# Chapter 6

# SOE Reform in Thailand: Preparing for Free Trade Agreements

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**Abstract**

In its Twenty-year National Strategic Plan (2017 – 2036) Thailand aims to become a "trading nation", a nation which excels in international trade and investment by the year 2036. If so, it will have to secure free trade agreements with major trading partners namely, the United States (US) and the European Union (EU) in order to obtain preferential market access for its exporters and investors. But more importantly, Thailand will have to undertake several domestic reforms in order to ensure compliance to "behind-the-border" issues commonly found in free trade agreements with the US and the EU, one of which concerns the regulation and trade practices of state-owned enterprises (SOEs).

This paper assesses the extent to which current domestic rules and regulations governing SOEs provide unfair advantages to enterprises of the state in comparison to their private counterparts. It also examines whether trade practices of Thai SOEs favor their own kin by benchmarking against standards stipulated in the Trans-pacific Partnership Agreement (TPP), a free trade agreement championed – and subsequently abandoned -- by the US. Although the fate of the TPP at this point is anything but certain, the substantive provisions contained in the agreement are representatives of those likely to be found in future advanced free trade agreements with the US and the EU.

The result reveals several "trouble spots" in particular (1) the exemption of SOEs from the competition law; (2) exemption of un-corporatized SOEs from corporate tax; and (3) the granting of preferential treatment for state owned suppliers in the public procurement of certain goods or services such as fuel, air transport services, advisory and consultancy services, utilities and printing services.

State subsidization, another issue addressed in the TPP, is most prevalent among state-owned specialized financial institutions (SFIs) such as the Government Savings Bank, the SME Bank, or the Bank for Agriculture and Agricultural Co-operatives. Although these subsidies – often in the form of soft loans and occasional capital injection – have adverse effects on private financial institutions such as commercial banks as their clientele overlaps, these SFIs do not provide cross-border services and so are exempted from non-commercial assistance provisions stipulated in the agreement.

Some of these concerns are already being or have been addressed by the Thai government. For example, the new procurement law, the Government Procurement and Supplies Management Act 2017 abolished the provision which grants preferential treatment

to the Government Pharmaceutical Organization and relieved SOEs that operate in a commercial environment from state procurement regulations. The National Legislative Assembly, meanwhile, is deliberating the competition bill that will abolish the current exemption for SOEs. To do away with the corporate tax exemption for unincorporated SOEs, however, will require an amendment of the tax code, which is not yet on the government's reform agenda.

Going forward, Thailand needs to overhaul its SOE sector that is both inefficient and vulnerable to political interventions. Disciplines imposed by a free trade agreement such as the TPP, which focuses narrowly on market access, are indeed useful, but limited in scope. If Thai SOE -- stripped of their monopolistic power and statutory privileges – are to remain competitive, a major reform in their governance is imperative.

## 1. Introduction

In its Twenty-year National Strategic Plan (2017 – 2036) Thailand aims to become a "trading nation", a nation which excels in international trade and investment by the year 2036. Indeed, the country has always depended on the external sector to generate economic growth. Thailand exported its way out of the Asian financial crisis back in 1997 through the markedly weakened Baht. Now, with persistently stagnant domestic consumption and investment due to chronic political turbulence, Thailand depends more than ever on the global market to deliver the economic prosperity it hopes to achieve.

Recognizing the importance of international trade and investment, Thailand has negotiated and signed free trade agreements with 12 economies, including major Asian economies such as China, Japan, South Korea, India, Australia, and Southeast Asian Nations or ASEAN. However, it still lacks trade agreements with major Western economies, namely, the United States and the European Union. Thai businesses were extremely concerned when the country failed to join the Trans-Pacific Partnership (TPP) while its ASEAN neighbors, namely Vietnam, Malaysia, Singapore and Brunei jumped on the bandwagon. According to TDRI, only 56 per cent of Thailand's export (in terms of value) goes to countries with which Thailand has a free trade agreement with, compare with 64 per cent for Malaysia and 75 per cent for Singapore. If the TPP were to be implemented, the figure for Malaysia would leap to 75 per cent and Vietnam from 43 to 82 per cent because of the US market. No doubt, to secure markets overseas for its exporters, Thailand cannot afford to be excluded from future major trade agreements.

