THEMED PAPER

The politics of sovereign wealth fund investment: the case of Temasek and Shin Corp.

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Abstract

Purpose – The purpose of this paper is to highlight some of the political aspects of sovereign wealth fund investment.

Design/methodology/approach – The paper employs a case study approach, bringing together various news articles and reports from around the world to build a picture of the key events surrounding the Temasek acquisition of Shin Corp.

Findings – The paper finds that the deal between Temasek and Shin Corp. was complex as foreign ownership is limited in Thailand. To add further controversy to the deal, the ultimate owner of Shin Corp. was former Thai Prime Minister Thaksin Shinawatra. Consequently, the controversy surrounding the deal and sensitive nature of the sale caused significant political turmoil in Thailand, and in some measure contributed to the military coup that finally ousted Thaksin Shinawatra.

Research limitations/implications – The paper is a case study and as such is illustrative.

Practical implications – The case highlights the potential fallout from sovereign wealth fund investment as a result of acquiring strategic assets.

Originality/value – To the best of the author's knowledge, the paper presents the first discussion of this important issue.

Keywords Investment funds, Politics, Thailand

Paper type Case study

An overview of Temasek Holdings

Temasek Holdings (Temasek) was established in 1974 under the Singapore Companies Act in order to manage the portfolio of companies and other investment assets held by Ministry of Finance (www.temasekholdings.com.sg/about_us.htm). As noted by Ng (2009) in the previous article, Temasek therefore has only one shareholder, the Singapore Government. As such when any investment is made, despite notions of independence from the government the fund invests on behalf of the Singapore Government.

Since 2002, Temasek has increasingly expanded its investment portfolio across Asia, Australia, Europe, and North America. Its largest investments are stakes in banks and telecom companies (Table I). Such investments can be viewed as being in politically sensitive industries, i.e. finance and telecommunication. As of March 31, 2008, Temasek's portfolio under management was approximately $185 billion and was weighted toward investments in Singapore and Asia (www.temasekholdings.com.sg). The fund mainly being financed by dividends from the portfolio, divestments, commercial borrowings, a maiden Yankee bond issued in 2005 and occasionally injections from Ministry of Finance (www.temasekholdings.com.sg/media_centre_information_factsheet.htm).

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	Percentage
Panel A. Regional distribution of investments	
Singapore	33
North Asia	22
ASEAN	12
South Asia	7
OECD economies	23
Others	3
Panel B. Sector distribution of investments	
Financial services	40
Telecommunications and media	24
Transportation and logistics	10
Real estate	7
Infrastructure, industrial, and engineering	8
Energy and resources	5
Technology	2
Life sciences, consumer, and lifestyle	2
Others	4

Source: www.temasekholdings.com.sg

Table I.
Portfolio diversification as of March 31, 2008

The acquisition of Shin Corp.

Shin Corp. (Shin) was a leading publicly listed company in the Stock Exchange of Thailand. The structure of the Shin deal was complex. Since March 2006, Temasek Holdings acquired shares in Shin totaling 96.31 percent of paid up capital through its nominees Cedar Holdings and Aspen Holdings. Through the Thai Alliance (www.gotomanager.com/news/details.aspx?id=46526; Siam Commercial Security Plc and Kularb Kaew) the nominees bought 46.91 percent of paid up capital. Singapore Telecom, in which Temasek is the majority shareholder, at the same time, purchased 49.21 percent of paid up capital. Temasek also placed a tender offer for Shin's warrants, leading to a total shareholding 96.31 percent.

The deal was obviously structured to bypass Thai foreign ownership rules. However, the more significant issues surrounding the deal was that Singapore Telecom purchased its holding of Shin shares from five major shareholders, namely the family and relatives of the ex-Prime Minister Thaksin Shinawatra, for 49.6 percent of paid up capital. The Shinawatra and Damapong families received in total THB 73.3 billion ($3.09 billion) from the sale. This is still the biggest foreign purchase of Thai company and the largest single foreign investment ever in Thailand's history ((*The*) *Financial Times*, 2006).

