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Property rights and transitional economy of Myanmar
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1. Introduction

The main focus of this paper is to highlight the importance of relationship between the changes in the property rights structure and the performance of Myanmar economy or the influences of creation and re-specification of private property rights upon the Myanmar economy.

Different economies have different structures of property rights. Changes in the structure will lead to a different structure of incentives for management and hence to modifications in both organizational behaviour and its performance. Under the Socialist economic system, public ownership and high degree of restrictions on private property rights failed to provide incentives for economic efficiency which can assure survival of particular forms of economic organizations in market economies. Managers in socialist economy faced distorted incentives that sooner or later led to poor organizational performance. Transition requires ownership change, preferably to private ownership and this change in a large share of economy is also important.

There are two possible ways to create an economy dominated by the private sector from a socialist economy: through privatization of state owned enterprises (creation of private property rights) and through the changes in the contents of private property rights (re-specifications). Depending on the existing structure of property rights in the socialist system, market-oriented reforms short of a massive shift in ownership can bring improvements in some countries. In others, rapid and widespread privatization is the only feasible course.

In Myanmar, changes are made in the state-owned organizations in order to get economic efficiency. At the same time, changing the contents of private property rights allows private businesses more accessible to new economic sectors and broader business scope. This paper, therefore, contains two parts: State Economic Enterprises (SEE) reforms and privatization, and re-specifications of private property rights.

2. State Economic Enterprises reforms and privatization

In Myanmar, development of market economy system is clearly defined by the State Law and Order Restoration Council (Now State Peace and Development Council). The role of the state on market management and control is not yet clear in the existing legal documents. However, there is no doubt about the will of the state to carry a major role at economic activities and control over the market. A very marginal change of the contribution to GDP by state sector over 13 years (from 22.6% in 1988/89 to 21.8% in 1999/00) proves that there is no radical and dramatic change in the basic concept of reforms. What it means is that all changes are carried out within the same paradigm _ the state sector can play an important role in the transitional economy.

The pattern of Myanmar reforms is somehow different from that of transitional economies like Russia and Czech where mass privatization is inevitable to create private property rights¹. Private ownership was already recognized by the socialist government and the contribution of private sector to the GDP was also round about 60% to over 70% throughout the years of socialism (from 1962 to 1988). The strategy for the reform program intends to get the increased economic efficiency in both public and private business rather than privatization of SEE to boost private business operation leading to the economic development.

(2.1) The Reforms of Management System

The problem of poor performance of SEEs during the socialist era or increasing deficits of SEEs became a serious problem and called for the urgent reforms of the state enterprise system. The reforms could be summarized as (a) the introduction of a new financial system called State Fund Account (SFA) system² in order to replace the unsuccessful Working Capital system and (b) reallocation of decision processes among the state administrators giving more authority to them.

According to the new financial system, the SEEs are allowed to keep a separate fund account called the Revolving Fund Account, aiming to facilitate the operations of the State Fund Account. The Revolving Fund was set up to act as a buffer for the SEEs who were in urgent need for funds. The SEEs can draw out the necessary funds from the Revolving Fund Account while waiting for their allotments of fund from the budget. The drawings from the Revolving Fund Account are to be deposited when they get their funds allotted by the budget. It is also stipulated that the profits earned by using the Revolving Fund must be put into the Revolving Fund Account. Thus the Revolving Fund will act as a facilitating source of funds for the SEEs as they operate within the framework of the State Fund Account and the budget.

However, the SEEs became too dependent on the Revolving Fund. Moreover, no reliable mechanism was available to make the SEEs to adhere the original regulations in respect of the Revolving Fund Account although attempts have been made by issuing many guidelines and instructions. As a result, the SEEs were found to be operating virtually outside the budget system.

This change made the property relations more complicated. The Revolving Fund generates two types of property within the firm. The state enterprise is originally the state property while Revolving Fund seems to be the enterprise property. The enterprise has complete control over Revolving Fund. Under this situation the SEEs have a strong incentive to transfer state property into the Revolving Fund on which they have complete control. In other words, there is a tendency that the SEEs will transform the profits actually obtained by using budget allotted funds into the profits generated by the Revolving Fund. Metering the contributions of each kind of funds used in the production processes to generate profits is ultimately impossible, especially where the production takes place as a part of organization. As a result, the exploitation of state property becomes an externality to the state and the state has to bear the burden.

