CHAPTER V

Disinvestment Policy Statement And Conflicts (Modus Operendi)

The role of the state vs. market has been one of the major issues in development economics and policy. In a mixed economy such as India, historically the public sector had been assigned an important role. However in the year 1991 the national economic policy under went a radical transformation. The new policy of liberalization, privatization and globalization de-emphasized the role of the public sector in the nation’s economy.

Till the date the apologists of market oriented economic structures have proffered several arguments -

• The government must not enter into those areas where the private sector can perform better.

• Market driven economics are more efficient than the state planned economics

• The role of the state should be as a regulator and not as the producer.

• Government resources locked in commercial activities should be released for their deployment in social activities.

It is also contended that the function of many PSEs has been characterized by low productivity, unsatisfactory quality of goods, excessive manpower utilization, in adequate human resource development, and low rate of return on capital. For instance, between
1980 – 2002, the average rate of return on capital employed by PSU was about 3.4% as against the average cost of borrowing, which was 8.66%. Disinvestments (or divestment) of the PSEs has therefore been offered as one of the solution in this context.

**Disinvestment Involves**

**Definition**

“Withdrawal of capital investment from a company or country”

- The action of an organization or government selling or liquidating an asset or subsidiary. Also known as “divestiture”\(^5\)
- Reduction in capital expenditure, or the decision of company expenditure, or the decision of a company not to replenish depleted capital goods.
- “Disinvestment” as per SEBI (Substantial Acquisition of Shares) guidelines, means the sale by the central government/ state government of its shares or voting rights and/or control, in a public sector undertaking (PSU). The process of disinvestment indicates the process of privatization. Since the beginning of 1980s, the functioning of the public sector began to be questioned. It was held that public sector performed well only when protected through state monopolies, entry reservations, high tariffs and quotas etc. Since quite a large number of enterprises incurred losses year after year, it was argued that state should not be called upon to meet the losses of these enterprises out of tax payers.
money since in our country, the public sector had entered in too many areas, the question of withdrawing from these areas was also raised. Consequently, the question of privatization of public sector was debated. Disinvestment was considered as a right route to privatization.

The primary objectives of disinvestment as outlined by the Ministry of Disinvestment:

1. Realizing the large amount of public resources locked up in non-strategic PSEs, for redeployment in areas that are much higher on the social priority, such as basic health, family welfare, primary education and social and economic infrastructure.

2. Stemming further outflow of these scarce public resources for sustaining the non viable non-strategic PSEs;

3. Reducing the public debt that is straining to assume unmanageable proportions;

4. Transferring the commercial risk to the private sector wherever the private sector is willing and able to step in, and

5. Releasing other tangible and intangible resources such as, large manpower currently locked up in managing PSEs, and their time and energy for redeployment in high priority social sector that are short of such resources.
Economic Reforms And Disinvestment

Since 1990-91 successive Central Government had been planning to disinvest some of the Public Sector Undertakings. In pursuance to the policy of disinvestment by a Resolution dated 23rd August 1996 the Ministry of Industry (Department of Public Enterprises) Government of India constituted a Public Sector Disinvestment Commission initially for a period of three years. The Resolution stated that this Commission was established in pursuance of the Common Minimum Programme of the United Front Government at the Center. The Commission was an independent, non-statutory advisory body and was headed by Shri G.V.Ramakrishna who was to be its Full-time Chairman. The Commission had four part-time Members. The main terms of reference of the Commission are as follows:

- To draw a comprehensive long-term disinvestment programme within 5-10 years for the PSUs referred to it by the Core Group.
- To determine the extent of disinvestment (total/partial Indicating percentage) in each of the PSU.
- To priorities the PSUs referred to it by the Core Group In terms of the overall disinvestment programme.
- To ensure that appropriate measures are taken during the disinvestment process to protect the Interests of the affected employees including encouraging employee's participation In the sale process.
- To monitor the progress of disinvestment and take necessary measures & report periodically to the Government on the progress.
• To assist the Government to create public awareness and to give wide publicity to the disinvestment proposals so as to ensure the larger public participation.

