"Competitive Economy"

Building economic strength through greater competitiveness

Real Economic Strengthening

A fundamental tenet of economic competitiveness is avoiding the middle income trap. In Thailand's case, this could result from a heavy reliance on investment or exports for GDP growth without improving total factor productivity (or efficiency gains). The JFCCT thus notes the importance of a range of developments, including liberalisation in strategic industries, reform of State Owned Enterprises (especially in strategic sectors), enhancement of skills in the labor force, and urgent reform of the work permit and visa regimes. The work permit and visa issues need regulatory and legislative change, to allow for much freer movement of skilled people -- all of which will also have the effect of supporting centres of excellence and regional capability for 'made in Thailand' brands. From the same pro-competitive perspective, we also recommend changes to the tax regime.

We need to move away from a rent-seeking, concession-based economy, stop reinforcing that way of doing business and stop creating new monopolies.

The JFCCT is pleased to have the opportunity to provide constructive recommendations in these areas. All topics have further details which the JFCCT would be glad to provide in an appropriate forum or specific meetings.

Services Sector

The JFCCT has researched and commented for some time on the potential benefits for Thailand's economy of opening up the services sector. The World Bank, ADB, and others have made similar recommendations. The Thai economy, and Thai citizens overall, benefited from the liberalisation of the manufacturing sector. However, there are barriers to liberalisation of the services sector, and the ready-made mechanism built into the FBA to address this, via review of closed industries in List 3, has never been used.

Relevant agreements under the ASEAN Economic community framework targeted allowance of 51% foreign equity in all service sectors by the end of 2010, but there appears little progress as far as Thailand is concerned. In fact, we see competing economies moving ahead of Thailand, and thus attracting capital and skills in important sectors.

Regional Comparative Position

It has been noted that in sectors other than tourism and manufacturing for example, Thailand is slipping, relatively and has not taken the steps to build capacity and capabilities in strategic sectors. The ASEAN Economic Community provides a basis for opportunity for being more competitive. But while some economies are ahead of economic integration targets, others lag behind. It is each nation's support for AEC targets which will determine the success of the AEC. What are the government's plans for the AEC?

Skills Development and free movement of people

No competitive economy has done well by assuming that all the necessary skills and know-how reside within its own borders. Current restrictions on work permit and visas, however, limit the hiring of skilled staff, contribute negatively to the development of major collaborations, and selectively reduce 'made in Thailand' competence.

Reform of the work permit and visa regime is urgently needed, both through policy and regulation change, and legislative change.

Labour market efficiency is a balance between providing a reasonable safety net and being cost effective with the necessary skills. We would welcome revisiting changes to the Labor Protection Act and related areas and note the following points:

i) Sub contractor labour is required to be provided with fair benefits as compared to permanent staff with definition of 'fair' left unclear. The law will have an impact on cost and flexibility that has not been thoroughly examined. For example, if there is a need to improve benefits, will the benefits only to subcontract staff rather than applying them as a whole be the optimal way to achieve the objectives?

ii) The recent increase in Succession Pay when there is no work to keep the factory floor fully employed: Succession pay has been increased from 50% to 75% when there is no work. This increase is causing companies to consider redundancy instead of temporary layoffs due to relatively higher cost.

iii) Current unemployment figures are less that 1%. It is critical to the Thai Economy that skill shortages are addressed to enable expansion of existing business and the investment of new business

iv) The recent elimination of the probation period for new hires: A one-month notice period (one full pay period) is required for not accepting even new hires. This requirement coupled with prohibitively high compensation pay for laying off workers places Thailand in danger of becoming a restricted mobility labour country and progressing to the France-Germany model where there will be high unemployment and reluctance to hire permanent employees.

Telecoms reform

On almost every 'network readiness' indicator, Thailand lags and is slipping further. There were positive moves around the middle of 2010 towards structural reforms of the sector but these have stalled in several ways, including the failure to auction new 3G spectrum, and subsequent stop-gap measures, which have been a major step backwards in the move to provide broadband services on a wide basis.

The proposed solution seems to be the re-empowering of unreformed State-Owned Enterprises without tackling the fundamentals of moving to a level playing field with free and fair competition. Rather, various developments give every indication that we are entering a long-term "Concession 2.0" era, with similar inequalities, inequities, and anti-competitive structures and practices which it is acknowledged have been a hindrance to development and performance of the sector.

