

Asia Network on Corporate Governance of SOEs

Session 3

Comparative Neutrality: Promoting Efficient Competition between SOEs and Private: A Perspective of Chinese Taipei

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Roadmap

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I. Introduction

- * Taiwan is engaging to promoting efficient competition neutrality between SOEs and private through competition law enforcement.
- * Historically, SOEs play an important role to develop national capital, promote economic development, and improve the livelihood of the people.
- * Under legal framework which creates a free economic market, however, the experience occurred in mainland China gained to KMT lead that Taiwan adopted the SOEs to most utilities , the public interest and sometimes mammoth in scale in the begging of withdrew to Taiwan in 1949.

I. Introduction

- * Most SOEs are mostly belonged to four ministries including Ministry of Economic Affairs (MOE), Ministry of Finance (MOF), Ministry of Transportation and Communications (MOTC), and Veterans Affairs Commissions.
- * However, in terms of the global tendency to economic liberalization and internationalization, on July 25, 1989, Taiwan established “the inter-ministerial working group for promoting the privatization of SOEs” to allow important steps needed for the privatization of SOEs to be implemented.
- * The Group drafted “the Statue for the privatization of State-owned enterprises” and passed by Parliament and promulgated in June 1991 as a stronger legal basis.

Privatized SOEs (1989-2008)

Original competent authorities in the central governments	units	Privatized SOEs
Ministry of Economic Affairs (MOEA)	17	China Petrochemical Co., BES Engineering Co., China Steel Co., Steel Factor of Taiwan Machinery Co., Shipbuilding Factory of Taiwan Machinery Co., Alloy Steel Factory of Taiwan Machinery Co., Taiwan Fertilizer Co., Ltd., Chung Hsing Paper Corporation, Taiwan Machinery Co., Transportation Division of Tang Eng Co., Steel Factory of Tang Eng Co., Road Vehicle Business Division of Tang Eng Co., Railway Vehicle Business Division of Tang Eng Co., Agriculture and Industrial Co., Taiwan Salt Industrial Co., Tang Eng Iron Works Co., Ltd., CSBC Corporation.
Ministry of Finance (MOF)	5	Chung Kuo Insurance Company, Farmers Bank of China, Chiao Tung Bank, Central Reinsurance Co., Taiwan Cooperation Bank.
Ministry of Transportation and Commutation (MOTC)	4	Yang Ming Marine Transpiration Co., Taiwan Motor Transport Co., Taiwan Railway Freight Co., Chunghwa Telecom Co., Ltd.
Veterans Affairs Commission	6	Liquefied petroleum gas supply division, veteran gas plant, Gangshan plant, food production plant, veterans pharmaceutical factory, Lungchi Plant “area for waste Disposal”
Government Information Offices	1	Shin Sheng Newspaper Co.

Privatized SOEs (1989-2008)

Original competent authorities in the local governments	units	Privatized SOEs
Taiwan Province	8	Chang-Hwa Bank, Hua-Nan Bank, Taiwan Business Bank, Taiwan Fire & Marine Insurance Co., Taiwan Navigation Co., Taiwan Life Insurance Co., Taiwan Development & Trust Co.
Taipei City	2	Taipei Bank, Printing Office
Kaohsiung City	1	Kaohsiung Bank

SOEs Currently Undergoing Privatization

Competent authorities	unites	SOEs
Ministry of Economic Affairs	5	Taiwan Power Co., Chinese Petroleum Co., Aerospace Industrial Development Co., Taiwan Sugar Co., Taiwan Water Supply Co.
Ministry of Finance	3	The Taiwan financial holding co., Ltd. Land Bank of Taiwan, Taiwan Tobacco & Liquor Co.
Ministry of Transportation and Communication	2	Taiwan Railways Administration, Chunghwa Post Co., Ltd.
Veterans Affairs Commission	1	RSEA Engineering Co.

I. Introduction

- * "Privatization and market forces just result in better allocation," "Privatizing nationalized businesses forces them to compete and increase efficiency. That efficiency allows growth of productivity and profitability, which in turn create more jobs."
- * In Taiwan, the privatization push began in 1989 after decades of direct government intervention in the economy, which is often credited with stimulating Taiwan's economic growth through the fostering of capital-intensive sectors, such as energy, transportation and petrochemicals.

