds and other pre-qualification requirements to guarantee bidder's performance;
- vii. Fair evaluation of bids and proper notification of award to the best qualifying bid;
- viii. Right of the Government to reject any or all of the bids received.

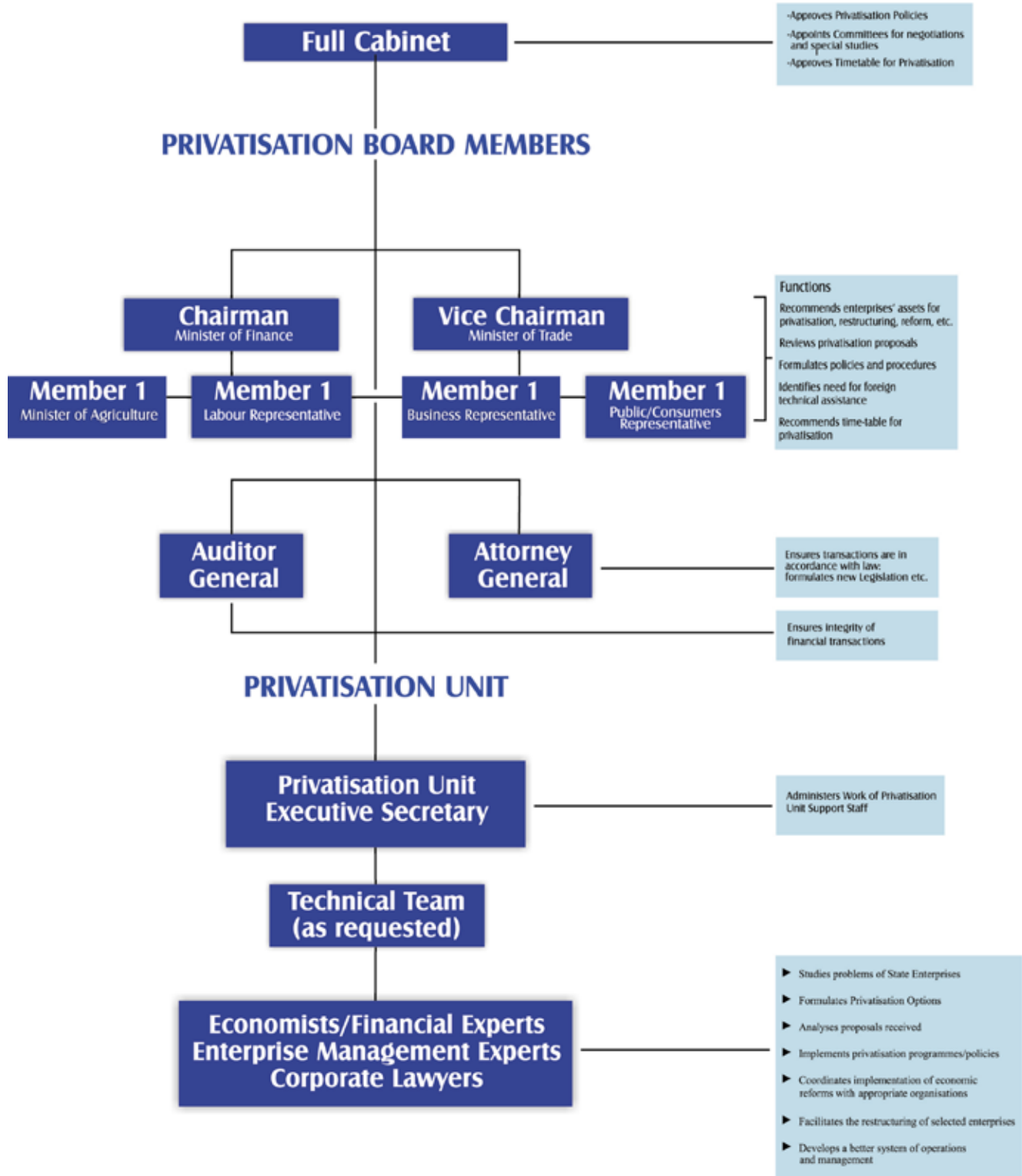
Where there is failure in bidding in the event that all bids received are declared unacceptable because of –