The Disinvestment Commission [D.C.] will be advisory body and the final decision on the companies to be disinvested and mode of disinvestment is to be taken by the Government on the basis of advice given by the D. C. The PSUs would Implement the decision of the Government under the overall supervision of the D.C.

The earlier Resolution of 23rd August 1996 was partly modified on 12th January 1998 with deletion and substitution of some paras, thus slightly changing the role of the D.C. as under:

The Disinvestment Commission shall be an advisory body and its role and function would be to advise the Government on Disinvestment In those public sector units that are referred to it by the Government.

The Commission shall also advise the Government on any other matter relating to disinvestments. In making recommendations, the Commission will take into consideration the interests of workers, employees and others stake holders, in the PSU. The final decision on the recommendations will vest with the Government.
**Procedure for Disinvestment**

According to the Union of India, it laid down the broad procedures to be followed for processing the recommendations of the D.C. It was, Inter-alia, decided that:

- The Ministry of Finance (now Department of Disinvestment) would process recommendations of the D.C. by inviting comments from the concerned administrative machinery and submit the recommendation to the Core Group of Secretaries for Disinvestment for consideration;

- The recommendations of Core Group of Secretaries would then be taken to the Cabinet for decision;

- It was also decided that the Core Group of Secretaries would be headed by the Cabinet Secretary and its permanent members will be Finance Secretary, Revenue Secretary, Expenditure Secretary, Secretary Department of Public Enterprises, Secretary Planning Commission and Chief Economic Advisor, Ministry of Finance, and

- To implement the decisions, an Inter-Ministerial Group IMG headed by the Secretary/Joint Secretary of the Administrative Ministry and consisting-of Joint Secretaries of Department of Economic Affairs, Department of Public Enterprises, along with the Chairman and Managing Director of the Companies as Members and Director (Finance) of the company as) the Convenor. On 10th December 1999 the Department of Disinvestment was set up and the responsibilities which were earlier assigned to the Ministry of Finance have now been transferred to this Department. The department is working under the Ministry of Disinvestment.
The Disinvestment Has Two Elements

- Transfer of a block of shares to a SP (Strategic Partner) and
- Transfer of Management Control to the SP.

In the case of PSUs, if 51% shareholdings is transferred to SP it will lose the character of a Government Company and it requires changes in the Articles of Association especially in relation to the Presidential directives etc. In some cases transfer of 51% is not necessary and with a mere 26% the management control may be transferred to SP. The 26% has a special significance in Company Law since it is required getting a special resolution passed (which requires at least 3/4 majority in a General Meeting of members).

In case of strategic sale, the Government is taking all care about safeguarding the Governments/nation's interest, the Interest of the Company and those of employees by the Strategic Partner through execution of these agreements by insertion of all relevant clauses in it. Chart 5.1 shows the procedure for disinvestment.
Chart 5.1
Procedure for Disinvestment - Flow Diagram

Admin. Ministry input through Disinvestment Ministry

1. Core group of secretaries
   - List of enterprises to be considered for disinvestment
   - Sends recommendations

2. Disinvestment commission
   - Gives recommendations on these enterprises
   - Sends recommendations

3. Ministry of finance/DEA does analysis
   - Inputs from Adm. Ministry & Dept. of Disinvestment

4. Cabinet Committee on Disinvestment (CCD)
   - Sends final recommendations to

5. After approval of CCD
   - Core group of Secys. (CGD) (Does monitoring)

6. IMG constituted for implementation
   - IMG Reports to Core Group

Source: Sudhir Naib, Disinvestment in India, Policies, Procedures, Practices, Sage Publications, Pg. 251
After approval of CCD, the steps followed in case of a strategic sale are given in chart 5.2.