But trade and investment privileges are not the only benefits from a free trade agreement with a major industrialized country. As these agreements include multiple "behind-the-border" issues such as government procurement, competition policy, labor and environmental standards, state-owned enterprise discipline and so on, Thailand stands to gain markedly from aligning current domestic standards and practices with international ones. Although these reforms can be undertaken unilaterally and independently of a free trade agreement, strong resistance from vested interest groups will likely derail any attempt in the absence of a solid backing of a binding international agreement.

As state-owned enterprises (SOEs) play a very important role in the Thai economy, this paper seeks to assess the extent to which the management and practices of SOEs in Thailand comply with various provisions in the TPP designed to ensure a level playing field between the public and private enterprises. This exercise will help Thailand prepares for future free trade negotiations with major Western countries which contain similar provisions on SOEs to those found in the TPP.

The structure of this paper is as follows. The first section illustrates the landscape of SOEs in Thailand. The second section describes the pertinent rules and regulations governing state-owned enterprises. The third to the sixth sections address the various disciplines or obligations imposed by the TPP namely, designated monopolies, non-discrimination and commercial considerations, non-commercial assistance to SOEs and transparency. The final section provides a summary and conclusion including policy recommendations for SOE reform in Thailand.

## 2. The role of SOEs in the Thai Economy

SOEs play an important role in the Thai economy. In 2015, their combined revenue is equivalent to 40 per cent of the country's GDP, a non-trivial jump from 32 per cent in 2010. No doubt, the state owned enterprises have been expanding at a higher rate than has the Thai economy which witnessed a lackluster performance during the last few years.

Thailand currently has 58 enterprises in which the state directly owns more than 50 per cent of the voting rights. Out of that number, 33 are considered to be enterprises engaged in commercial activities as defined in Chapter 17 of the TPP. Most of these enterprises are involved in public services such as electricity, transport, telecommunications as well as strategic industry such as energy. There are also several state-owned Specialized Financial Institutions (SFIs) engaged in the provision of credits and other financial assistance to farmers, exporters, small and medium enterprises and Islamic business and community as can be seen in table 1 below.

**Table 1: State-owned Enterprises in Thailand and their Revenue in 2015**

| Name of SOE | Revenue (mil. baht) |
|---|---|
| **Energy Sector** | 3,267,042.97 |
| Metropolitan Electricity Authority | **198,654.76** |
| Provincial Electricity Authority | **465,814.99** |
| PTT Public Limited Company | **2,063,727.44** |
| Electricity Generating Authority of Thailand | **538,845.78** |
| **Transport Sector** | 295,876.15 |
| *Land Transport Sector* | 34,079.43 |
| Expressway & Rapid Transit Authority of Thailand | **16,060.62** |
| Mass Papid Transit Authority of Thailand | **5,507.52** |
| State Railway of Thailand | **0.00** |
| The Transport Co.,Ltd | **4,450.52** |
| Bangkok Mass Transit Authority | **8,060.77** |
| *Water Transport Sector* | 14,474.47 |
| Port Authority of Thailand | **14,474.47** |
| *Air Transport Sector* | 247,322.25 |
| Airports of Thailand Public Limited Company | **45,736.08** |
| Civil Aviation Training Center | **0.00** |
| Aeronautical Radio of Thailand Ltd. | **8,862.97** |
| Thai Airway International public Company Ltd. | **192,723.20** |
| **Communication Sector** | 129,622.94 |
| TOT Public Limited Company (listed but not traded) | **47,847.71** |
| CAT Telecom Public Limited Company (listed but not traded) | **54,915.66** |

| | |
|---|---|
| Thailand Post Company Limited | **23,019.96** |
| MCOT Public Limited Company | **3,839.61** |
| **Public Facilities Sector** | 48,659.17 |
| Metropolitan Waterworks Authority | **19,723.65** |
| Provincial Waterworks Authority | **28,749.22** |
| Wastewater Management Authority | **186.30** |
| National Housing Authority | 0.00 |
| **Industry Sector** | **5,749.34** |
| Industrial Estate Authority of Thailand | 5,749.34 |
| **Social And Technology Sector** | **13,704.20** |
| The Government Pharmaceutical Organization | 13,704.20 |
| **Specialized Financial Institutions** | **432,896.49** |
| Bank for Agriculture and Agricultural Cooperatives | 81,037.62 |
| Export-Import Bank of Thailand | 4,207.42 |
| Small And Medium Enterprise Development Bank of Thailand | 6,216.33 |
| Secondary Mortgage Corporation | 685.41 |
| Small Business Credit Guarantee Corporation | 7,543.73 |
| Government Savings Bank | 111,853.85 |
| Government Housing Bank | 45,034.87 |
| Krung Thai Bank Public Limited Company | 171,145.27 |
| Islamic Bank of Thailand | 5,171.99 |
| TOTAL | **4,193,551.26** |

Source: State Enterprise Policy Office (SEPO)

State owned enterprises in Thailand comprise of incorporated or corporatized companies and unincorporated. The distinction is indicated in the name. Those that are incorporated or have been corporatized are given the designation as "limited companies" or if listed in the Thai stock market, "Public Limited Company (PLC)". Those that remain government agencies often bear the name of "organization" or "authority".