This system produces complicated property relations between the state and the SEEs. Complicated property relations can generate two types of collusion; one exists between the SEEs and the state on the issue of profit distributions, and the latter lies between the management personnel for the allocation of Revolving Fund and distribution of compensations from the Revolving Fund.

It also implies that there will be conflicts between the SEEs who have incentives to get more funds and the state who tries to exercise the tight control upon the expenditure of SEEs. Thus, the availability of funds greatly relies on the negotiating power of SEEs with the central planning authorities. When the negotiations are translated on material basis _ materials-based negotiations between the state administrative hierarchies _ there will be a higher degree of possibility of corruption.

The state has released some rights retained previously from the management body of SEEs. The enterprise managers are given more authority for business operations such as material acquisitions, pricing, etc., on which the managers had previously no control. Besides, there is an attempt to professionalize "management" by downgrading the role of workers and government representatives in the Management Committee (Board of Directors).

Effective reward-penalty system or incentive-control system cannot be found yet in the reform program. The management of SEEs probably has more incentive to on-the-job consumption and free-riding because the management has more authority in business operations than before but personally bear no personal risk with the enterprise performance. In other words, the managers of SEEs bear no risk of value consequences of their decisions.

Even the state has engaged in several forms of adjustment to transform SEEs to be more profitable ones, SEEs have, however, still continued to have deficits even after reform program started³. It can be regarded as evidence that the reforms fail to solve sufficiently the agency problems.

2.2 Privatization

The most effective way to solve the agency problems of the SEEs is to transfer state property rights to the private businesses or individuals, the "Privatization". Privatization is an important aspect of the economic reforms as many economists assume. The government has planned to privatize SEEs by piecemeal depending on their performance. The privatization of SEEs is very slow at present. Apart from the fact that the state can

play a major role in economic activities (implicit and persistent conception of the state), the privatization has its own problems.

Privatization has its own barriers to be fully overcome. The prominent barriers are the followings.

- (a) The valuation problems of the enterprises; It is difficult to price the actual value of the enterprise because of unreliable book value or overvaluation of obsolete fixed assets.
- (b) No mechanism for pricing of the value of enterprises; in a capitalist economy, the stock price can be considered as market value of the enterprise. That is, the market value consists of the actual value plus future expectation of the investors, generally called as the present value of future share price.
- (c) Restrictions imposed upon the lease-contract or transfer; the government imposes some restrictions upon the contract, which have negative effects on the speed of privatization (for example, a cinema has to be a cinema even after leasing out or transferred).
- (d) Privatization depends upon the performance; Loss-maker SEEs are given priority for privatization, which is less attractive for the investors.
- (e) Employment problem; Employment problem is the most critical problem to the government. It may be one of the main factors to make privatization slow. Massive privatization in a short period will probably create very risky situation, which can lead to a political upheaval, as it will generate unemployment for which the private sector has no capability to house.

Another possible factor is the method of privatization. The Privatization Commission has adopted the following methods at present to transfer the state property rights to private hands:

- (1) by transferring the enterprises to the co-operative societies;
- (2) by offering shares to the public and forming joint-stock companies;
- (3) by forming joint-venture between private national entrepreneurs as well as foreign investors; and
- (4) By transferring small-scale enterprises completely.

Shareholding system or corporatization, which is a very useful method for “Speedy Privatization”, is not practiced in Myanmar except in the case of Myanmar Timber Corporation which issues and sells shares to the public though it is widely used in the economic reforms in other socialist countries. This method also has weakness due to lack of share trading market. The example of Myanmar Timber Enterprise is in deed joint shareholding system between government and public. The shares of Myanmar Timber Enterprise are now traded through the Myanmar Securities Exchange Centre Co. Ltd., jointly formed by the Myanmar Economic Bank (SEE) and Daiwa Institute of Research Limited.

From the investor's point of view, the risk of investment is relatively very high because there is no stock exchange market. It implies that the investor or shareholder loses a kind of control mechanism, which can discipline the management. Although public organization (Joint Stock Company) is an open-organization characterized by the high degree of transferability of ownership, without stock exchange market, the transferability becomes limited.

Transferability of ownership is of great importance to discipline the managers, but in this case, it becomes ineffective. To solve this problem it is necessary for the state or companies to guarantee investors the lower limit of rate of dividend, for example, the investors are implicitly promised to pay dividends at an annual rate of round about 25%.