Chart 5.2
Process flow chart for a strategic sale

Source: Sudhir Naib, Disinvestment in India, Policies, Procedures, Practices, Sage Publications, Pg. 252
**Steps in Disinvestment Procedure**

The steps involved in Disinvestment are stated below:

- Proposals for disposal of any PSD (Public Sector Undertaking) are based on recommendations of DC (Disinvestment Commission) or CCD (Cabinet Committee on Disinvestment).
- After clearance by CCD, selection of Advisor and Legal Advisor through competitive bidding process.
- The Advisor assists GOI (Government) in the preparation and issue of EOI (Expression of Interest) in newspapers.
- After receipt of EOI from interested parties, prospective bidders are short-listed.
- Due diligence (DD) by the concerned PSU.
- Based on DD by PSU, the advisor prepares information Memorandum for giving it to the short-listed bidders who has entered into a Confidentiality Agreement.
- Advisor, with the help of Legal Adviser, prepares Share Purchase Agreement (SPA).
- Discussions among Advisors, Government & Representatives of PSU.
- Valuation of the PSU in accordance with the standard national practices- Discounted Cash Flow/Asset based /Market Value.
- The SPA and Shareholders Agreement (SHA) are finalized, based on the reactions received from the prospective bidders.
- These Agreements are then vetted by the Ministry of Law and are approved by Govt.
- The bids received are examined, analyzed and evaluated by the IMG (Inter Ministerial Group) and placed before the CCD for final approval of bids.
After the transaction is completed, all papers and documents relating to it are to be sent to the C&AG (Comptroller & Auditor General of India), to enable C&AG to undertake an evaluation of the disinvestments, for placing it in Parliament.

In the disinvestments process mentioned above, the DOD (Dept. Of Disinvestment) is assisted at each stage by an IMG (Inter Ministerial Group) comprising of officers from the Ministry of Finance, Department of Public Enterprises, the Administrative Ministry/ Dept. controlling the PSUs, officers of the concerned PSU, Officers of Dept. of Disinvestment & Advisors.

As per Regulation 10 of the SEBI (Acquisition of Shares) Regulation, 1997 no acquirer shall acquire shares or voting rights, which entitles such acquirer to exercise 15 or more of the voting right in a company, unless such acquirer makes a public announcement to acquire shares of such company in accordance with the regulations. Therefore SEBI's takeover code becomes applicable when a person (Strategic Partner) acquires more than 15% of the voting equity shares of the Company. Then the person has to offer to purchase shares not less than 20% of the equity of the Company thus he may have to buy 15% + 20% = 35%.

Similarly RBI also has an important role: As per RBI guidelines all PSU disinvestments are funded primarily by pledging of the shares so acquired with additional/third party security of varying degrees as appropriate from bidder to bidder. Further as a policy the successful bidder will not sell the shares for at least 3 years. RBI guidelines also impose a condition that the bank finance may be extended only for acquiring shares from the government and under open offer prescribed under the SEBI Take over Code. Subsequent acquisition cannot be funded and hence put and call options will not enjoy bank funding. Further RBI
guidelines permit bank finance only for disinvestments approved by the Government and therefore, bidders for state-level PSUs are excluded. RBI has also directed to banks to lend to the bidder having an excellent track record of servicing the loans from the banking systems.

**Advantages**

- The successful disinvestment of non-core PSUs would pave way for better governance & may improve the overall work environment.
- The Market capitalization of PSUs is likely to improve as the past experience suggests. (for instance the market capitalization Jumped from Rs 95000 Crores in January, 2002 to Rs.1,66,000 Crores in May 2002- registering an increase of almost
- After disinvestment the working of loss-making PSUs would improve under SP.