In terms of size, the PTT Plc. alone contributes to almost 3 quarters of combined income of all SOEs. The company is engaged in the entire energy supply chain from energy exploration (through its subsidiary, the PTTEP PLC), natural gas transmission, gas separation, oil refinery, to gas distribution and petroleum stations. It is currently the sole buyer of petroleum and natural gas produced locally and sole operator in the gas transmission and gas separation businesses. The company is also dominant in the oil refinery market as well as downstream gas distribution and retail markets.

Not all 33 SOEs whose names are shown in table 1 are subject to the TPP provisions. According to article 17.4, SOEs whose revenues are below the 200 million SDRs (roughly10 billion baht) threshold are exempted from obligations governing non-discriminatory treatment and commercial consideration, non-commercial assistance and transparency. Thus, only 18 SOEs whose names are shown in table 2 below will be subject to the substantive provisions in Chapter 17. However, their combined revenue which totals 4.13 trillion baht is equivalent to 98.55 per cent of total revenue of all 33 SOEs.

**Table 2: Name of SOEs whose revenue exceeds SDR 200 million (10 billion baht)**

| Name | Revenue (mil. Baht) |
|---|---|
| 1. PTT Public Limited Company | 2,063,727.44 |
| 2. Electricity Generating Authority of Thailand | 538,845.78 |
| 3. Provincial Electricity Authority | 465,814.99 |
| 4. Metropolitan Electricity Authority | 198,654.76 |
| 5. Thai Airway International Public Limited Company | 192,723.20 |
| 6. Krung Thai Bank Public Limited Company | 171,145.27 |
| 7. Government Savings Bank | 111,853.85 |
| 8. Bank for Agriculture and Agricultural Cooperatives | 81,037.62 |
| 9. CAT Telecom Public Limited Company | 54,915.66 |
| 10. TOT Public Limited Company | 47,847.71 |
| 11. Airports of Thailand Public Limited Company | 45,736.08 |
| 12. Government Housing Bank | 45,034.87 |
| 13. Provincial Waterworks Authority | 28,749.22 |
| 14. Thailand Post Limited Company | 23,019.96 |
| 15. Metropolitan Waterworks Authority | 19,723.65 |
| 16. Expressway & Rapid Transit Authority of Thailand | 16,060.62 |
| 17. Port Authority of Thailand | 14,474.47 |
| 18. The Government Pharmaceutical Organization | 13,704.20 |
| Total revenue | 4,133,069.35 |

Source: State Enterprise Policy Office (SEPO)

Most Thai state enterprises are profit-making rather than loss-making, mainly because (1) they are monopolies in the markets they operate; (2) they are granted preferential treatment in state procurement or (3) they obtain financial assistance from the government in various forms such as soft loans or occasional capital injection.

SOEs that are incorporated pay corporate income tax as do private enterprises. Those that are not yet corporatized, however, are treated as a state department and thus, do not pay corporate income tax. However, they are required to transfer a percentage of their profits to national coffer depending on the financial needs of both the SOEs themselves and the government. For example, during the Asian financial crisis which broke out in 1997, the state telecom operators which at the time enjoyed impressive profit figures due to income generated from concession schemes, were required to transfer as much as 80 per cent of their annual profits to the state depleted coffer. In 2016, SOEs transferred the sum of 147 billion baht to state coffers, an amount equivalent to about 5.3 per cent of total state revenue of 2.7 trillion baht. This does not include dividends that the state receives as a major shareholder in SOEs that are listed in the stock exchange such as the PTT PLC, Airport of Thailand PLC and Krung Thai bank PLC. If this sum were to be included, the total contribution would be at least 184 billion baht or 6.8 per cent of total state revenue. This indicates that the state enjoys non-trivial financial contributions from its enterprises and thus will likely resist policies that will undermine this treasure-trove.

