

**PRIVATIZATION OF TRANSPORT INFRASTRUCTURE
FOR
FIGHTING THE ECONOMIC WAR IN THAILAND**

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Abstract: Various financial measures have been introduced and used to fight the economic war in Thailand. Among these measures, privatization of transport infrastructure being managed by state enterprises has been an attempt by the government to restore the Thai economy. This paper examines the possibility of such an important measure to be adopted to the Thai environment. It covers: (1) overview of the current state enterprises; (2) future roles of the government in state enterprise; (3) privatization process; (4) legal framework to enable privatization; and (5) future linkage of transport agencies.

1. INTRODUCTION

On 14 August 1997, the Minister of Finance and the Governor of the Bank of Thailand co-signed the Letter of Intent committing Thailand to the economic adjustment package by the International Monetary Fund (IMF).

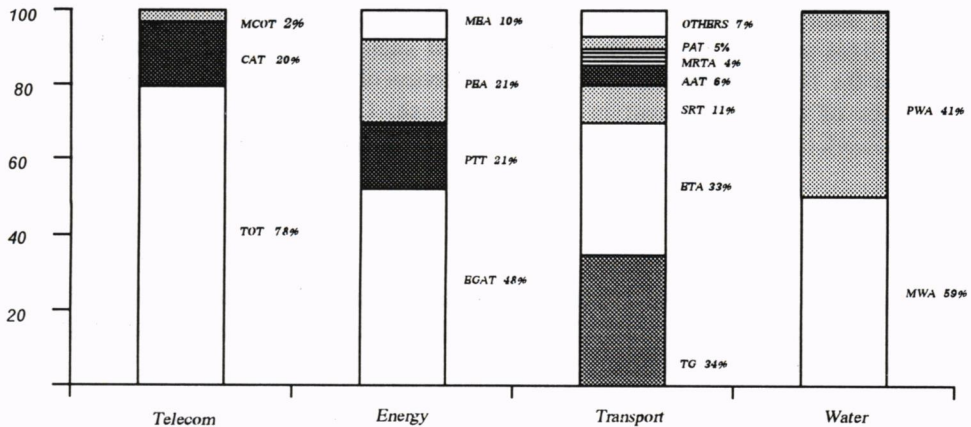
Privatization of state enterprises is one of the measures included in the program as a result of the economic shock which occurred in 1997. The government committed to encourage private sector participation in the investment programs of selected enterprises, including transport, energy and privatization programs in the energy, transport, public utility and communication sectors. In addition, the government aims to pursue the alternative modalities of privatization and share divestiture such as direct sales to the public and joint-venture arrangements.

Major objectives in privatization being carried out as agreed with the IMF are as follows.

- Stimulate and provide a basis for renewed economic growth by attracting needed investment and know-how;
- increase private sector's roles in the development of state enterprises;
- reduce the financial burden of government resources (e.g. subsidies, loan guarantees)
- reduce public debt;
- encourage competitive capability;
- increase efficiency in production;
- ensure reasonable labour welfare; and
- ensure expanded provision of quality services at reasonable prices.

2. OVERVIEW OF THE CURRENT STATE ENTERPRISES

At present there are 59 state-owned enterprises (SOE) covering telecommunication, water, energy, transport and other sectors (industry, technology, trade, services, agriculture and finance). These state enterprises play major roles in the development of four infrastructure sectors: telecommunications, energy, transport and water supply. They are major sources of employment and income generation. A number of these enterprises are well run and comparable by most performance measures with those within the region. However, many are considered to be a monopoly or quasi-monopoly which obstructs open and free competition. In addition, many need substantial investment or subsidies from the government. Figure 1 shows the book value of the key assets of state enterprises in the aforementioned four infrastructure sectors. For the transport sector, Thai Airways International Co., Ltd. (TG) accounts for the highest value, followed by the Expressway and Rapid Transit Authority of Thailand (ETA) and the State Railway of Thailand (SRT).