Temasek's business relationships in Thailand

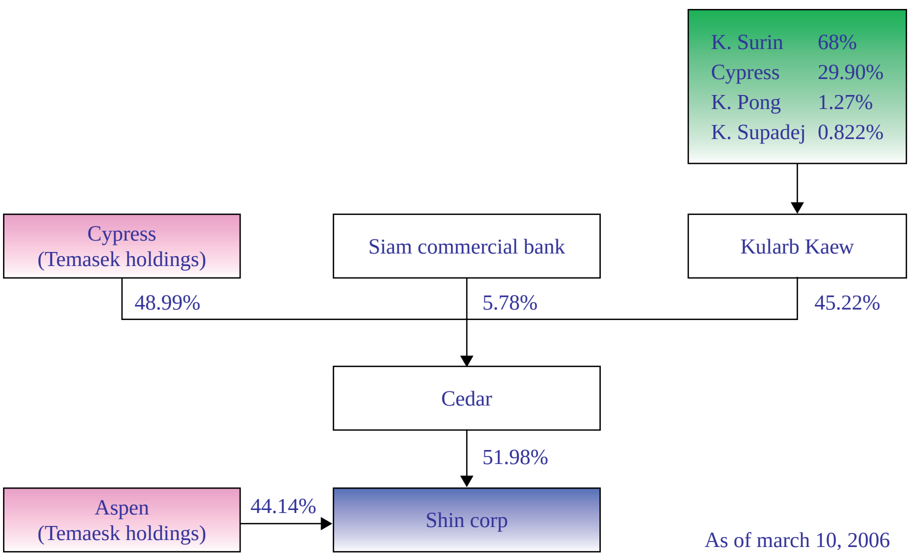
Temasek already had established a number of business links with the Thai parties who were involved in the Shin deal. For example, Peter Seah Lim Huat, a director of Siam Commercial Bank (SCB), is a representative of the Development Bank of Singapore (DBS), one of the SCB's largest shareholders (www.gotomanager.com/news/details.aspx?id=7821). Temasek in turn is a major shareholder of DBS. Seah Lim Huat was the individual who approached Vichit Suraphongchai, the executive chairman of SCB, to take part in the deal (http://forums.vr-zone.com/chit-chatting/97263-temasek-being-investigaed-thai-police.html).

Further, a number of holding companies were involved in Shin Corp. deal. If the Shinawatra and Damapong families had sold their holdings directly to Temasek, this would have resulted in foreign ownership of greater than 90 percent and Shin would have been a foreign business entity. The foreign ownership in Shin's affiliates (Advanced Info Service (AIS) and ShinSat) through the pyramid ownership structure of Shin would have broken the Telecommunication Act which restricts foreign ownership to 49 percent (www.bangkokbiznews.com/2006/special/shincorp/news.php?news=shin1.html).

Temasek's nominees, Aspen Holdings (Aspen) and Cedar Holdings (Cedar), were set up in Thailand solely for the purpose of acquiring Shin. To avoid an entirely Singaporean holding in Kularb Kaew, which would have been contrary to Thai foreign ownership law, Pong Sarasin[1] (the former Chairman of Shin Corp.) and Suphadej Poonpipat (the Executive Chairman of Thanachart Capital) were invited to join the deal as majority shareholders of Kularb Kaew, which holds approximately 41 percent of Cedar Holdings (*Reuters News*, 2006a; Figure 1).

Moreover, Temasek attempted to ensure that the deal would fully comply with Thai regulations. To this end they employed many local experts (*Reuters News*, 2006a). For example, ML Chayothid Kridakarn from SCB Securities played a key role in structuring the deal as the local financial advisor (*Bangkok Post*, 2006b). Again Suvarn Valaisathien, one of the lawyers who helped Thaksin Shinawatra to defend himself against asset concealment charges, before the Constitutional Court in 2001 was an advisor for the Shinawatra and Damapong families on the legal aspect of the transactions (*Bangkok Post*, 2006b).

