increased foreign participation over time. (Countries with the longest lasting swap programs have achieved the highest degree of additional investments.)

- Reasonable timing restrictions on the repatriation of dividends and capital will not significantly deter investors.
- Screening of prospective investments allows swaps (and the accompanying fresh capital investment) to be channeled into priority areas such as export industries.

**Public and Natural Monopolies.** The sale of public and natural monopolies to the private sector has been vigorously pursued, with varying degrees of success, in the Latin American region. These monopolies have typically been highly inefficient and have imposed major fiscal costs while delivering poor levels of service. The overall goal of increasing economic efficiency can nonetheless be pursued through the privatization of these entities either by: (1) removing artificial restrictions on competition and market entry and special privileges; (2) breaking up the entity into several parts and simulating the effects of competition; (3) using a strong competition law to provide a remedy to potential new entrants against restrictive practices; and (4) undertakings in the sales contract to allow new entrants to obtain access on reasonable terms to essential facilities controlled by the monopolist.

All these techniques have been tried in Latin America, sometimes in conjunction with one another. It is, however, in the use of restructuring that countries in the region have adopted radical solutions. The challenge has been to find a way to sell monopolies that will encourage fresh investment to improve services, bring in international expertise, and at the same time ensure that the benefits are passed on to users at a reasonable cost.

**Conclusion**

The Latin American region has produced major successes in privatizing large numbers of state enterprises of almost all types. These successes can in large part be attributed to sound macroeconomic policies, consistency of implementation, nondiscrimination against foreign investors and a willingness to experiment on a case-by-case basis.

Innovative approaches have been adapted to the problems of securing labor support, restructuring the financial sector, and selling public and natural monopolies. Public offerings have been used effectively, both in small economies with thin capital markets (Jamaica) and in large economies (Chile).

Where the legal framework has been inadequate or sales have been conducted without full adherence to publicly known and fair rules, the process has faltered and public support has been lost. The objective should be to attain a widely publicized and competitive sale process in order to generate confidence in the program and achieve the best sales price. These lessons are equally applicable to developing countries in any setting.

**Remarks by Maxwell O. Chibundu***

My presentation will be in four parts. **First,** I will define the term "privatization" as I intend to use it. **Secondly,** I shall cursorily canvass privatization efforts in Africa, generally. **Thirdly,** I shall explore the processes of privatization by describing its practice in Nigeria. **Finally,** I shall attempt to answer some questions regarding linkage between (1) the concept and processes of privatization in Africa and (2) the broader global trend to which this panel has been asked to speak.

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Terminology

The understanding of the concept of privatization that I shall sketch here is a good deal less global and less systemic than that offered by Professor Farer.

The most straightforward way of defining the term is by describing it. The term sensibly applies in three situations: (1) transfer of publicly owned assets by a government (the ownership may be complete or partial) to individuals or entities that are not owned, directly controlled by or answerable to the government; (2) loosening of formal governmental control over the management of assets that remain nominally owned by the public sector or government. This is often referred to in Africa as "commercialization"; (3) debureaucratization or depoliticization of decision making regarding remaining structural elements of control such as the requirement for licenses or other permits prior to private conduct of business activities—for example, governmental removal of regulatory controls over foreign exchange transactions, joint venture partnerships between nationals and foreign entities, and the like. The linkage between the first two forms of "privatization" and this latter development is both intriguing in many ways, and least explored. I shall return to it later.

Overview of Privatization in Africa

The trend toward reliance on "market forces" as the normative basis for organizing economic intercourse has certainly reached Africa. Indeed, coupled with the highly visible movements toward politics by ballots, many commentators have referred to these developments in the past several years as constituting a "second revolution" paralleling the winds of change that saw the decolonization of the African Continent at the beginning of the 1960s. The evolving ideology seems to be that future prosperity lies in noncoerced exchange undertaken by private actors with minimal direction by the state. This ideology is the direct product of the practical failures of state-directed economic activities, especially in the 1970s and 1980s and perhaps, more importantly, of the ensuing downsizing—if not outright rejection—of the lofty aspirations of the youth of self-governance. The current trend toward privatization, then, cannot be divorced from the broken dreams and disillusionment; it expresses the belief that a dead end has been reached in one direction, and the other road must be taken.