## 3. Regulation of State-owned Enterprises

Thai state owned enterprises are subject to multiple regulations governing budgeting, auditing, procurement, selection of executives, investment and employment stipulated under several laws as shown in table 3 below. Most of the regulations apply to state organizations in general, with the exception of the State Enterprise Labor Relations Act BE 2543 (2000). By law, state owned enterprises have greater flexibility than state departments in setting own salaries and compensation. However, as the salary/compensation of the top executives of the company, namely the CEO and the Board of Directors, in unlisted SOEs is capped by the rate regulated by the Ministry of Finance, this flexibility is limited in practice.

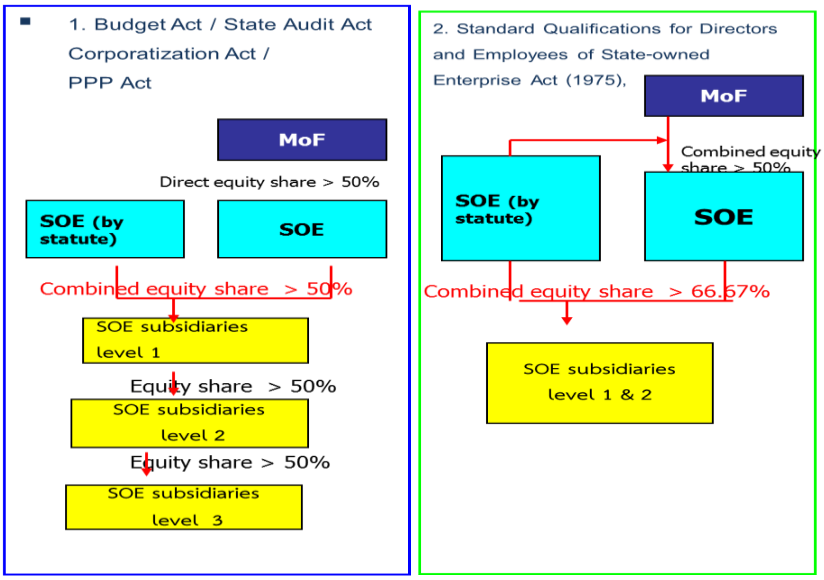
**Table 3: Regulations Governing State-owned Enterprises**

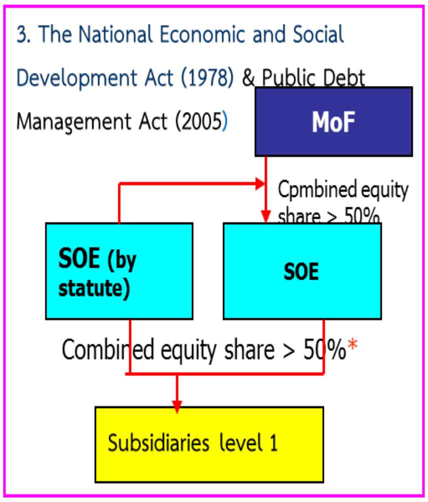
| | |
|---|---|
| 1. Finance | Budget Act BE 2002 defines state enterprises that will be subject to state budgeting regulation |
| | State Audit Act BE 2542 stipulates that SOEs accounts must be audited by the Office of the Auditor General of Thailand. |
| 2. Selection of Executives | Standard Qualifications for Directors and Employees of State-owned Enterprises BE 2518 which prescribes the composition and qualification of SOE board of directors as well as the nomination, selection and appointment of board of directors and the CEO of the SOEs |
| 3. Investment | The National Economic and Social Development Act BE 2521 (1978) stipulates that SOE's must submit planned investment projects to the NESDB, which is given the legislative authority to assess, monitor and evaluate the projects. |
| | The Publioc Debt Management Act BE 2548 (2005) prescribes the conditions or criteria under which an SOE may incur debt. |
| 4. Employment | The State Enterprise Labor Relations Act BE 2543 (2000) which prescribes rules governing the recruitment and termination of employment as well as procedures in dealing with labour relations. |