SEEs have also set up joint ventures with foreign and local private entities and production sharing contracts with foreign companies, especially in the oil and gas sector.

The widely used methods to form a joint venture are:

- (1) profit sharing _ the partner (Myanmar or foreign investor) has to contribute his share capital in cash and the state contributes enterprise property as share capital, some times with some amount of capital and profits are shared upon the agreed rate, mostly 65% to the private and 35% to the state;
- (2) Product sharing _ the partner has to contribute his share portion in cash and the state gives the partner the use rights of enterprise property and the outputs are divided according to the agreed ratio, mostly 70% to the private and 30% for the state.

It is clear that there are different forms of property rights structure in each type of methods used to transfer state-owned enterprise to private.

The profit sharing system seems to be less attractive to the potential investors because the degree of control rights will probably be lesser than the risk of value because of the requirement to guarantee the job security of government employees who are well accustomed to free-riding. There may be conflicts between the private owners and enterprise employees.

Production sharing is one of the effective methods to solve the agency problems, in which the state needs not necessarily monitor its partners (mostly foreign firms) because partners are bearing risk of their decisions and motivated by the profit incentive. What the state has to do is to monitor the production. It is not a complicated task. This reform also has its limitations depending on the nature of the business. It is suitable especially for those industries in which the production process is very simple and the output can easily be monitored without using any sophisticated or high technology or technique.

The joint venture also creates different forms of property rights and agency problems. There are conflicts between the government staff who has strong incentive to shirk and the private enterprise staff who is motivated by reward, and between stodgy management and flexible management. Negotiation cost for these conflicts has also negative effects upon the performance of enterprise and it will probably lower the efficiency of the business.

Using all the methods mentioned above, the state can share (or transfer) its ownership rights with the private sector. Though this process is now slow and on a small scale at present, it may have some influences upon the management of SEEs. The privatization makes the management to be more sensitive to the profitability as there will always be a possibility for their enterprises (SEEs) to be privatized. The privatization may discipline the management to compromise their personal goals with the objectives of the enterprises.

3. Deregulation in the Private Sector

It is more appropriate to divide the private sector into two categories _ agriculture and other sectors _ as they had very distinct structure of property rights before economic reforms.

3.1 Changes in Agriculture Sector

The obvious changes could be found mostly in control rights (land use rights or decision-making rights) and not in ownership rights. The state is still the ultimate owner of all the land and the farmers cannot sell their lands according to laws or at least in principles.

The state partially abolished the fixed procurement price and sales-quota system in 1988. Farmers were free to deal in their produces i.e., that is the farmers had the rights to sell their produces in the free market, to store and to transport domestically to where they choose. In the next year (2004), the state will release most of the remaining regulations in agriculture sector and hence the agricultural products will be able to be exported freely.

The changes that can produce negative impacts upon the agricultural businesses could be observed in the forms of yearly-contract tenancy practice and alternate land-use-rights.

The first one is that the farmer has to get land-use right from the state annually and it has the direct influence upon the capital investment behavior. With short tenancy, the psychological insecurity of ownership and frequent alterations of directives during the renewal period, the farmer has little incentive to put his money to the development of

land because there is no possibility to get agreements for sharing cost of present investment with unknown future owners.

The latter is that if the initial owner (farmer) of the land is not willing to cultivate the second or third crop, the state may assign the land-use right to other person for the cultivation of second or third crop. It also has negative effects on the capital investment of land development for long-term perspective because there is no possibility to negotiate with and get agreement from next land user for sharing cost of present owner. Moreover, the value consequences of the decision made by the next users have to be borne by the initial owner. It means that all activities of the next users, on which the initial owner has no control, have negative and positive effects on the quality of land and the effects will be borne by the initial owner. If the initial owner has no intention to give up the land-use right for the next crops to the others, he has inevitably to cultivate the next crops. In many cases we interviewed, the farmers sold⁴ their land partially because the marginal revenue cannot cover the marginal cost as the cost of summer crops, for example, is two to three times higher than that of the first or seasonal crops. With this yearly-contract tenancy practice and lack of ownership, it is hard to hold large acreage for cultivators to reap the benefit of economies of scale. The land holding of each household does not show any remarkable changes (86% of household both in 1988/89 and 1998/99 concentrated in the group of less than 10 acres or 4.04 hectares).