Table 5.1 ‘Pros and Cons of Disinvestment’ shows the advantages and disadvantages of Buy-Back and Cross Holding methods of disinvestment.
### Table 5.1

**Pros and Cons of Disinvestment**

<table>
<thead>
<tr>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BUY-BACK</strong></td>
<td></td>
</tr>
<tr>
<td>Reduces PSU’s equity, and increases Earnings Per Share</td>
<td>Increases the debt – equity ratio, and reduces PSU’s leveraging</td>
</tr>
<tr>
<td>Allows disinvestment without lowering GOI’s holding</td>
<td>Lowers free reserves, affecting PSU’s investment plans</td>
</tr>
<tr>
<td>Lowers the GOIs transaction costs, and reduces lead-time</td>
<td>Enriches exchequer but hurts PSU’s finances</td>
</tr>
<tr>
<td>Increases the GOIs revenues due to market-related prices</td>
<td>Derails plans of PSU privatization though disinvestment</td>
</tr>
<tr>
<td><strong>CROSS - HOLDING</strong></td>
<td></td>
</tr>
<tr>
<td>Improves PSU’s bottom line thanks to earnings from investments</td>
<td>Does not improve either the financials, or the valuation of stocks</td>
</tr>
<tr>
<td>Strategic holdings in other PSUs will help integrate operations</td>
<td>Real synergies remain exploited as there is no merger</td>
</tr>
<tr>
<td>GOI retains control since shares are sold to the other PSUs</td>
<td>Does not lead to real disinvestment or privatization</td>
</tr>
<tr>
<td>Results in low transaction and administrative costs</td>
<td>Saddles buyers with unnecessary investments in many cases.</td>
</tr>
</tbody>
</table>

*Source: Ranju Sarkar “PSU disinvestment: Robbing PSU (Peter) to pay exchequer (PAUL), ICFAI Reader, April 1999 page 71*
Disadvantages

- The Government will lose the money on account of dividend payout by PSUs. The dividend received (excluding Banks) by the Government is more than Rs.3380 Crores for the year ending March 2002.
- The chances of ASSETS STRIPING of profit-making PSUs after disinvestments are far more.
- It would be a departure from policy framed by the "Department of Disinvestment" (DOD) to restructure and revive potentiality viable PSUs.
- Disinvestment of profit making and dividend paying PSUs Is like killing a golden. Goose to remove all the eggs one time only. Further it would be similar to losing regular source of income.

Evolution of Disinvestment Policy

The policy of the government of India on disinvestment has evolved over a period and it can be briefly stated in the form of following policy statements made in chronological order.

1. Industrial policy statement of 24th July 1991 (Interim Budget 1991-92). The industrial policy statement of 24th July 1991 stated that the government would divest up to 20 percent its holdings in selected PSEs, in favour of mutual funds and financial or investment institutions in the public sector undertaking. The disinvestment, which will broad base the equity, improve management and enhance the availability of resource for these enterprises, is also expected to yield Rs.2500 crores to the exchequer in 1991 -92. The modalities and details of implementing this decision, which are being worked out, would be announced separately. “The policy, enunciated by the government, under the Prime Minister Shri.
Chandrashekhar was to divest upto 20% of the government equity in selected PSEs in favour of public sector institutional investors.

2. Industrial Policy statement of 24 July, 1991- In the case of selected enterprises, part of government holding in the equity share capital of these enterprises will be disinvested in order to provide further market discipline to the performance of public enterprises.”


“In order to raise resources, encourage wider public participation and promote greater accountability, up to 20% of government equity in selected public sector undertakings would be offered to mutual funds and investment institutions in the public sectors, as also to workers in these firms”

4. Report of the committee on the disinvestment of shares in PSEs (Rangrajan committee): April 1993

The Rangrajan committee recommendations emphasized the need for substantial disinvestment. It stated that the percentage of equity to be divested could be 49% for industries explicitly reserved for the public sector. It recommended that in exceptional cases, such as the enterprises, which had a dominant market share or where separate identity has to be maintained for the strategic reason, the target public ownership level could be kept at 26%, that is, disinvestment could take place to the extent of 74%. In all other cases, it recommended 100% disinvestment of government stake. Holding of 51% or more equity by the government was recommended only for 6 schedule industries, namely.
i. Coal and lignite

ii. Mineral oils

iii. Arms, ammunition and defense equipment

iv. Atomic energy

v. Radio active minerals, and

vi. Railway transport

However the government did not take any decision on the recommendation of the Rangrajan Committee.