The Telecoms sector performs a dual role in the economy: as a key contributing sector in its own right and as an enabler for other sectors which it serves. It should stimulate and attract innovation. It is not doing so, and it is underperforming in both of the roles.

The JFCCT has taken a keen interest in this area for over a decade and have made a number of recommendations including those based around the essential steps of allowing he State-Owned Enterprises to evolve and reform. We encourage the view that the flag should be planted on the enhancement of the industry as a whole, not on protecting the currently state-owned enterprises which need to evolve. We recommend:

i) In the total scheme of **concession conversion**, mobile concession conversion should be given the highest priority. While the overall shape of broadband structure and other concession-related issues are also important, mobile concession conversion should be implemented without waiting for those other issues to be resolved. If concession conversion is done effectively, the blocking effect of the three year moratorium in the Frequency legislation can be minimized.

ii) The establishment of a workable, effective ***NBTC (or NTCT)*** should be fast-tracked. An effective, neutral, independent (ie independent of operators) regulator is a key ingredient in a well functioning, attractive telecoms industry.

iii) The preparatory work should be started now, for creation of a ***national spectrum plan***, based on principles of technology neutrality, to be issued by the NBTC/NTCT (or other agency legally enabled to do so) which will include all frequencies. The uses of such frequencies should embrace various expectations, including 3G on new spectrum, 3G on existing allocated spectrum, 4G (LTE), WiMax, new 700MHz etc.

iv) Refarming or ***reallocating spectrum*** should only be done fairly and in ways consistent with a published national spectrum plan. The overriding goal should be efficient and effective use of frequencies rather than being driven by concern for supporting vested interests.

v) Serious consideration should be given to introducing other enabling legislation, where necessary, in order to facilitate necessary reforms in the telecom sector, to avoid ongoing legal difficulties as the industry continues to grow and evolve.

vi) The principles and requirements of ***free and fair competition***, preventing unlawful cross subsidization and abuse of dominant position are all essential to a well functioning sector. The JFCCT has previously highlighted these important points in the context of GATS.

vii) Upon an establishment of the fully-functional NBTC (or NTCT), serious consideration should be given to facilitating the ***privatisation*** process of State-Owned Enterprises (SOEs), enabling the industry to move to a level playing field with free and fair competition. Then, the government could retain the sole role on the policy maker".

viii) The methods of using certain relevant, ***existing spectrum*** for 3G purposes could be explored in a way which recognizes the commercial and policy intent of eventual 3G spectrum issuance and which does not cement existing monopolies (or create new ones). This must include recognition of the fact that the SOEs were in the midst of a positive evolution, which should be allowed to continue. It must also recognise, however, that the use of existing spectrum should not be intended as a substitute for the development of 3G on frequencies to be issued under new licenses. The continuation of inequities and different treatment in extending concessions (a “Concession 2.0” era) only serves to reinforce the negative and unattractive aspects of a rent-seeking, concession-based approach.

ix) The ***international gateway*** regime is only partially liberalised. International bandwidth for many routes is expensive and overall provisioning and delivery services are often sub standard. This is also an impediment to competitiveness and results in Thailand missing out on business to other nations. Full liberalisation should be done.

x) We would strongly recommend that the enablement of TOT be done only in the context of allowing MNVOs to start providing 3G retail services. It should not be assumed that an existing, unreformed State-Owned Enterprise should be the focal point for the nation's ***broadband*** future.

xi) Great cognizance should be taken of international trends in ***broadband*** development. Thailand appears to be unique in pushing for an existing State Owned telco Enterprise (and an unreformed one at that) to be the centerpiece of the nation's broadband infrastructure. The re-monopolisation of broadband infrastructure and services is a dangerous trend and one which we consider will not produce the desired results. It is well acknowledged that the state of broadband infrastructure and services lags other nations and is an impediment to Thailand's competitiveness. First and foremost is an effective wholesale structure and market for broadband services. While there are some positive policy moves (eg the November 2010 policy statement), there are concerns about re-monopolisation. Key issues needing attention are how an effective wholesale broadband market will be effected, some issues concerning whether existing policy can meet overall objectives, the cost of implementing government policy, the source of the investment needed, making the investment attractive to the private sector with an overall aim of achieving a realistic target of a large percentage of the population for quality broadband services within a reasonable time and ensuring a competitive and innovative structure.