I. Introduction

- * As Taiwan's economy evolved into the thriving export-oriented model of today, the private sector, however, became the prime engine of growth. As a result, the government has been trying to revamp and in some cases shed SOEs. "The main concept of privatization is to change the government's role."
- * The first step toward the privatization of SOEs has been to reduce government holdings to below 50 percent, the threshold for privatization according to local regulations. This has been accomplished primarily by selling off stock in public companies, auctioning assets and entering into joint ventures. The cumulative value of stocks and assets sold was estimated at some NT\$700 billion (US\$21 billion).

I. Introduction

- * Privatization has improved the performance of most of the industries. The annual after-tax revenue of the China Steel Corp., for example, averaged NT\$11.8 billion (US\$358 million) over the last three years before it was privatized in 1995. In the three-year period after going private, its annual revenue climbed to NT\$17.4 billion (US\$527 million), and today the company is expanding.
- * Between 1989 to 2008, 37 SOEs were privatized, another 17 were shut down, and a number of SOEs still remain because most are public utilities and large-scale SOEs in different industries fields.

II. Corporate Governance for SOEs

- * In order to catch up the development of corporate governance held by the OECD, Taiwan established the Taskforce for Reforming Corporate Governance in January 2003 to serve as the basis for government agencies to promote corporate governance.
- * At that time, it was resolved that corporate governance is a key policy at present, and that independent directors lie at the core of corporate governance. In the implementation of corporate governance, SOEs have been asked to play leading roles in supporting government policies.

II. Corporate Governance for SOEs

- * Thus, SOEs under the MOF, the MOEA, MOTC, and the Veterans Affairs Commission were requested to introduce a system of independent directors in order to serve as good examples for promoting corporate governance.
- * Until now, most SOEs have appointed at least two independent directors to implement corporate governance, except for specific SOEs with responsibility for carrying out government policy goals.
- * Furthermore, Taiwan has adopted the six principles of corporate governance to SOEs issued by the OECD.

II. Corporate Governance for SOEs

- * 1. Improving the internal control and internal audit systems: an internal control system has been built up in each SOEs; the SEC organizes a team to conduct internal due diligence in each SOE every year.
- * 2. Creating a sound accounting system to ensure the independence of certified public accountants (CPA). Each SOE has established an accounting system and implemented a rotation system of certification of the CPAs to ensure the independence of these CPAs.

II. Corporate Governance for SOEs

- * 3. strengthening the function of the board of directors and the efficiency of meetings of boards of directors/supervisors and shareholders: To strengthen the liabilities and function of the board of directors, the SEC published a Directive on Enforcing of the Board of Directors/supervisors for each SOE.
- * 4. disclosure and transparency of material information: All SOEs regularly publish corporate governance related information on the market observation post system for the disclosure and transparency of business information.

II. Corporate Governance for SOEs

- * 5. Protecting the rights of shareholders and improving the supervisors' function: each SOE holds annual shareholders meetings regularly: The shareholders can participate in making material corporate decisions to protect their rights. In addition, a supervisor contacting mechanism is established to understand the operating information in a timely manner.
- * 6. Respecting stakeholder' rights: each SOE has established an external client complain system, compiles customer service pamphlets, and issues directives for handling customer complaints. Internally, communication channels such as an employee complaint system and a proposal system for improvements have been established to protect the rights of employees.

III. The Scope of Competitive Neutrality Policies

- * Legal framework does not regulate the way in which SOEs compete with the private sector, thus, the SOE's operation shall be no different from those of a private enterprise.
- * According to Article 4 of the Administrative Law of State-Owned Enterprise states that “state-owned enterprise shall be operated in a manner befitting a business so that they may be able to support themselves, achieve continued development, and increase the national income without incurring losses.”
- * Article 6 of the Administrative Law of State-Owned Enterprise notes that “unless otherwise specified in applicable regulations, the rights and responsibilities of state-owned enterprises shall be the same as those private enterprises of similar categories.”