Table 5.2 shows changes in the reservation policy towards public sector.
### Table: 5.2

**Changes in Reservation Policy towards Public Sector**

<table>
<thead>
<tr>
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<th></th>
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</thead>
<tbody>
<tr>
<td>1. Arms and ammunition and allied items of defence equipments</td>
<td>1. Arms and ammunition and allied items of equipment, defence aircraft and warships</td>
</tr>
<tr>
<td>4. Heavy castings and forgings of iron and steel</td>
<td>Mineral oils</td>
</tr>
<tr>
<td>5. Heavy plant and machinery required for iron and steel production, for mining, for machine tool manufacture and for such other basic industries as may be specified by the Central Government</td>
<td>5. Mining of iron ore, manganese ore, chrome ore, gypsum, sulphur, gold and diamond</td>
</tr>
<tr>
<td>6. Heavy electrical plant</td>
<td>6. Mining of copper, lead, zinc, molybdenum and wolfram</td>
</tr>
<tr>
<td>7. Mining of iron ore, manganese ore, chrome</td>
<td>8. Railway transport</td>
</tr>
<tr>
<td>9. Mining of iron ore, manganese ore, chrome</td>
<td></td>
</tr>
<tr>
<td>10. Mining and processing of copper, lead, zinc,</td>
<td></td>
</tr>
<tr>
<td>11. Minerals specified in the Schedule to the</td>
<td></td>
</tr>
<tr>
<td>12. Aircraft</td>
<td></td>
</tr>
<tr>
<td>13. Air transport</td>
<td></td>
</tr>
<tr>
<td>14. Railway transport</td>
<td></td>
</tr>
<tr>
<td>15. Shipbuilding</td>
<td></td>
</tr>
<tr>
<td>16. Telephones and telephone cables, telegraphs</td>
<td></td>
</tr>
<tr>
<td>17. Generation and distribution of electricity</td>
<td></td>
</tr>
</tbody>
</table>

Note: Items struck off in Col. (2) are no longer reserved for the public sector.

# The nomenclature changed to: "Substances specified in the schedule to the Department of Atomic Energy notification No. S.0.212 (E) dated 15-03-1995.

Source: PSU Disinvestment Concepts and Cases, ICFAI University Pg. Xi
Table 5.3 shows the Core and Non-Core group of industries.

**Table 5.3**

**Grouping of PSUs**

<table>
<thead>
<tr>
<th>Group</th>
<th>Name of PSUs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Core</td>
<td>ONGC, OIL, BRPL, SAIL, MTNL, GAIL, AI, CONOR,</td>
</tr>
<tr>
<td></td>
<td>PHL, NLC, NCL, SECFL, WCFL, BALCO, NALCO, IBP,</td>
</tr>
<tr>
<td></td>
<td>NTPC, PGCIL, NHPC, KIOCL,</td>
</tr>
<tr>
<td>Non-core</td>
<td>SCI, ITDC, IPCL, FACT, NFL, MFL, HCIL HTL, ITI,</td>
</tr>
<tr>
<td></td>
<td>MFIL, HLL, BEML, HCL, HZL, MOIL</td>
</tr>
</tbody>
</table>

5) **Budget speech by Finance Minister Shri P. Chidambram (1996-97) on 22\textsuperscript{nd} July, 1996:**

“Government had approved proposal to establish a disinvestment commission. Any decision to disinvest will be taken and implemented in a transparent manner. Revenues generated from such disinvestment will be utilized for allocation for education and health and for creating a fund to strengthen public sector enterprises. The interim budget for 1996-97 took credit for Rs.5000 Crores through disinvestment. I proposed to take credit for the same amount.”

Pursuant to the policy of the united front government, a disinvestment commission was setup in 1996, by August 1999, it made recommendation on 58 PSEs. The recommendations indicated a shift from public offerings to strategic / trade sales with transfer of management.