Source: Ministry of Finance

Abbreviation:

- | | |
|---|--|
| MCOT = Mass Communications Organization of Thailand | MRTA = Metropolitan Rapid Transit Authority |
| CAT = Communications Authority of Thailand | AAT = Airports Authority of Thailand |
| TOT = Telephone Organization of Thailand | SRT = State Railway of Thailand |
| MEA = Metropolitan Electricity Authority | ETA = Expressway and Rapid Transit Authority of Thailand |
| PEA = Provincial Electricity Authority | TG = Thai Airways International Co., Ltd. |
| PTT = Petroleum Authority of Thailand | PWA = Provincial Waterworks Authority |
| EGAT = Electricity Generating Authority of Thailand | MWA = Metropolitan Waterworks Authority |
| PAT = Port Authority of Thailand | |

Figure 1. SOE Book Value of Assets

In 1998 state enterprises employed approximately 0.32 million people or 1% of the national employment. The top ten largest enterprises employ 0.23 million people or 73% of the total SOE employment as detailed in Table 1.

Table 1. Employment Level of Top Ten SOEs (1997)

State-Owned Enterprise	No. of Employees*	% Contributed to Total Thai Employment
Electricity Generating Authority of Thailand (EGAT)	32,459	0.11
Provincial Electricity Authority (PEA)	30,619	0.10
Telephone Organization of Thailand (TOT)	26,383	0.09
Communications Authority of Thailand (CAT)	26,346	0.09
Thai Airways International Co., Ltd. (TG)	24,070	0.08
Bangkok Mass Transit Authority of Thailand (BMTA)	22,753	0.07
State Railway of Thailand (SRT)	21,160	0.07
Krung Thai Bank (KTB)	16,252	0.05
Bank of Agriculture and Agricultural Co-operatives	13,299	0.04
Metropolitan Electricity Authority (MEA)	12,813	0.04
Total Top 10 SOE Employers	226,154	0.73
Total SOE employment	319,731	1.04
National employment	30,820,000	100.00

Note: (*) includes number of temporary workers

Source: Comptroller-General's Department, Ministry of Finance

3. FUTURE ROLES OF THE GOVERNMENT

Article 87 of the Constitution of the Kingdom of Thailand, which was established in 1998, clearly defines the role of the government in providing public utilities. It states that the government will act only as a policy maker and regulator, but not as an operator. In principle, the government will withdraw from businesses that the private sector can run more effectively. However, the government still needs to provide facilities and services that are Public Service Obligations (PSO) such as public health, education and other public services, which are necessary for the quality of life. The government may retain a minority interest in specific substantial services of which the corollary voting rights would permit the government to exercise veto power over important issues.

At present, responsibilities for policy making, regulation, and operation overlap between ministries, departments and SOEs in almost all sectors. It is proposed that clear roles of policy making, regulation and operation be established as shown in Figure 2. This is a must for the privatization of state enterprises and for the development of transparent and competitive markets.

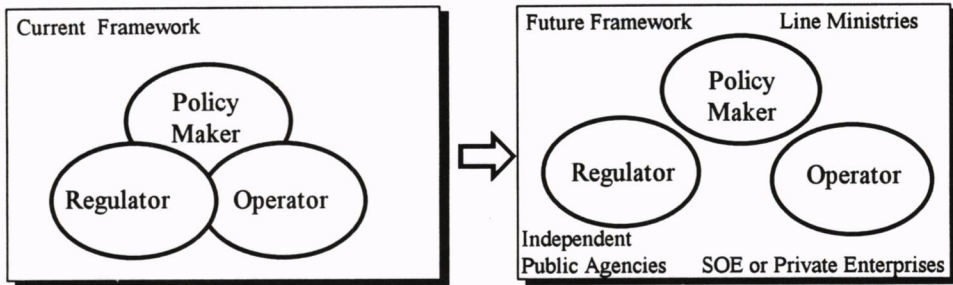


Figure 2. Separation of Policy, Regulatory and Operating Functions

4. PRIVATIZATION PROCESS

Privatization process consists of 5 main steps, including (1) confirm candidacy for privatization; (2) preparation of plan; (3) plan selection and approval; (4) implementation; and (5) post sale. Figure 3 depicts this process.