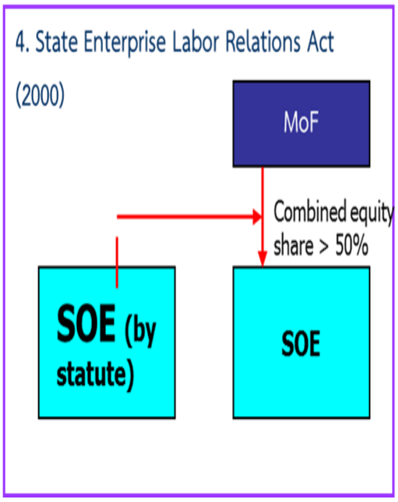
It should also be noted that – like state departments -- most SOEs were also subject to the state procurement regulation, the Prime Minister's Announcement on Procurement Regulation BE 2535. However, since the regulation is not a Parliamentary Act rather, an Executive Order, it can be waived with a Cabinet Decision. In the past, SOEs that are listed in the stock market are exempted form state procurement regulations, as are most independent organizations such as the sector-based regulatory agencies such as the Energy Regulatory Commission, the National Broadcasting and Telecommunications Commission or the Bank of Thailand. The new procurement law, the Government Procurement and Supplies Management Act 2017, relieved SOEs that operate in a commercial environment from state procurement regulations. At this point it is not clear which SOEs will be exempted but those listed in the stock exchange will certainly be entitled to the exemption.

Not only the SOEs, but their subsidiaries also come under certain state regulation shown above. This is because different laws give different definitions for a SOE. For example, the definition of SOE under the Budget Act 1959 includes SOEs' subsidiaries and the subsidiaries of their subsidiaries two levels down as shown in Diagram 1 below. The State Enterprise Labor Relations Act, on the other hand, defines SOEs as enterprises whose combined equity share held by the Ministry of Finance and other SOEs exceed 50 per cent only. That is, SOEs subsidiaries are not subject to the same regulations governing personnel recruitment and termination as do SOEs. Consequently, some SOEs exploit this legal loophole by setting up a subsidiary to handle its human resource management in order to dodge the stringent rules governing the termination of their employees.

Diagram 1: The Definition of SOE under different Laws

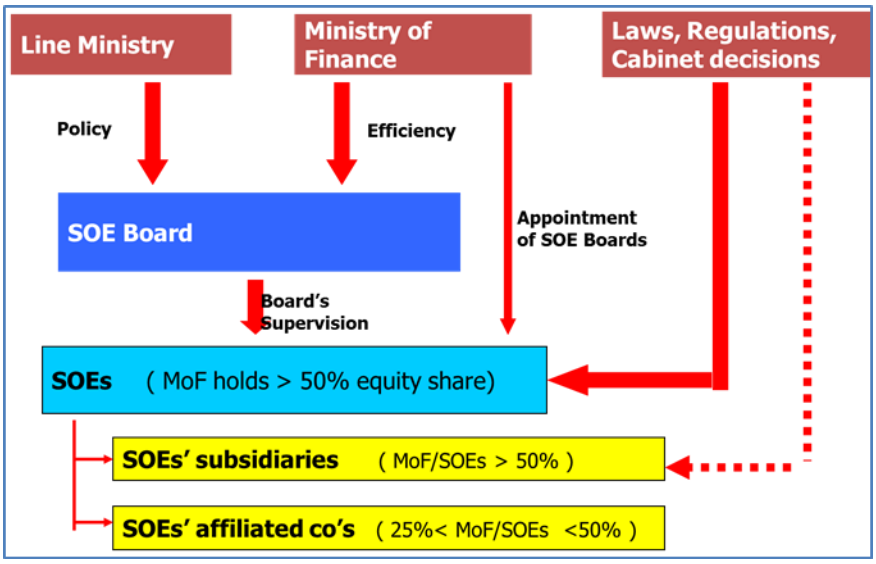





State-owned enterprises in Thailand are accountable to two line Ministries, namely the Ministry of Finance, the shareholder, and the Ministry which dictates its policy. For example, Thai Airways International will be accountable to both the Ministry of Transport and the Ministry of Finance at the same time. It is customary that members of the Board of Directors are nominated in equal numbers by both Ministries. However, the Ministry of Finance, through the State-owned Enterprise Policy Office (SEPO), is responsible for the administrative as well as financial supervision of SOEs as shown in Diagram2 below. It tracks and reports financial performance of all SOEs and establishes rules governing bonuses based on its performance assessment criteria.

Diagram2: Regulation and Supervision of Thai SOEs



## 4. Designated Monopolies

Chapter 17 of The TPP concerns "state-owned enterprises and designated monopolies". The latter refers to privately owned monopoly that is designated by the government to be the sole provider or purchaser of a good or service. A private monopoly may be a result of a privatization scheme that leaves the former SOE with exclusive right to provide a particular service even when it is no longer state-owned. Or it could be an explicit government policy to have a single private service provider for certain service that is deemed to be a natural monopoly. For example, before 1984 AT&T was the designated monopoly in the long-distance telephone service for domestic communications in the United States. Since free trade agreements are concerned with ensuring a level playing field between both public and private domestic enterprises and between local and foreign enterprises, designated private monopolies are also subject to similar disciplines spelled out in the agreement as are government monopolies.