A point often overlooked in current debate over issues of "sustainable development" is worth emphasizing. There is in Africa today, as there has always been in post-colonial Africa, a widely shared consensus among both intelligentsia and peasants that the central role of the state is to promote economic growth. The issue that cuts to the heart of any African is more likely to be the material impoverishment of the vast majority of his/her kin than environmental degradation, national sovereignty or national security. How is economic growth to be attained? Africa has tried numerous answers, often in reliance on the advice and education formulated, analyzed, dissected and pronounced acceptable in West European and North American institutions. In this process, the World Bank and the International Monetary Fund, with their coterie of paid consultants, have led the way. In this sense, "privatization" is kin to such more-or-less discredited (although not necessarily abandoned) protégés of the search for economic growth as "import substitution," "export promotion," "export processing zones," and their numerous offshoots, including foreign investment promotions, structural adjustments, and counter-reactionary and nationalist policies such as "indigenization" and "African socialism." Privatization, like these hitherto magic wands of development, has been embraced—at least in its initial stages—across the Continent.
Privatization has found proponents throughout Africa, without regard to political affiliation, colonial heritage, linguistic grouping or religious belief. It has found support among military rulers in Nigeria and socialist humanists in Tanzania; in both the gerontocratic regime of the Ivory Coast and the new republicanism of Zambia; and from Ghana’s Government, which endorses structural adjustment policy, as well as from the governments in Senegal, Egypt, Kenya and Zimbabwe, which do not. Nor is South Africa left behind in supporting it. Like such predecessors as import substitution, however, privatization takes on different forms in various societies. In Ghana, for example, it has meant little more than the central government selling out its majority interest in a gold-mining joint venture. On the other hand, Zambia, having begun its privatization program by selling the nationalized shares in copper mines, has promised more. Its five-year plan contemplates withdrawal of government support from such hitherto sacrosanct areas of public control as transportation infrastructure, for example, the railroads. Similarly, while South Africa moves ahead aggressively to divest government holdings in such strategic industries as steel and munitions and in South Africa Airways—for reasons many contend have to do with the anticipated shift in political control from whites to blacks—Tanzania’s tentative steps toward privatization have been limited to the commercialization of parastatals; that is, the government (or, if you prefer, the “people”) continue to retain formal ownership, and the management of each parastatal is instructed to run the organization as a profit-making, independent entity.

The result, then, is that although the concept of privatization is not indigenous to Africa, it has been shaped and subdued by the local environment, as have other instruments of economic growth. To illustrate the point, let us take a look at events in Nigeria.

The Privatization Process in Nigeria

My choice of Nigeria as the example in scrutinizing the process of privatization in Africa is not entirely coincidental with the fact that I hold a passport issued by her. I am certainly more familiar with the process there than with that in any other country. Yet, I believe the choice appropriate, because the forces that have shaped the process in Nigeria run the gamut that one might expect (of course, with varying levels of intensity) throughout the Continent. The Nigerian experience offers, I think, an excellent perspective from which to view the process throughout Africa.

The origins of privatization in Nigeria comprise a characteristically African blend: the pull of a domestically inspired attempt at regeneration, and the push of the need to satisfy external institutional obligations. The process formalized by the issuance of a decree by the military government in 1988 had begun in 1986, when that government, in an effort to justify its overthrow of a prior military government, advanced the move toward privatization as part of an integrated economic reform program modeled after the World Bank’s Structural Adjustment Program. Although popular outcries forced the government to forego direct borrowings from the World Bank and the IMF’s structural adjustment and economic stabilization facilities, the privatization program was more or less in full swing by 1989.

Central to the privatization process was the creation of a Technical Committee on Privatization and Commercialization (TCPC). The Committee was given independent status that made it answerable only to the President. Its charge was to “privatize” or “commercialize” 110 (of a possible 600) specifically identified entities in which the government held some interest. The task was to be completed
within four years—by June 1992. The specific method for doing so was left to the TCPC.