7) Budget speech by finance minister Shri. P. Chidambram (1997-98) on 28th Feb 1997

“The commission has observed,” The essence of long term disinvestment strategy should be not only to enhance budgetary receipts but also minimize budgetary support to words unprofitable units while ensuring their long term viability and sustainable levels of employment in them. “Government agrees to this view and I will appeal to honorable members to take a positive view of disinvestment”


“Government had also decided that in the generality of cases, the government share holding in public sector enterprises would be brought down to 26% in cases of public sector enterprises involving strategic considerations, government will continue to retain majority holding. The interest of workers shall be protected in all cases.”

Government strategy towards public sector enterprises will continue to encompass a judicious mix of strengthening units, privatizing non strategic ones through gradual disinvestment or strategic sale and devising viable rehabilitation strategies for weak units”.

10) Strategic and Non-strategic classification:

On 16\textsuperscript{th} March 1999, the Government classified the public sector enterprises into strategic and non-strategic areas for the purpose of disinvestment. It was decided that the strategic public sector enterprises would be those in the areas of:

- Arms and ammunitions and the allied items of defense equipment, defense aircrafts and worships;
- Atomic energy (exception the areas related to the generation of nuclear power and applications of radiation and radio-isotopes to agriculture, medicine and non strategic industries);
- Railway transport.

All other public sector enterprises were to be considered non strategic, for the non strategic public sector enterprise it was decided that the reduction of government stake to 26% would not be automatic and the manner and space of doing so would be worked out on a case to case basis. A decision in regard to the percentage of disinvestment i.e. government stake going down to less than 51% or to 26% would be taken on the following consideration. :-
Whether the industrial sector require the presence of the public sector as countervailing force to prevent concentration of power in private hands, and Whether the industrial sector requires a proper regulatory mechanism to protect the consumer’s interests before public sector enterprises are privatized.
Excerpts From The Address By The President Shri. K.R. Narayanan To The Joint Session Of Parliament

“The public sector had played a laudable role in enabling our country to achieve the national objective of self-reliance however, the significantly changed economic environment that now prevails both in India and globally makes it imperative for both the public sector and private sector to become competitive learning from our experience, especially over a last decade, it is evident that disinvestment in public sector enterprises is no longer a matter of choice, but an imperative. The prolonged fiscal hemorrhage from the majority of these enterprises can not be sustained any longer. The disinvestment policy and the transparent procedures adopted for disinvestment have now been widely accepted and shift in emphasis from the disinvestment of minority shares to strategic sale has yielded excellent results. The government has taken two major initiatives to improve the safety net for the workers of PSEs. The first advanced VRS benefits in those PSUs where wage revision has not taken place in in 1992 or 1997. The second increased training opportunities for self-employment for workers retiring under VRS.
Excerpts Of The Budget Speech For 2002-03 Of The Finance Minister Shri. Yashwant Sinha On 28th Feb, 2002

“With the Streamlined procedure for disinvestment and privatization, I am happy to report that the government has now completed strategic sale in 7 public sector companies and some hotels properties of the hotel corporation of India (HC9) and the Indian Tourism Development Corporation (ITDC). The change in approach from the disinvestment of block of shares to strategic investors has improved the price earning ratios obtained. We expect to complete the disinvestment in another 6 companies and the remaining hotels in HCI and ITDC this year. Disinvestment receipts for the present year are estimated at Rs.5000 crores excluding the special dividend from VSNL of Rs.1687 crores. Encouraged by these results, I am once again taking credit for a receipt of Rs 12000 crore from disinvestment next year.”

Suo-Moto Statement of Arun shourie, Minister of Disinvestment, made in both houses of Parliament on 9th December, 2002

The main objective of disinvestment is to put national resources and assets to optimal use and in particular to unleash the productive potential inherent our public of disinvestment specifically aims at:

- Modernization and up gradation of Public Sector Enterprises;
- Creation of new assets;
- Generating of unemployment; and retiring of public debt.