Thailand has no designated private monopolies, only public ones. Currently, there are three government monopolies; two in the energy domain and one in the transport domain. The PTT, the National Energy Company, is the designated sole purchaser of petroleum and natural gas produced under all production concessions handed out by the Ministry of Energy. The same applies to the sale of electricity generated by private power producers where the Electricity Generation Authority of Thailand (EGAT) is the sole buyer. The EGAT's and the PTT's monopolies in the gas and electricity trade are secured by their ownership of the transportation/transmission network. The PTT is the sole operator of the natural gas pipeline both under the sea and on land. Likewise, the EGAT is the sole operator of the high-voltage nation-wide electricity grid . While third party access to these networks may facilitate competition from the private sector, the energy regulatory body namely, the Energy Regulatory Commission (ERC), has been extremely slow in introducing necessary rules and regulations.

The third and last designated monopoly is the Bus Company Limited, which provides inter-provincial bus transport. As the transport sector is still governed by concessions rather than licensing, the Bus Company Limited obtained an exclusive concession to operate inter-provincial passenger bus transport. Private bus companies that would like to provide such service will have to enter into a contract with the Bus Company Limited and operate as a subcontractor under its exclusive concession. The contract specifies the terms and conditions of the operation rendering the Bus Company the *de facto* regulator of private bus operators.

Similar exclusive concession was granted to the Bangkok Metropolitan Transport Authority (BMTA) for the provision of bus transport within the Bangkok and vicinity area. The exclusivity was revoked in September 2016, however, allowing private bus companies to compete on a level playing field with the state-owned BMTA. It is a matter of time that the Bus Transport Company's exclusivity, too, will be revoked to encourage direct private competition in the market.

## 5. Non-discriminatory Treatment and Commercial Considerations

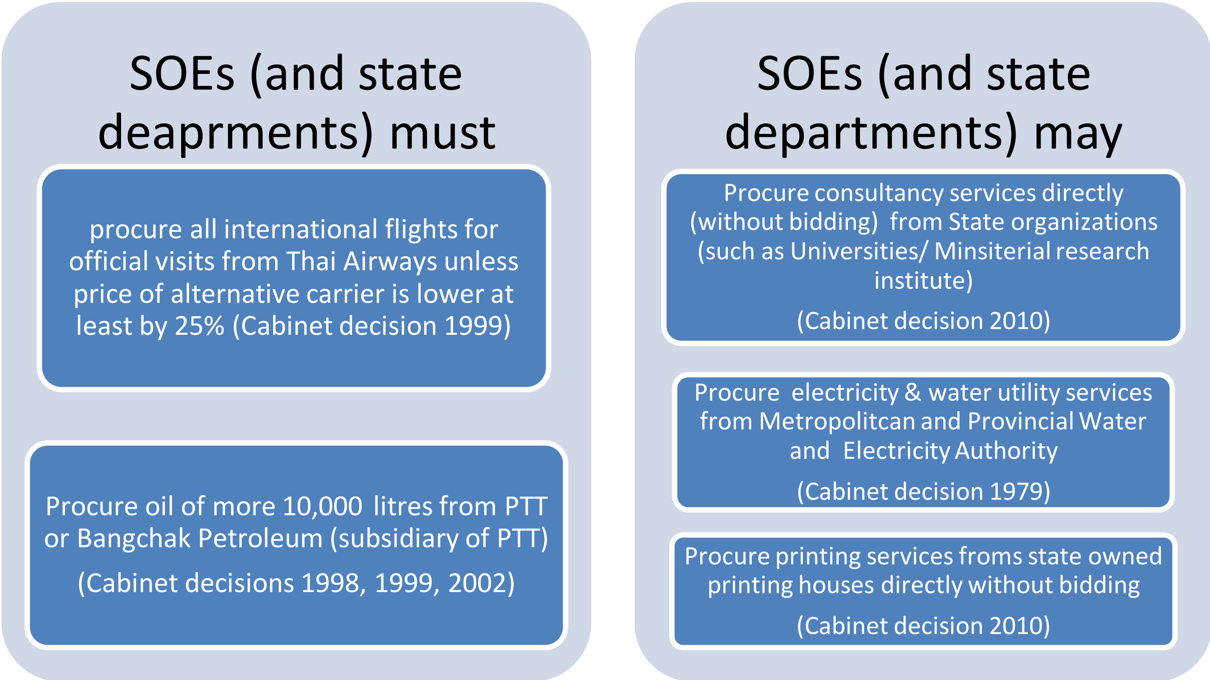
The TPP imposes several disciplines on SOEs and designated private monopolies to ensure that their trade practices do not unfairly disadvantage enterprises of the other Party. Article 17.4 stipulates that each Party shall ensure that its SOEs and designated private monopolies act in accordance with commercial considerations in its sale and purchase of their goods or services except to fulfill their public service mandates. In that case, the SOE must treat another Party's enterprise no less favorable than it does other enterprises in the market. This provision ensures that enterprises of the other Party may compete on a level playing field with local competitors, be they public or private, when dealing business with SOEs and designated monopolies.