We also recommend the raising of ***foreign equity limits*** for *all* categories of telecoms licences, with a closer review of some possible limitation in those parts of category 3 licences where fixed line services have a domestic national obligation. The exceptional allowance of high foreign equity levels in category 1 licences should be made an overt policy.

The JFCCT encourages the development of an efficient, effective, attractive and innovative telecommunications sector which is able to make a significantly enhanced contribution to the overall economy of which it is part and which it serves.

Banking and Financial Services

The lack of available financing, especially for small businesses, is a negative factor in stimulating innovation and competitiveness. Most financing options are expensive and limited. In the World Bank report on Ease of Doing Business, Thailand dropped overall from 16th place to 19th and access to credit deteriorated from 69th to 72nd. Access to finance is less of a problem for the MNCs or LLCs. The low ranking highlights severe shortcomings due to protectionism. Opening up the sector would allow real competition and give access to a broader number of participants in the economy. The broadening of participation would enhance and strengthen Thailand's economy.

The shortcoming is not a case of the banks and other financial intermediaries which operate in Thailand lacking ability. Foreign banks, for example, have greater and more innovative products and financial services in their operations in more competitive markets but due to the protectionism they enjoy they do not implement their platform from competitive markets and the customers and the economy suffer.

The JFCCT analyses show that banks tend to over ascribe risk in the e commerce area, thus creating another barrier to effective e commerce, via unnecessary hurdles placed in the way of on line merchants and others.

Renewable energy
Currently renewable energy is stated as a priority. However, the Department of Energy no longer gives licenses to new companies to generate power from Solar Energy. The reason given by the Department of Energy is that the 500 MW quota has been oversubscribed and they have applications totally 2000 MW. Unfortunately, only 50 MW has actually been installed and the remaining licenses are not being implemented. Rather there appears to be some desire to 'sell' licences in a secondary market. Thus overall the renewable energy policy may be thwarted.

We seek insight into this issue and ask how the government will resolve this issue and allow new, legitimate companies to install solar power plants in Thailand.

Electrical and Electronics sector
In the electrical and electronics sector, Thailand has done well in manufacturing and assembly. We see benefit to the economy through building policies which will enhance and expand this base further to embrace other parts of this value chain, including design, engineering and value-added distribution. Such expansion would require a range of policy changes and inter-ministerial co-ordination. We ask what policies the government has in this respect.

Education in IT and IT and related skills
This is a strategic area. Greater investment in the use of English language (the language of instruction and the use of IT) is urgently needed. There should also be a commitment towards investment in moving away from rote learning, learning to think critically and develop solutions are needed. The so called 'softer' skills of problem solving and project management are weak. The JFCCT has more detailed analyses and recommendations on this topic.

Creative Economy
Thailand's comparative advantage for creative economy is acknowledged by many. Translating the raw creativity to innovation requires many of the same policy and regulatory changes which support a competitive economy. Unfortunately while there are very positive moves, we are not seeing the fundamental issues being tackled:

Visa and work permit
Hiring restrictions
Education and training
R&D Incentives
Availability of funding
IP protection
Communications infrastructure and services – especially broadband.

The JFCCT is actively involved in developments in the Creative Economy area.

There is an opportunity and need to attract technopreneurs, especially SMEs. For a functioning creative (knowledge) economy and for industrial deepening with more innovation focused investment and activity, the entire eco-system including smaller firms and entrepreneurs need to be enhanced.

Given the regional imbalances within Thailand, we make the suggestion that economic and investment opportunities in the regions within Thailand could be focused. Although the BOI does not currently have regionally-based investment incentives and criteria for strategic industries (all being in effect zone 3), it may be more effective to kick start these initiatives through a focus on regions or locations where existing eco-systems provide the best propensity for success.

Reduce the tax burden

Companies doing business in Thailand face obstacles with conflicting applications of the Revenue Code and inconsistent tax examinations. Because of the lack of clear tax rules, particularly personal income tax, corporate income tax (including withholding tax) and valued added tax, taxpayers incur additional costs & investments.