- a) Non-compliance to prescribed legal, technical and financial requirements as Indicated in the bidding rules;
- b) Bid prices received are lower than the floor price as fixed by the Government;

the Government may choose to conduct the disposition of its interest through negotiation. Accordingly, the Government will appoint a special ad-hoc committee to conduct the negotiations with interested parties on a one-on-one basis, or as a group. The negotiation will be undertaken with a view to ensuring that the Government obtains the best price, which should not be lower than the highest bid submitted at the failed bidding.

## APPENDIX II

# ORGANISATION CHART OF THE PRIVATISATION PROCESS



## FUNCTIONS OF THE PRIVATISATION UNIT

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### **The Privatisation Unit (PU) will be required to:**

- a) Prepare for Cabinet approval, the programme strategy and annual programme targets for privatisation or liquidation;
- b) Develop guidelines on operating policies and transparent procedures for the approval of the Cabinet;
- c) Recommend the appointment of consultants to value companies, prepare offering memorandum and elaborate marketing plans;
- d) Implement the privatisation of those State-Owned Enterprises (SOE's) and assets selected for inclusion in the programme;
- e) Participate in negotiations for the privatisation of SOE's;
- f) Review offer and make recommendations to the Cabinet on the terms and conditions for the sale of SOE's;
- g) Prepare financial and administrative audits of SOE not selected for privatisation;
- h) Develop a strategy to build public understanding and support for privatisation by providing material for press briefings and speeches by Government officials, etc; and
- i) Ensure that transparency of the privatisation programme is strictly respected and followed;
- j) Monitor operations of privatised entities in accordance with the terms and conditions of contract.

## APPENDIX IV

### PUBLIC CORPORATIONS DIVESTED 1989-92

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- (1) Guyana Timbers Limited
- (2) Guyana Telecommunications Corporation
- (3) Guyana Nichimo Limited
- (4) Guyana National Trading Corporation Limited
- (5) Guyana Leather Craft Limited
- (6) Livestock Development Limited (partially)
- (7) National Paint Company Limited
- (8) Demerara Woods Limited
- (9) Guyana Transport Services Limited
- (10) Quality Foods (Guyana) Limited
- (11) Sijan Palace Restaurant
- (12) Guyana Fisheries Limited
- (13) Guyana Rice Milling & Marketing Authority
- (14) Guyana Stockfeeds Limited (partially)
- (15) Soap and Detergents Limited



## APPENDIX V

### CORPORATIONS WITH GOVERNMENT PARTICIPATION

- (1) National Edible Oil Company Limited
- (2) Guyana Stockfeeds Limited – Farm Processing Unit
- (3) Guyana National Engineering Corporation
- (4) Hope Coconut Industries Limited
- (5) MARDS Workshop
- (6) Guyana Airways Corporation
- (7) Guyana Pharmaceutical Corporation
- (8) Guyana Fisheries Limited
- (9) Sanata Textiles Limited
- (10) Guyana Electricity Corporation
- (11) National Paddy & Rice Grading Centre
- (12) Guyana Rice Export Board
- (13) Guyana Stores Limited
- (14) Guyana National Shipping Corporation
- (15) Guyana National Printers Limited
- (16) Guyana Oil Company Limited
- (17) Guyana Post Office Corporation
- (18) Guyana Glassworks
- (19) Demerara Distillers Limited
- (20) Guyana Sugar Corporation
- (21) Linden Mining Company
- (22) Berbice Mining Company
- (23) National Bank of Industry & Commerce
- (24) Guyana National Cooperative Bank
- (25) Guyana Bank for Trade and Industry
- (26) Guyana Agricultural and Industrial Development Bank
- (27) GNCB Trust
- (28) Guyana Cooperative Mortgage Finance Bank
- (29) Guyana Cooperative Insurance Society
- (30) Seals and Packaging Industry Limited