III. The Scope of Competitive Neutrality Policies

- * In other words, SOEs in Taiwan shall compete with ordinary business laws and regulations, such as the Company Act and the Fair Trade Act, as the private businesses do, in addition to individual laws which regulate specific sectors, such as the Electricity Act and Petroleum Administration Act.
- * Take the postal sector as an example.
- * The scope of services of Chunghwa Post Co., Lit. (Chunghwa Post), has been reformed from the Directorate General of Posts on January 1, 2003, including **mail delivery**, postal saving, postal remittances, postal simple life, philately and relevant commodities and postal capital operation.

III. The Scope of Competitive Neutrality Policies

- * According to Article 6 of the Postal Act, Chunghwa Post is obligated to provide mail delivery services so that the general public can benefit from universal, fair, and reasonable service. In terms of interpretation, the exclusive rights of Chunghwa Post to **mail delivery** are limited to letters, postcard, and other correspondence.
- * As a result, other high-free package, express mail, or non-correspondence related mail can be **freely** handle by private enterprises. It means that besides mail delivery, Taiwan does not restrict competition between Chunghwa Post and private sector.

III. The Scope of Competitive Neutrality Policies

- * One of businesses operated by Chunghwa Post is the business of postal simple life insurance, including pure endowment insurance, mortality insurance and endowment insurance. Without exclusive right, Chunghwa Post is facing difficulty to compete with the private sector in the field of postal simple life insurance.

IV. The Application of Competitive Neutrality

- * In Taiwan, profit maximization is not the only concern of SOEs, and thus their profitability is suppressed. Furthermore, SOEs are subject to a variety of regulations and policy.
- * With regards to the allocation of costs, SOEs shall comply with the Budget Act, Financial Statement Act, and related regulation. The “annual statutory profit target” to each SOE is determined by way of the budgeting/financial statement system and is discussed by the Legislative Yuan (Parliament).
- * In terms of evaluative system, the head of the SOE will be evaluated according to the Directives for Evaluating the Performance of State-owned enterprises in order to improve the performance of the SOE.

IV. The Application of Competitive Neutrality

- * As for the tax regime, with the exception of some of Chunghwa Post's business that is exempted from taxes, the same tax regime applies to both SOEs and private sector enterprises.
- * By contrast, under special conditions (for example, when there is an increase in international material prices or a financial crisis), in order to stabilize the prices of materials in the domestic market and protect consumers' right, the SEC may measures according to policy instruction (for example, the increase in the petroleum or electricity prices may not fully reflect the costs, or there may be controls over demand and supply in the market for pigs).

IV. The Application of Competitive Neutrality

- * All SOEs shall comply with the Government Procurement Act as they engage in procurement business. Besides, SOEs do not receive subsidies, favorable regulatory treatment, or easier access to finance.
- * Under some circumstances, SOEs are more regulated than private enterprises.

V. Monitoring and Enforcement of Competitive Neutrality

- * In order to control SOEs occupying monopoly position or actively competing in a market with private entities, Taiwan enacted the Fair Trade Act (hereinafter FTA) in 1992. The FTA also created the Fair Trade Commission, the authority of the FTA, to enforce the FTA.
- * During the drafting of the FTA, there was little consensus to whether to apply competition policy to SOEs right from the time that the FTA was passed or whether to grant them a certain transition period. Many strongly support the view that some transition arrangements were necessary.
- * Paragraph 2, Article 46 of the FTA thus provided a five-year grace period for specific SOE activities on the condition that they were approved by the highest administrative authority.

V. Monitoring and Enforcement of Competitive Neutrality

- * Since the expiry of the transition period on February 4, 1996, the SOEs in question have been subject to the Fair Trade Act and are on an equal footing with private enterprises.
- * This of course means that any problems that may arise from anti-competitive actions on the part of former SOEs are now regulated by competition regulations.

VI. Conclusion—Challenges to Taiwan

- * Taiwan is working to establish a fair playing-field to both SOEs and private.
- * However, several challenges on the road to build up competitive neutrality in Taiwan
 - * Legally Defining the State-owned enterprises
 - * Clarifying the scope of exclusive right to SOEs
 - * Setting the standard of corporate governance to SOEs
 - * Strengthening External monitoring evaluation system
 - * Enhancing Internal check and balance system
 - * Appointing Executive personnel system

reference

- * *KELLY HER*, Privatization Set in Motion (12/01/2005).

THANK
♡ YOU ♡

for your participation



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