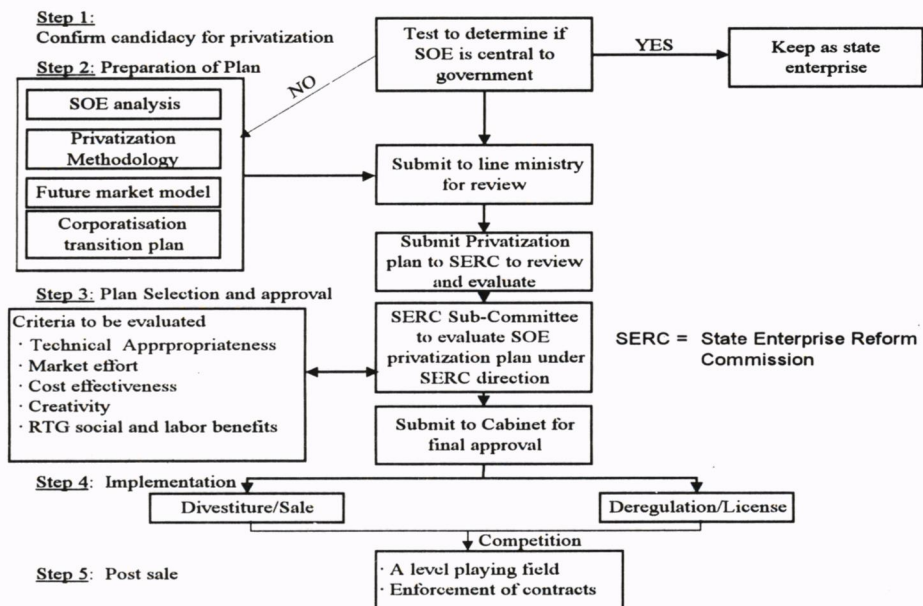


Figure 3. Typical Privatization Process

A privatization master plan of each sector must be prepared to agree with the current status of the financial markets in Thailand and the region, including the following factors.

- Target group and its purchasing power (including capital market and strategic partner);
- Attractiveness of the terms and conditions of privatization;
- Clarity of the regulatory regime under which the enterprise will operate;
- Degree of current and expected competition in the future;
- Government intentions with respect to investment; promotion, and infrastructure preparation in each sector;

- Government commitment to implement the state reform; and
- Clarity and expediency of the process

5. LEGAL FRAMEWORK TO ENABLE PRIVATIZATION

To facilitate the foreign direct investment, some relevant laws are proposed to be amended as shown in Table 2.

Table 2. Select Legal Constraints to Privatization

Law (s)	Issue	Proposal
1. Competition Laws	The privatization of divisions of large SOEs may oblige said divisions to compete on unequal terms with the remaining SOE structure.	Sector regulators must be empowered to protect new entrants and other enterprises from abuse of monopoly power by SOEs, particularly in the transition period.
2. Alien Business Law	Under NEC (National Evolution Commission) 281 foreigners are not allowed to hold more than one-half of the total shares of privatized SOEs.	Exemption from NEC 281 should be granted by the Cabinet or the Registrar of Trade Registration Department.
3. Taxation Law	Corporate income tax, value added tax, special business tax, transfer fees, and stamp duties shall be borne by the privatized SOE when there is a capital gain from the conversion of assets into shares at corporatisation.	Tax exemption could be granted to SOEs during corporatisation by the MOF or the Revenue Department.
4. Land Law	When foreigners hold more than 49% of the shares in a privatized SOE it can no longer own land.	All land should be returned to the government which subsequently may rent the land to privatized SOEs on a long lease (e.g. 60 years) basis. A waiver, by provision in the State Owned Enterprise Reform Law, should be granted from Section 540 of the Civil and Commercial Codes.
5. Employment Law	Severance pay could impose a financial burden on privatized SOEs.	Implementation of early retirement programs or employee retraining and assistance programs before or during the process of privatization.