In financing the deal Temasek did not use all of its own cash either. It borrowed about THB 30 billion from the Thai financial markets to finance the takeover. In addition to this SCB financed THB 15 billion in the form of a loan to Temasek, and this was underwritten by the DBS. Bangkok Bank put up the remaining THB 15 billion. Interestingly, for Bangkok Bank, lending to Temasek was considered to be risk free because Temasek's credit rating was higher than that of Thai sovereign debt, making borrowing very cheap for the sovereign fund. Temasek then invested THB 43 billion to complete the deal with the



Source: Annual report (Form 56-1) of Shin corp as of the fiscal year end (2005)

Figure 1.
Ownership structure of Shin Corp. as of March 10, 2006

Shinawatra and Damapong families. Finally, Temasek set aside another THB 79 billion to tender for the remaining 51 percent of Shin as part of the compulsory 100 percent tender offer (*Reuters News*, 2006a).

The post acquisition political fallout

Since Thaksin Shinawatra became Thai Prime Minister, he was subject to continuous criticism about the clear conflict of interest between his businesses dealings and his duties as prime minister. Thai media were critical of the way in which he utilized his political power to support his family's corporate holdings and to increase his personal wealth (*Bangkok Post*, 2006b).

The Shinawatra and Damapong families claimed that the transaction with Temasek reflected a win-win position. Whereby, the deal between Temasek and Shin terminated Thaksin Shinawatra's 22-year association with the telecoms conglomerate. Shin Corp. meanwhile gains Temasek's financial support and expertise that will help to foster Shin's regional growth and strengthen communication sector in Thailand (SCB, 2006).

Nevertheless, the announcement of the deal immediately caused uproar in Thailand. Temasek by becoming a majority shareholder in Shin, not only gains a majority holding of Shin, but also the companies of which Shin is a majority shareholder, including, AIS (the biggest mobile phone company in Thailand), ShinSat, ITV, Capital OK, Thai Air Asia, Shenington, Cambodia Shinawatra and Lao Telecom. The accusation against Thaksin Shinawatra was that he had sold huge amounts of national assets to a foreign government because Shin's affiliates controlled a mobile phone concession, a satellite concession, a television concession and aviation rights (*The Nation Newspaper of Thailand*, 2007a).

As a result of its association with Thaksin Shinawatra, who now stood accused of corruption, Temasek was also investigated by the Business Development Department of the Ministry of Commerce, for alleged improper use of nominees in a complex deal to take over Shin.

Temasek however, attempted to find a solution to its precarious position by seeking a connection to the powerful Thai Royal Family through Tongnoi Tongyai, the former deputy principal private secretary to His Majesty the King and adviser to the Crown Prince. Tongnoi Tongyai was appointed as chief adviser to Temasek's planned Thai office. Temasek believed that Tongnoi's prestigious connections would provide protection from the Thai authority's investigation. Later, Tongnoi was accused by HRH Prince Maha Vajiralongkorn's Personal Affairs Office of making false claims about his employment status which had been terminated previously. Temasek subsequently withdrew Tongnoi's appointment without any explanation (*The Nation Newspaper of Thailand*, 2006a).

Subsequently, a lawsuit has been filed with the Supreme Administrative Court in Thailand to examine whether the Information and Communications Ministry and the Prime Minister's Office should revoke the satellite and television licenses held by subsidiaries of Shin. Thai Telecommunications Law caps foreign ownership of companies holding telecom concessions at 49 percent and Temasek had clearly violated the 49 percent foreign ownership limit. In addition to this The Foreign Business Act requires that the majority owner of companies in strategic industries is Thai.

The Thai perspective of the Shin deal

Although Temasek officials have claimed that its decisions are independent of the Singapore government and that it makes investment decisions on a strictly commercial basis this is not the view that has been held in Thailand. The Thai public view Temasek's acquisition as "economic imperialism" (*Asia Times Online*, 2006). In addition to the complex ownership structure of the deal, the Shin deal gave by proxy ownership of strategic assets to a foreign government and was widely criticized in Thailand as the tax revenue that should have been generated from the sale has not been fully accounted for (*The Nation Newspaper of Thailand*, 2008c).

The central issue around this deal is Ample Rich Investment. This was a paper firm that was set up and 100 percent owned by Shinawatra in 1999 in the British Virgin Islands. He transferred 32.9 million shares (THB 10 per share) or 10 percent of Shin's shareholding to Ample Rich. He claimed the purpose of the transaction with Ample Rich is to help Shin raise capital on the NASDAQ stock exchange (*The Nation Newspaper of Thailand*, 2007c).