Most SOEs in Thailand operate on a non-discriminatory basis when it comes to selling their products or services, except sales to their subsidiaries. For example, the PTT sells LPG (liquid petroleum gas) produced from gas separation plants to its subsidiary, the PTTGC (PYY Global Chemical Plc.), at a price that is much lower than it sells to unaffiliated customers such as the Siam Cement Group. This price discrimination is concealed, however, as the PTT refuses to disclose its LPG sales agreements quoting that the documents are business secrets.

Normally, such discrimination would constitute a violation of the Competition law. However, in Thailand SOEs are exempted from the law a mentioned earlier. Other vertically integrated SOEs, such as the EGAT, may engage in similar discriminatory treatment in its purchase of electricity from its own subsidiaries or affiliated companies and from other power producers. Fortunately, the new Competition Bill, currently being deliberated in the National Legislative Assembly, contains no such exemption for SOEs.

Discrimination may be an issue when SOEs purchase products or services. As SOEs are treated as a government entity, they, too, are subject to government procurement regulations that extend special preferences to enterprises owned by the State. Table 4 exhibits current privileges granted to SOEs, some of which are mandatory and some are voluntary (best effort).

Table4: Privileges granted to SOEs in Government Procurement




Like other government organizations, SOEs are required or encouraged to give preferences to other SOEs or state owned entities when procuring certain goods or services. Although the granting of such certain preferences is voluntary, most SOEs find it easier to buy products or services directly from fellow SOEs as they do not have to carry out tedious procedures in preparing for an open bid. Procurement by direct method from a state owned entity is both quick and are subject to more lenient scrutiny by the State Audit agency.

**6. Non-commercial Assistance**

To ensure a level playing field for the other Party's enterprises, the TPP imposes specific disciplines on not only SOEs and designated monopolies, but also the government (or the Party) itself. Article 17.6 stipulates that no party shall provide non-commercial assistance to SOEs which imposes adverse effects on the enterprises of the other Party. Non-commercial assistance means direct transfer of funds (grants or debt forgiveness) or the provision of other types of financing such as loans or loans guarantees that are more favorable than those available in the market.

Since most commercial SOEs in Thailand are profit making, state subsidies are rare. The only loss making SOEs are (1) the Civil Aviation Training Center which trains pilots and provide training in air traffic control; (2) the Bangkok Mass Transit Authority (BMTA), which provide bus services at regulated below-cost tariffs and (3) the State Railway of Thailand, which provide passenger train services at regulated below-cost tariffs. All of these SOEs are exempted from the provision, however, as their annual incomes are below 200 million SDRs.

Most non-commercial assistance goes to specialized financial institutes in the form of low-interest financing to carry out state projects, subsidized interest rates to targeted borrowers or compensation for losses incurred by the SFI in carrying out government-mandated projects. It also includes the occasional capital injection when the SFI encounters financial instability or in need of a larger capital base in order to expand its lending.

The subsidies do have an adverse impact on private commercial banks. This is because although designed to "specialize" in lending to selective target groups such as farmers or small businesses that are not bankable, these SFIs lend in practice lend to a broad range of both individual and corporate customers such that their customer base overlaps directly with those of private commercial banks. However, since article 17.6(4) exempts services supplied by SOEs within their own territory, such non-commercial assistance will not be in violation of the obligation as Thai SOEs do not provide cross-border services with the exemption of Thai Airways International Plc. and the PTT Plc. both of which do not receive subsidies from the state.