6. FUTURE LINKAGE OF TRANSPORT AGENCIES

In the transport sector, 14 state enterprises were established to be responsible for land, water and air transport. These 14 state enterprises are:

- Land Transport
 - Expressway and Rapid Transit Authority of Thailand (ETA)
 - Metropolitan Rapid Transit Authority (MRTA)
 - State Railway of Thailand (SRT)
 - Transport Co., Ltd. (TCL)
 - Bangkok Mass Transit Authority (BMTA)
 - Express Transportation Organization (ETO)
- Air Transport
 - Airports Authority of Thailand (AAT)
 - New Bangkok International Airport Co., Ltd. (NBIA)
 - Aeronautical Radio of Thailand Ltd. (ART)
 - Civil Aviation Training Center (CATC)
 - Thai Airways International Public Co., Ltd. (TG)
- Water Transport
 - Port Authority of Thailand (PAT)
 - Thai Maritime Navigation Co., Ltd. (TMN)
 - Bangkok Dock Co., Ltd. (BD)

The present linkage between the above state enterprises is depicted in Figure 4. The interaction among ministries, departments or agencies and SOEs is complicated and unclear. Figure 5 shows the proposed structure of the transport sector which clearly separates related agencies into regulators and executing agencies. This structure must be studied in further details with the following frameworks.

- Policy Formulation

Ministry of Transport and Communications (MOTC) will take main responsibilities in formulating transport policies. The non-transport ministries (e.g. Office of the Prime Minister, Ministry of Interior and Ministry of Defense) will supply data and opinions to the MOTC. The MOTC will assess that information and formulate into policies indicating the authority, duties and responsibilities of each relevant agency. The enterprises under these non-transport ministries may maintain the reporting relationship with their current line ministry. However, a more effective co-ordinating and implementation arrangement will be created, and the regulatory functions currently performed by all line ministries will be transferred to the new regulatory authority or body in accordance with the future sector structure.
- Regulatory

Independent regulators are proposed to be established for steering policies issued by the MOTC. By separating regulatory functions from the responsibility of the line government agencies this approach will reduce the potential for conflict of interests.