Shinawatra subsequently reported to the National Counter Corruption Commission (NCCC) that he had sold the Shin shares in the Ample Rich account to Panthongtae, his son, in 2000. As a result his asset declaration, which was required by the Thai Constitution, did not mention Ample Rich in 2001 (*The Nation Newspaper of Thailand*, 2006c). Panthongtae did not need to declare his assets to the NCCC. Nevertheless, to comply with the Security Act 246, Panthongtae should have reported to the Thai SEC on the transaction date or the day after as the holding was greater than 5 percent (www.bangkokbiznews.com/2006/special/shincorp/news.php?news=shin7.html). However, his Ample Rich holding has never been disclosed to the SEC.

The Asset Examination Committee (AEC) was set up by the military coup that deposed Shinawatra, as an independent organization to investigate the 24 corruption cases against the former prime minister. During the AEC's investigation they found evidence that while Shinawatra served as the prime minister, he still owned or controlled Ample Rich, which in turn held 10 percent in Shin (*The Nation Newspaper of Thailand*, 2008a). Shinawatra seemingly remained the owner of Ample Rich and its 10 percent stake in Shin because his 49.6 percent shareholding in Shin was still reported on the Shin web site prior to the Temasek sale (*The Nation Newspaper of Thailand*, 2006c).

On January 20, 2006, Ample Rich sold 32.9 million shares of Shin to Shinawatra's children, Panthongtae and Pinthongta, at THB 1.00 each. On January 23, 2006 the transaction date of the Shin-Temasek deal, they then sold those shares to Temasek at THB 49.25 each ((*The*) *Economist*, 2006). The Ample Rich transaction led to questions about insider dealing and tax evasion by Panthongtae and Pinthongta.

The AEC has accused revenue officials of failing to tax Ample Rich after it received the proceeds of Shin sale. The role of the AEC is to investigate and gather evidence in corruption cases before forwarding it to the attorney general or NCCC. As a result of the AEC enquiry it appears that the Thailand Securities Depository charged Ample Rich only 10 percent tax on dividends. The AEC pointed out that Ample Rich, earned revenue from not only dividends, but also the sale of Shin and other incomes between 1999 and 2006 (*The Nation Newspaper of Thailand*, 2007b) and as such should be taxed at the full corporate rate of 30 percent.

Singapore's view of the Shin deal

Temasek's overseas investments can easily be justified on the basis of national interest. The acquisition of Shin accounts for only a small fraction of Temasek's overall portfolio. Further, the fund already has investments in other Thai firms such as Charoen Pokphand Group and Siam Cement. Temasek's acquisition of Shin was designed to increase its international investments and may have been underpinned on a positive long-term view of Thailand's economy.

Protection of Singapore telecom?

However, there may have been other motives. AIS is the most profitable business in the Shin conglomerate with 55 percent of the Thai mobile phone market (*Gartner*, 2006b). Temasek's interest in AIS may therefore be motivated not only by AIS' financial performance, but also Temasek's strategy to protect one of its subsidiary firms, Singtel (Singapore Telecoms mobile phone business). Singtel previously lost out in its investment in Bharti Telecom in India. Vodafone raised its stake in Bharti Telecom to dominate and take control and Singtel has subsequently lost ground in India as a result ((*The*) *Straits Times*, 2006).

SingTel's goal is to capture the Asia-Pacific mobile phone market (*Gartner*, 2006b). This will enable Singtel to reduce the cost of handsets through economies of scale and infrastructure costs as a result of its dominance in the market (*Gartner*, 2006a). Apart from Shin, Singtel currently owns Optus, another controversial Temasek acquisition, the second largest Australian telecom operator and holds shares in various regional mobile carriers including, Globe in the Philippines, Bharti Telecom in India, Pacific Bangladesh Telecom in Bangladesh and Telkomsel in Indonesia.

In 2005, two foreign telecoms companies, NTT Do Co Mo of Japan and China Telecom approached the Shinawatra family about selling their AIS stake. However, these offers subsequently collapsed because Singtel exercised its right of refusal. Although Singtel had been involved in joint ventures with Shin and AIS previously (*The Nation Newspaper of Thailand*, 2006b), it had never actively been involved in any management decisions.