Besides the non-commercial subsidies, it should be mentioned that SOEs are also entitled to tax privileges that put them at an advantage over private competitors. First, according to the tax code, SOEs that are not corporatized are considered to be a "government organization" and hence, exempted from the corporate tax which stands at 20 per cent as mentioned earlier. However, it should be noted that SOEs that do not pay corporate income tax must contribute financially to the state coffer depending on how much profit they make, their investment needs and the government revenue requirement. Second, SOEs do not pay signboard tax to according to the Signboard Act 1967. For example, PTT gas stations that are scattered nationwide do not have to pay signboard tax to local authorities for the signs displaying its logo. The exemption became an issue after the company was partially privatized and listed in the stock market. These tax privileges amount to indirect financial assistance.

## 7. Transparency

To ensure that a Party is well informed about SOEs of the other Party, article 17.10 on Transparency requires that the party promptly provide the following information to the other Party upon request given that the request includes an explanation of how activities of the entity may be affecting trade or investment between Parties. Most of the prescribed basic information governing SOEs is already made publicly accessible on-line by SEPO as shown in the table 5 below.

**Table 5: Disclosure of SOE information**

| Information | Current status of disclosure |
|---|---|
| The equity shareholding of the State in the entity. | Information on shareholding of all registered companies is made publicly accessible by the Department of Business Promotion, the Ministry of Commerce. For SOEs that are listed in the SET (Stock Exchange of Thailand), details about the shareholding structure is also made available by the SET.(www.set.or.th) |
| The description of any special shares or special voting rights. | State equity holdings are all in the form of common shares. |
| Government titles of any government officials serving on the entity's board of directors. | The names of directors are displayed on the website of each and every SOE. However, their positions and affiliations are not always shown. |
| The entity's annual revenue and total assets | The financial statements of all SOEs are made available online at www.sepo.go.th. Past statements are available on-line from 5-10 years depending on the particular SOE. |
| Any exemptions and immunities from which the entity benefits under the Party's law. | This information is not available on-line. |
| Any additional information that is publicly available, including financial reports and third-pasty audit and other information that is sought in the request. | Thai SOEs are required to upload pertinent laws and regulations, their annual reports, financial statements and procurement summary online. Third-part audits are not disclosed. |

To sum up, the basic information governing SOEs are already publicly available on-line. Request for additional information not disclosed on the SEPO website will have to be forwarded to the head of SEPO.

## 8. Summary and Conclusions

If Thailand were to become a member of the TPP minus the United States, there are several issues to be addressed to ensure that Thailand's administration of its SOE and SOEs' own trade practices are in line with the standards prescribed in the TPP. Although the required reform to comply with TPP provisions will not bring forth a major restructuring of the SOE sector as a whole due to the various carve-out provisions, the disciplinary provisions imposed on both the government and the SOEs will help set the stage for a more efficient and transparent SOE administration and will benefit the Thai economy nevertheless.

First, Thailand needs to ensure that SOEs are not exempted from the competition law as the TPP requires that public and private monopolies must not be allowed to carry out anti-competitive practices. If the Competition bill becomes law, Thailand will be able to satisfy this requirement.

Second, Thailand needs to abolish the requirement that SOEs adopt or comply with government procurement rules that favor SOEs or other state organizations. This concern has been addressed as the new procurement law relieves SOEs that operate in a commercial environment from government procurement rules.

Third, although the Thai government currently does not provide any non-commercial assistance to SOEs that would result in "adverse effect" on enterprises of the other Party as few Thai SOEs operate overseas, it is nevertheless worthwhile for the Thai government to review the scope of the mandate of SFIs in order to ensure that they do not encroach into the private sector's commercial domain.

Fourth, Thailand would need to amend its tax code in order to abolish corporate tax exemption for unincorporated SOEs. Alternatively, if the amendment proves too time consuming, the government may choose to prescribe clear implementing rules governing SOEs' financial contribution to the state that imposes equivalent financial burden as do the tax burden faced by their private competitors. Similarly, SOEs that provide commercial services – in particular those that are listed in the stock market -- should be subject to the same signboard tax as do private companies. This will require an amendment of the Signboard Tax 1967.

Finally, Thailand needs to overhaul its SOE sector that is both inefficient and vulnerable to political interventions. Disciplines imposed by a free trade agreement such as the TPP, which focuses narrowly on market access, are indeed useful, but limited in scope. If Thai SOE -- stripped of their monopolistic power and statutory privileges – are to remain competitive, a major reform in their governance is imperative.

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