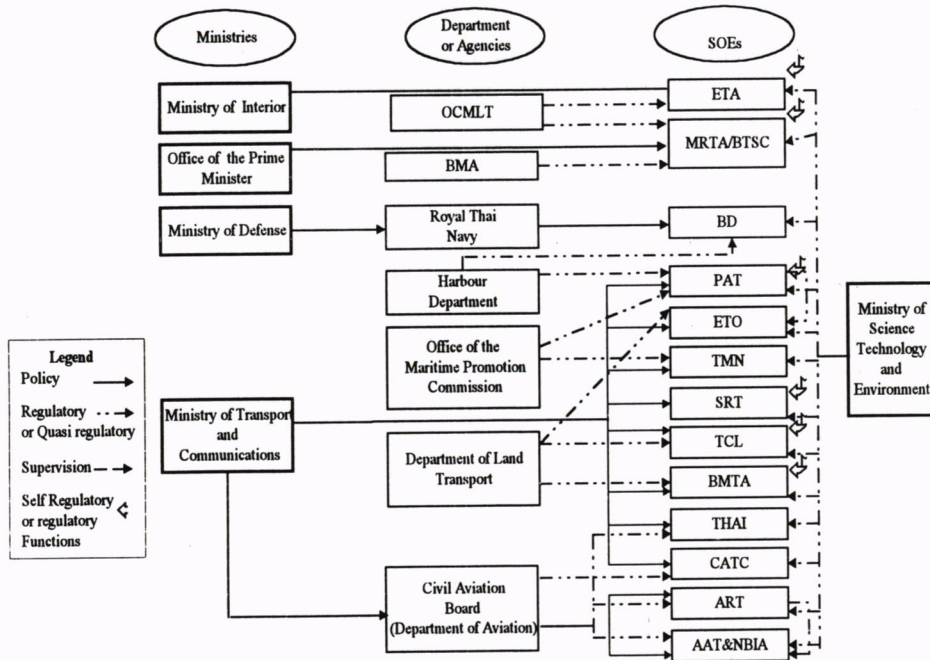


Figure 4. Current Policy and Regulatory Structure of Transport Sector

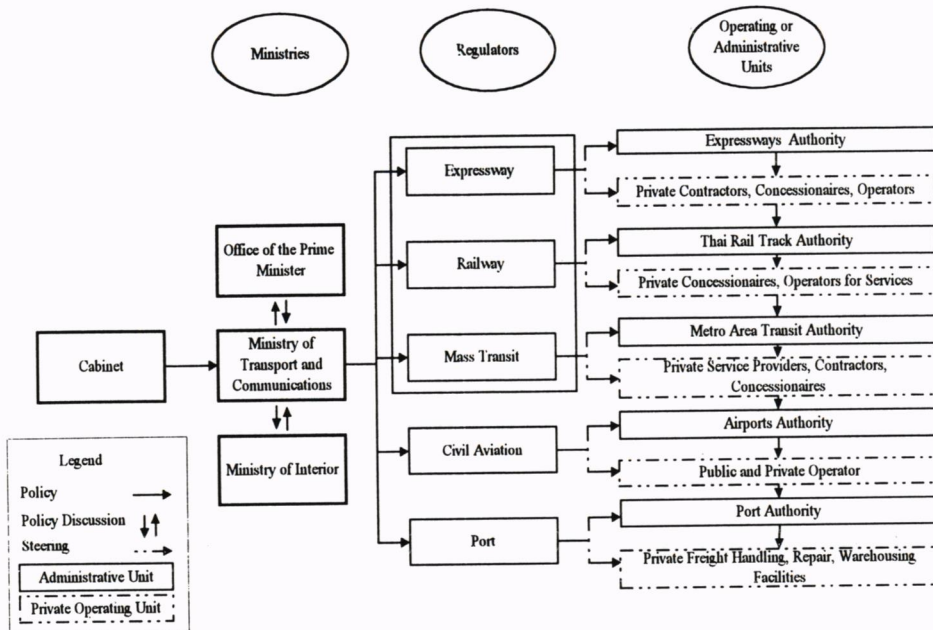


Figure 5. Proposed Structure of Transport Sector

- **Transport Authorities**
Existing transport agencies will be reorganized to conform with the duties and responsibilities mentioned earlier. In some cases, two SOEs may be merged by creating a new unit or absorbing one SOE by the other. This single unit will be responsible for the management and administration of contractors and concessionaires. The development of infrastructure will be jointly done by MOTC, transport authorities and the private sector. However, the MOTC will emphasize arrangement of funding rather than direct involvement.
- **Operations**
Provision of services will be mainly the responsibility of the private sector. Related agencies will contract out services which have been financially supported by the government either via a regulatory authority or contractual oversight. However, the government may provide subsidies in the form of capital grants and loans for major equipment, etc. for the services which are economically feasible.

7. CONCLUDING REMARKS

- Privatization in Thailand started in 1961 and has been taken as a policy of every subsequent national plan. Over the past decade, more than 40 enterprises have been privatized resulting in the reduction of the number of state enterprises from over 100 to 59. However, only now is privatization being carried out as part of a concerted, broad economic reform effort.
- The following questions, which are always asked, need to be clarified by the government.
 - Who will gain? and Who will lose?
 - Will the service fee be cheaper?
 - Why does the government intend to privatize the profit-making enterprises prior to the non-profit-making enterprises?
 - Is it going to be monopoly by the private sector?
 - How will the government protect consumers from being taken advantage of by the private sector?; and
 - Will a considerable amount of employees be terminated?

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