Temasek's international investments

Both Prime Minister Lee Hsien Loong and Minister Mentor Lee Kuan Yew of Singapore have stated that the purchase of Shin was a sound investment decision based on commercial realities, as well as insisting that the deal was legal (*Bangkok Post*, 2006a). Their position is that Temasek is an independent company that bought a company that was owned by the Shinawatra children, not Thaksin Shinawatra. However, there is a case to be made that national laws were overlooked or circumvented to attain the investment goals of the fund.

Temasek's aggressive regional investment strategy is known in Singapore as the "Look East" investment campaign (*Asia Times Online*, 2006). Interestingly, the Shin deal is not the first example of Temasek overlooking some of the more important legal and political considerations of potential acquisitions during the process of due diligence. For instance, Temasek through another complex ownership structure held stakes of more than 5 percent in two financial institutions licensed in Malaysia without prior central bank approval. A rushed sale was subsequently undertaken to comply with the regulations after the issue was highlighted in the Malaysian press ((*The*) *Economist*, 2006).

Temasek's stake in Shin clearly violates Thai foreign business law. Further, the Shin deal made brought to light significant levels of corruption in the Shinawatra government (*Bangkok Post*, 2006a). Further, the acquisition of Shin led to such unexpected outcomes. The tax free structure of the deal to the Shinawatra family caused huge public outrage in Thailand that resulted in several months of street protests demanding the resignation of the Prime Minister over alleged corruption and abuse of power. Further, there was a military coup that resulted in Thaksin Shinawatra being deposed and exiled to the UK (*Bangkok Post*, 2006a).

In an attempt to partially rectify the situation, Temasek has approached a number of Thai billionaires to buy Shin's shares in 2008. They include Charoen Sirivadhanabhakdi, the liquor tycoon, Dhanin Chearavanont, the agro business tycoon and ironically Thaksin Shinawatra, the former owner (*The Nation Newspaper of Thailand*, 2008b). However, these approaches may not, and to date have not, been successful as any investment in the telecom industry might not be of interest as it is out with their core businesses.

Kularb Kaew, which was alleged to be Temasek's nominee in the Shin deal, has subsequently sold 68 percent of its shares to Surin Uptakoon, a Thai businessman based in Malaysia (*Reuters News*, 2006a). However, Thai police are currently investigating whether he is acting as a Temasek nominee (*Reuters News*, 2006a).

Conclusions

After the military coup in Thailand, the Shin deal is probably one of Temasek's most controversial and disastrous investments (*Reuters News*, 2006b). Not only did the acquisition result in a political crisis in Thailand but also in significant financial loss for Temasek. The share price of Shin has dropped 37 percent since the deal was announced (*Reuters News*, 2006b). The paper loss has been estimated to be approximately USD 1.4 billion. Further, ITV has been threatened with a fine of USD 2 billion as a result of a license fee dispute. As a result, for the fiscal year end March 31, 2007, although Temasek announced an increase in its investment portfolio of 35 percent, net profit fell 29 percent due to significant losses from the Shin acquisition ((*The*) *Straits Times*, 2006). This loss is substantial given that Temasek holds large stakes in many of Singapore's biggest companies that have a monopolistic position, including Singtel, DBS Group, Singapore Airlines and PSA International.

Underpinning the problems with this deal was the fact that the Shin deal was not a transaction between an ordinary investor and an ordinary business entity, but the acquisition of strategic national assets by a foreign government. The deal highlights many of the concerns about the actions of sovereign wealth funds and the way in which they invest. Temasek seems to have actively tried to by-pass foreign ownership law in Thailand to secure the deal and the motives as to why are not clear. On the one hand, it may have been a straight forward transaction. However, the complex pyramid structures within Shin allowed for the fund to acquire many strategic firms in one transaction. Consequently, the opacity and complexity of the transaction raises questions as to whether there were other motives, such as protecting SingTel, driving the deal.

Note

1. Pong Sarasin is also the son of the former Prime Minister and the brother of Arsa Sarasin, the King's Principal private secretary.

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