Government would continue to ensure that disinvestment does not result in alienation of national assets. Which, through the process of
disinvestment, remain where they are it will also ensure that disinvestment does not result in private monopolies.

In order to provide complete visibility to the government’s continued commitment of utilization of disinvestment proceeds for social and infrastructure sectors. The government would set up a “Disinvestment proceeds Fund”. This fund would be used for financing fresh employment opportunities and investment, and for retirement of public debt.

For the disinvestment of natural asset companies, the ministry of finance and the ministry of disinvestment will work out guidelines.

The ministry of finance will also prepare for coordination of the cabinet committee on disinvestment a paper on the feasibility and modalities of setting up an asset management company to hold. Manage and dispose the residual holding of the government in the companies in which government equity has been disinvested to a strategic partner.

Excerpts from the Budget speech for 2003-04 of the finance minister Shri Jaswant Singh on 28th Feb, 2003

“I am confident that the passé of disinvestment will accelerate in the coming year. I wish to also state that details of about the already announced disinvestment fund and asset management company, to hold residual shares post disinvestment, shall be finalized early in 2003-04…… disinvestment is not merely for mobilizing revenues for the government, it is mainly for unlocking the productive potential of these undertakings and for reorienting the government, away from business and towards the business of governance.”5.2

5.2: Investopedia.com
Present Policy: “National Common Minimum Program”

The policy of the government as stated in the national common minimum program of May 2004 is as follows:

“The government is committed to a strong and effective public sector whose social objectives are met by its commercial functioning. But for thus, there is a need for selectivity and strategic focus. It is pledged to devolve full managerial and commercial autonomy to successful, profit making companies operating in a competitive investment. Generally profit-making companies will not be privatized.

All privatization will be considered on a transparent and consultative case-by-case basis. The existing Navaratna Company will be retained in the public sector while these companies raise resources form the capital market. While every efforts will be made to modernize and restructure sick public sector companies and revive sick industry, chronically loss making companies will either be sold off, or closed, after all worker have got their legitimate dues and compensation. The government will induct private industry to turn around companies that have potential for revival.

The government believes that privatization should increase competition, not decrease it. It will not support the emergency of any monopoly that only restrict competition. It also believes that there must be a direct link between privatization and social needs- like, for eg., the use of privatization revenues for designated social sector schemes. Public sector companies and nationalized banks will be encouraged to enter the capital market to raise resources and offer new investment avenues to retail investors.”
Government decided on the 27th Jan 2005 to constitute a fund into which the realization from the sale of minority share holding of the government in profitable PSEs would be canalized. The fund would be maintained outside the consolidated fund of India and would be professionally managed by selected public sector financial entities, which have the requisite experience, to provide sustainable returns to the government which out affecting the corpus. This fund would be called “National Investment Fund” to denote the permanent nature of the corpus and the objectives to which its income is to be applied. A detailed plan for the constitution of the fund and the specific scheme to finance from its income would be prepared separately. The broad investment objectives will be:

i. Investment in social sector objects, which promote education, health care and employment.

ii. Capital investment in selected profitable and revival public sector enterprises that yield adequate returns in order to enlarge their capital base to finance expansion/diversification.
Excerpts From The Address By The Precedent Dr. A.P.J. Kalam To The Joint Session of Parliament On 7th June 2004

“The government is committed to a strong and effective public sector whose social objectives are made by the commercial functioning. But for this, there is a need for selectivity and a strategic focus. My Government devolves fully managerial and commercial autonomy to successful, profit – making companies operating in a competitive environment. Privatization will be considered on a case-by-case basis. Chronically loss-making company will either be sold off or closed.

After all workers have got their legitimate dues and compensation. The government will induct private industry to turn around companies that have potential for revival.