We do understand that it will take time for the revision of the entire Revenue Code. We, therefore, suggest the use of Royal Decrees, regulations, notifications and instructions as steps to clarify the tax rules. The Revenue Department should review current tax rules that result in numerous tax issues and deliver better tax guidance and clearer interpretations of the tax rules.

To accomplish this, the Revenue Department requires resources in both human and capital so that it can study and revise relevant tax codes in a timely manner. The needed resources should focus solely in streamlining and clarifying tax issues that are detrimental to Thailand's competiveness.

Transfer pricing

The lack of relevant tax rules on Transfer Pricing makes it difficult to plan and operate business in Thailand and generally adds unnecessary costs to companies seeking to invest in Thailand. Having only one Department Instruction (DI Paw 113) is not enough to provide clear tax guidance on Transfer Pricing.

We suggest that clearer rules, such as Director-General Notifications and Department Instructions, should be issued on transfer pricing, clarifying and standardizing TP. We also suggest training courses for the revenue officers to bridge knowledge gap on transfer pricing and improving the administrative process for timely conclusion on transfer pricing audits.

To achieve the goal of improving and clarifying transfer pricing, human and capital resources are essential.

Reduction of corporate tax rates

We encourage reducing corporate tax rates to spur growth and make Thailand more competitive with its Asian neighbours (25% in 2010 for Indonesia and Vietnam and 26% for Malaysia). While it may be difficult to reduce the corporate tax rate from 30% to 25% within a year, the Government should have a clear plan in reducing the corporate tax rate for all businesses. For example, it can begin reducing the rate to 28% in 2011 and then to 25% in 2012. Regardless of the reduced rates or timing, a clear plan should be devised.

The reduced corporate tax rate will continue to encourage investments (domestically and from foreign source) and give Thai companies the competitive edge they need to maintain trade/production volumes or even raise sales with more competitive pricing, as exporters should not lose out from competitors domiciled in lower tax regimes or due to strengthening Thai baht. By averting losses from investments, tax collections will likely be maintained. In fact, we believe the increase in investments will surely increase tax growth as companies expand and the number of transactions increases.

Reduce capital gains tax

The capital gains tax on the sale of shares in a private transaction (outside the stock market), including partial business transfers or transfers where ownership is changed, and on the sale of assets, should be reduced. Currently capital gains tax resulting from a sale of assets or shares is included in the computation of corporate and personal income tax. With corporate tax at 30% while personal tax rate at as high as 37%, these high tax rates discourage mergers, business acquisitions, and even purchase of new assets to replace long-lived assets.

Thai and foreign companies in Thailand face a shortage of capital to grow their businesses. These companies are interested in joining with strategic partners. Unfortunately, the high capital gain tax discourages companies from seeking new investors or pursuing mergers. The reduction of capital gains tax will encourage transactions, and it will NOT REDUCE TAX COLLECTION. In fact, tax collection should rise from the increase in activity.

Economic growth and Thailand's competitiveness can improve through the increase in capital markets transactions, particularly mergers and acquisitions. We, therefore, propose a temporary reduction of corporate and personal tax rates on capital gains, to 10% for 2009 and 2010.

Revise the NEW ROH scheme

While we are encouraged by the enactment of the NEW Regional Office Headquarters (ROHs) scheme, the NEW ROH is more restrictive than the former ROH scheme. The new conditions (listed below) discourage companies from establishing ROH in Thailand.

- Penalizes companies for failing to meet any of the conditions in any given year even though the non compliance is due to circumstances beyond control of the ROH
- Discriminates against the hiring of Thai management employees who are equally well qualified
- Does not address the withholding tax of 3% on ROH services to Thai affiliated company
- Does not address the issue of research and development
- Qualifications is strictly for top management and specialist

These conditions as well as other hindering conditions should be revoked or revised.

Property & Tourism – long stay / second home

The 'second home' market has the potential to attract far greater investment from Europe, which results in further spend in the economy. One important neighbouring economy recognized the importance of this market segment and changed the law; to stay competitive Thailand should consider a similar scheme or an even better one.

Conclusion

The JFCCT is pleased to have the opportunity to provide constructive recommendations in these areas. All topics have further details which the JFCCT would be glad to provide in an appropriate forum or specific meetings.