It is difficult to discern any pattern for the choice of the entities to be "fully privatized" (that is, to undergo completed government disinvestment), "partially privatized" (that is, to continue with some government ownership, but not necessarily control), or merely "commercialized." Thus, traditionally reliable yardsticks in the selection process, such as whether the entity was engaged in managing "essential" or "terminal" facilities (such as airports, rail stations or seaports), or whether the entity was essentially commercial in character (for example, flour mills, breweries or truck assembly plants), or whether the entity is essential for national defense (for example, railroads, shipping vessels or extractive industries) provide only a shaky basis for speculation as to the government's choices. Meanwhile, such "characteristically private entities" as banks, Nigeria Airways and others, initially excluded from any form of privatization, have been included in the privatization process by subsequent decrees. The result is that the privatization process has extended beyond the projected 1992 completion.

Subject to the decree identifying the extent to which an entity is to be privatized, the TCPC possesses, at least on the face of the law, plenary decision-making power over the method of privatization. The Committee appears to have employed the full panoply of market-based approaches in discharging its tasks. Its periodic reports and comments by its officials suggest that the primary approach to privatization is the floating of the shares of the to-be-privatized entity—the public sale of the shares through publicly announced and advertised invitations of offers to buy. Special efforts are made in soliciting such invitations to assure potential participation by members of the various groups that make up the country. Indications are that participation was extensive during the first two to three years of the program, and that most offerings were oversubscribed. Per-share subscription prices (as opposed to net proceeds) are administratively set by the country's Securities and Exchange Commission. Such shares are then listed on the Nigerian Stock Exchange and may be freely alienated. It appears that those who obtained allocations of shares—a process the operation of which is far from clear—received, at least initially, some windfall. More recent reports suggest that oversubscription is no longer the norm. It is not clear whether this is due to better pricing, poorer quality of assets or simply diminished interest.

The second approach is the use of "private placements," that is, privately negotiated buyouts of the government interest. Private placements have been made apparently with venture capitalists who round up persons to manage the assets, and occasionally with erstwhile joint venturers. The process for arranging the private placements seems far from transparent. The public is informed of the price at which an entity was disposed of, but of little else. The TCPC claims it resorts to private placement when one of three conditions exists: (1) the books of the entity are so difficult to reconcile that an offering prospectus with reasonably accurate financial figures cannot be readily issued; (2) the past performance of the entity has been so poor that there seems little chance of finding public investors; or (3) government participation in the entity is so small that it makes more sense to sell out to existing shareholders or a small group of new shareholders than to make a public offering with the attendant costs.

The third approach is to sell the physical assets of the entity. This is resorted to when the records of the entity are so poor that a private venturer is unwilling to hazard a guess as to the value of the entity as an ongoing concern. Even with this approach official reports suggest that prices have had to be renegotiated numerous
times, always downward, and that in some cases, physical assets thought to have
been sold turn out to be nonexistent.

The process of commercialization involves the devolution of control from politi-
cal to professional managers. The state retains nominal ownership of the entity,
but instructs that the entity’s affairs be run as if ownership were in private hands.
To buttress the meaningfulness of the instruction, professional managers are sup-
posed to be given contracts that assure their independence from all but the highest
level of political accountability. Typically, commercialization has been decreed
for traditional utilities such as electrical generation, waterworks, and of course
the national petroleum company. There is a good deal less information about the
commercialization process than there is about classic “privatization.” The pro-
cess of commercialization also appears to be slower. Thus, as of the beginning of
the year, only 23 of the 34 companies scheduled for commercialization had been
commercialized, as against the near complete privatization of the entities sched-
uled for privatization.

Lessons and Linkages

We can spend a good deal of time debating such issues as whether privatization
is a manifestation of indigenous aspirations or is externally imposed; whether it
is likely to promote growth; whether it is part of a continuum or something new;
whether it is good or bad. For the moment, I will take a raincheck on these issues,
and proceed with what I believe is a more constructive approach. Given what has
already transpired, what benefits are there and what dangers lurk ahead? How
does the process in Nigeria fit into a global pattern, assuming one to exist?