It is also true that the improvement of the private property rights in the agriculture sector can cause some improvements especially in sown acreage and production. Due to the nature of agriculture, the rapid increase in yield per acre is very difficult to obtain. It largely depends upon the introduction of high technology as well as more clearly defined

private property rights. If there is no private property right, there will be difficulties to invest for the introduction of technology, as the benefits of business are not guaranteed for the owner to obtain wholly.

3.2 Deregulation in Other Economic Sectors

After 1988, the military government lifted many of the regulations previously imposed on the private business. Almost all sectors became available to the private business except some sectors such as telecommunication, defense and education.

The government has permitted private business organizations in the form of limited liability _ private limited company and public companies or joint-stock companies (at present, the formation of public company is under postponement). This reform is very important and fairly attractive for the private businesses to enlarge and to reap the benefits of economies of scale and increased efficiency arising from competition.

This type of business has a significant positive effect upon the investment behavior and stimulates accumulation of more capital than if it were under unlimited liability. As a result, the number of private business _ exporters/importers, limited companies, partnership firms and joint venture companies limited_ increases significantly from 1776 in 1989/90 to 29868 in 1997/98 (nearly 17 times within ten years).

The increase in the private business can be seen not only in its number businesses but also in its scale. The number of factories and establishments, which employed over 50 workers increase over 17 times from 13 in 1988/89 to 225 in 1997/98. Due to the wider private property rights, the improvement of private sector can be proved in terms of output to GDP ratio. After the economic reforms, the contribution of the private sector to the GDP increases marginally over the years from 72.1 percent in 1985/86 to over 75

percent after 1993 to now. However, it is also clear that the increased contribution of private sector may be in the expense of shares of co-operatives sector. Contribution of co-operative sector continuously declines from 6.9 percent in 1987/88 in its peak to 2 percent in 1999/00.

4. Concluding Remarks

In this paper, we explain how the changes of property rights influence the performance of business organization in the transitional economy of Myanmar.

In the transitional period, the SEEs have been delegated more authorities _ control rights. Two major changes have already been carried out in the state enterprise system. First, the Working Capital system was replaced by the State Fund Account system and second, the separate enterprise fund account was allowed by the state. The increased control rights simply produce the positive effects on the behaviour of the manager because it widens the scope of stewardship. We may thus assume that the manager will increase their commitment in the business operations. But the complicated property relations which exist between state property and Revolving Fund, and the vagueness of the risk and responsibility relations to the managers' decisions can have serious negative effects upon the behaviour of managers. That is the agency problems _ free-riding and on-the-job-consumption, which existed in the past _ continue to be critical issues under the transitional period too.

In the private sector, the state re-assigns the wider private property and the private businesses are more accessible to the economic sectors previously regulated by the state. The more private participation in the economic activities could be regarded the outcomes of reforms, although it is far from what the real market economy is assumed to be. The

government laid down new laws and amendments of existing laws in order to encourage the private sector but the subsequent results are very limited because of inefficiency in enforcement of laws and frequent alterations of institutions and regulations.

In addition, the reform of Myanmar is more resemble to the evolutionary change within the same paradigm rather than that of the revolutionary change, which mainly focuses on shifting the organization or country from one paradigm to another. Moreover, revolutionary change would create the externalities to which strong financial capability, political stability and sound institutional arrangements are at least necessary to cope with. The present situation of Myanmar is not sufficiently to meet these requirements. The rapid increase or economic take-off could not thus be expected from the reform instead the incremental growth rate would be more practical.

¹ Even these two countries used the same method of privatization, namely equal-access voucher privatization; the result of the privatization program is somewhat different. The reason is that the same method produces different structure of property rights and hence results in different incentive systems and control mechanisms that can greatly influence operations of business organizations. In Russia, the managers and employees of most of the firms could use their vouchers to add to their ownership. On the end insiders acquire two-thirds of the shares in the 15000 privatized firms and thus the behaviour of such firms is so far hard to distinguish from that of state firms. In Czech Republic, on the other hand, more than half of the assets of state enterprises were transferred into the private hands and most of the shares then went into the intermediary investment funds. This creates concentrated ownership incentives for active corporate governance.

² Under State Fund Account system, the SEEs have to put all their revenues into the State Consolidated Fund and necessary expenditures are obtained from the annual budget allotments.

³ The percentages of SEE deficit to GDP are 5.56% in 1987/88 and 3.3% in 1999/00.

⁴ Even though the farmer has legally no ownership right (the right to sell), in practice, the farmers can sell their lands.