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Excerpts From The Budget Speech For 2004-05 of The Finance Minister Shri. P. Chidambaram on 8th July, 2004

“The NCPM has declare the government’s policies on public sector enterprises. While sick or ailing public sector enterprises have stirred a debate, not enough attention is paid to the healthy PSEs. I am happy to announce that in 2004-05 the government will provide equity support of Rs. 14194 crore and loans of Rs.2132 crore to central PSEs (including Railway). Major investments will be made in PSEs falling in the sectors of power, telecommunications, railways, roads, petroleum, coal and civil aviation. I am sure Hon’ble Members will appreciate the deep commitment of Government to a strong and effective public sector operating in a competitive environment.

There is of course, another side to the public sector. This side is beset with problems and we must address them with responsibility and courage. Disinvestments and privatization are useful economic tools. We will selectively employ these tools, consistent with the declared policy. As a first step, I propose to establish a Board for Reconstruction of Public Sector Enterprises (BRPSE). The Board will advise the Government on the measures to be taken to restructure PSUs, including cases where disinvestments or closure or sale is justified.
One of our Navaratna companies, NTPC, has filed a prospectus with SEBI to raise capital through a public issue. Consequently, Government’s holding in NTPC will be marginally diluted. In order to extract value for its holding and to compensate the effect of dilution, Government intends to piggy-back on the public issue of NTPC and disinvest approximately five per cent of its holding. This and some year. While the disinvestment revenues will be part of the Consolidated Fund of India, I shall, while presenting the Budget for 2005-06, report to the House the manner in which the said revenues have been or will be applied for specified social sector schemes.

The NCMP contains clear policy guidelines regarding disinvestment in PSEs. As long as Government retains control over the PSEs, and its public sector character is not affected. Government may dilute its equity and raise resources to meet the social needs of the people. I propose to ask the BRPSE to examine each case objectively and make recommendations on disinvestment, consistent with NCMP.

I am also happy to announce that I have taken the business of restructuring quite seriously. Hindustan Antibiotics Limited will be given financial support for restructuring. A rescue package has been worked out for Indian Telephone Industries (ITI), and ITI will be given Rs.508 crore to remain out of the net of the BIFR.”
Disinvestment Policy Statement And Conflicts (Modus Operendi)

Disinvestment Policy: Conflicts – Modus Operendi

Disinvestment program was initiated as one part of economic reforms, which began in the decade of 1990s. Even after a decade of economic reforms, the government of India is yet to evolve a proper method pf disinvestment. Each time the issue of disinvesting a public enterprise, arises, there is a hue and cry on the methodology adopted. The method of disinvestment remains a controversial issue. Whether it should be a strategic sale or an open offer remains a point of debate thus delaying the process further.

Instead of deciding on a mode of disposal on a case-to –case basis, a better option would be to have certain standard procedures to be adopted for these disbursements.

Two implications of the disinvestment program were quite clear. Firstly, the undertaking concerned will retain the character of PSUs, as at least 80% of equity will still remain in the government hands. Secondly all mutual funds and financial institutions such as UTI, LIC and GIC which would by this equity in the first stage are public sector enterprises themselves and the fears were that they may be instructed to invest at prices government immediately about the undertakings in which disinvestment would take place, the criteria for their selection and how the prices would be fixed.
Consensus On Basic Principles

The Bureau of Public Enterprises, the Ministry of Finance, and representatives of mutual funds and institutions have a consensus on over certain broad principles, which were and clearly spelt out in their meetings, which were:

1. The companies that will be offered will all be profit-making PSUs.
2. The institutions will be totally free to bid for them according to their commercial judgment. If they do not want to bid, they were also free not to do so.
3. The institutions will also be totally free to market to the public as and when they like. The companies whose shares are sold will take immediate steps to get them listed on the stock market.
4. For shares of each company, the government will fix the reserve price and will be price does not come up to the level of reserve price.
5. The methodology of price fixation will follow traditional principles plus the discounted cash flow (DCF) method for future earnings. It was well understood that since the DCF method itself is based on several assumptions, which could be subjective, there can be wide variations in the projected cash flows and hence between the bid and reserve price one would arrive at.