I believe that, whatever the motivation for privatization, there are welcome
outcomes. One of the clearest is that it may, as in Nigeria, act as a catalyst for
undertaking long-postponed tasks such as the rationalization and inventorying of
publicly held assets, the scrutiny of financial books, and some level of public
accounting for resources that were acquired haphazardly and have been, for the
most part, mismanaged.

Less clear-cut is whether privatization has encouraged the ploughing of private
savings into productive industries, and whether the distributive consequences of
the rearrangement of ownership patterns will be favorable in the long run. The
government has received remarkably little revenue, either per capita or aggregate,
for the shares and assets it has sold to the private sector. The national economy
today is in no better shape than it was in 1988. Nonetheless, the privatization
program may generate and strengthen numerous investment centers that could in
the future weather adverse conditions much better than the centralized govern-
mental institutions have in the past. In particular, the role of investment banks,
stock exchanges, and ordinary individuals encouraged to take speculative risks
may produce future economic growth. By the same token, however, the effect of
such success could be increased distributive inequalities paralleling other cleav-
eges within the society—notably, regional, linguistic, religious and socioeconomic
backgrounds.

Moreover, viewed against the overriding concern for economic growth, the
significance of privatization can all too easily be overemphasized. Privatization has
been taking place solely within that portion of the modern sector of the economy in
which the government is directly active. That sector in most African economies
generally constitutes no more than 20 percent of the GNP; that contrasts with 67
percent to 90 percent in the former communist countries of Eastern Europe. It
may be a dynamic sector, but it remains a small percentage of overall economies
in Africa.
There is, in my view, a potentially devastating consequence of privatization in Africa—its effects on the regulatory regimes of governments, particularly in the areas of social welfare, health, safety, labor relations and the like. Current regulation of these areas is quite lax. Deficiencies are often made up by the fact that the ultimate employer is itself the government; thus, employees can bring pressure to bear directly through strikes or political agitation. Privatization, however, removes this direct mechanism of assuring minimal responsiveness by governments. We may fairly ask whether the weak regulatory regimes characteristic of many African governments will be up to the task of acting as a dispassionate arbiter in conflicts between the new private owners and their workers, or between the new private owners and those on whom they would seek to shift any costs that can be readily externalized. Nothing in the privatization process suggests African governments are aware of this potential source of difficulty. If they are, they do not appear to be doing anything about it.

Privatization of Public Enterprises in Latin America

By Rafael A. Porrata-Doria, Jr.*

For the last three decades, most governments in Latin America have embraced the model of import substitution and promoted extensive state investment and ownership in undercapitalized or underdeveloped industries that have been perceived as valuable or desirable vehicles for national economic development.

The management of these state-owned or -controlled enterprises is accountable to a number of different constituencies (such as government bureaucracies, public employees, unions and consumers) with different (and inconsistent) political, social and economic objectives and management philosophies. Furthermore, after decades of public control, these enterprises are generally viewed as poorly managed, unprofitable, overstaffed, inefficient and noncompetitive in today’s global economy. Lastly, governments in the region find that these enterprises represent an unacceptable drain on the public treasury. Many governments have therefore undertaken programs to privatize their extensive holdings of public enterprises.

This presentation will first discuss the principal motivations expressed by Latin American governments for their privatization of public enterprises. I will then describe in general the process of privatization in the region, based on the experiences of Argentina, Brazil and Mexico. Finally, I will comment on the success of these privatization programs and consider the possibility that an “international law of privatization” is emerging in Latin America.

Reasons for Latin American Privatization Programs

In rough order of priority, the following is a distillation of the justifications most governments in Latin America have given for their privatization programs.

1. “I’m broke and I need the money.” The economic literature uniformly indicates that the governments of most states in Latin America emerged out of the 1970s and 1980s with a crushing debt burden that they could not pay, or even service. This debt crisis has engendered a scramble for solutions. Attempts to reduce governmental debt have included additional borrowing from multinational institutions like the World Bank, debt restructuring agreements, debt-equity swaps, tax increases, service cuts and economic austerity measures. These mecha-

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