UDC 334.722.8(075.8)

V. F. Purtov
Ph.D. (Economics), Associate Professor
V.N. Karazin Kharkiv National University, Ukraine
ec-science@karazin.ua

CONTOURS OF CORPORATE MANAGEMENT MODELS: CASES OF UKRAINE AND CHINA

An important trend in the modern development of the countries with transition economy is the creation of joint-stock companies and improvement of the forms and methods of corporate management.

The restructuring of Chinese model of economic development is carried out consequentially in accordance with the developed concept of two systems in one state. China's experience indicates, that in the XXI-st century it's necessary to strive not to global universalism, but to preserve the civilizational identity, which allows not to interrupt, but to continue the story under new conditions. In this sense, China's model of economic development requires careful study to find the ways of fixing the problems of unstable economies of other countries.

The paper attempts to identify the main features of corporate management in Ukrainian and Chinese companies on the basis of the current legislation of both countries. Comparative analysis of corporate management models was carried out, using a number of allotted characteristics – participants, activity monitoring, shareholding structure, legislative framework, company's management structure, information disclosure.

Keywords: corporate management model, shareholders' meeting, supervisory board, board of directors, executive body.

Jel Classification: L14, M13, P26.

В. Ф. Пуртов
кандидат економічних наук, доцент
Харківський національний університет імені В.Н. Каразіна
ec-science@karazin.ua

КОНТУРИ МОДЕЛЕЙ КОРПОРАТИВНОГО УПРАВЛІННЯ УКРАЇНИ ТА КИТАЮ

Важливою тенденцією сучасного розвитку країн з перехідними економіками є формування акціонерних товариств та вдосконалення форм і методів корпоративного управління. Перебудова китайської моделі економічного розвитку здійснюється послідовно відповідно до розробленої концепції двох систем в одній державі.

Досвід Китаю вказує на те, що в XXI столітті потрібно прагнути не до глобального універсалізму, а до збереження цивілізаційної ідентичності, яка дозволяє не переривати, а продовжувати історію в нових умовах. У цьому сенсі модель економічного розвитку Китаю вимагає докладного вивчення задля пошуку шляхів вирішення проблем розвитку нестабільних економік інших країн.

У статті зроблена спроба виявлення особливостей корпоративного управління в українських і китайських організаціях на основі чинного законодавства обох країн. Проведено порівняльний аналіз моделей корпоративного управління за рядом виділених характеристик – учасники, моніторинг діяльності, структура володіння акціями, законодавча база, структура управління компанією, розкриття інформації.

Ключові слова: моделі корпоративного управління, загальні збори акціонерів, наглядова рада, рада директорів, виконавський орган.

Jel Classification: L14, M13, P26.

В. Ф. Пуртов
кандидат экономических наук, доцент
Харьковский национальный университет имени В.Н. Каразина
ec-science@karazin.ua

КОНТУРЫ МОДЕЛЕЙ КОРПОРАТИВНОГО УПРАВЛЕНИЯ УКРАИНЫ И КИТАЯ

Важной тенденцией современного развития стран с переходными экономиками является формирование акционерных обществ и совершенствование форм и методов корпоративного управления.

Перестройка китайской модели экономического развития осуществляется последовательно в соответствии с разработанной концепцией двух систем в одном государстве. Опыт Китая указывает на то, что в XXI веке нужно стремиться не к глобальному универсализму, а к сохранению цивилизационной идентичности, которая позволяет не прерывать, а продолжать историю в новых условиях. В этом смысле модель экономического развития Китая требует пристального исследования для поиска путей разрешения проблем развития нестабильных экономик других стран.

В статье предпринята попытка выявления особенностей корпоративного управления в украинских и китайских организациях на основе действующего законодательства обеих стран. Проведен сравнительный анализ моделей корпоративного управления по ряду выделенных характеристик – участники, мониторинг деятельности, структура владения акциями, законодательная база, структура управления компанией, раскрытие информации.

Ключевые слова: модель корпоративного управления, общее собрание акционеров, наблюдательный совет, совет директоров, исполнительный орган.

Jel Classification: L14, M13, P26.

General formulation of the problem and its relation to important scientific tasks. Ukrainian-Chinese cooperation is one of the most important components of economic capacity of Ukraine. The relations of strategic partnership have laid the foundation for successful joint work in different areas, and have created conditions for gradual transition from the exchange of the goods of "raw materials - household" nature, to investment and production cooperation.

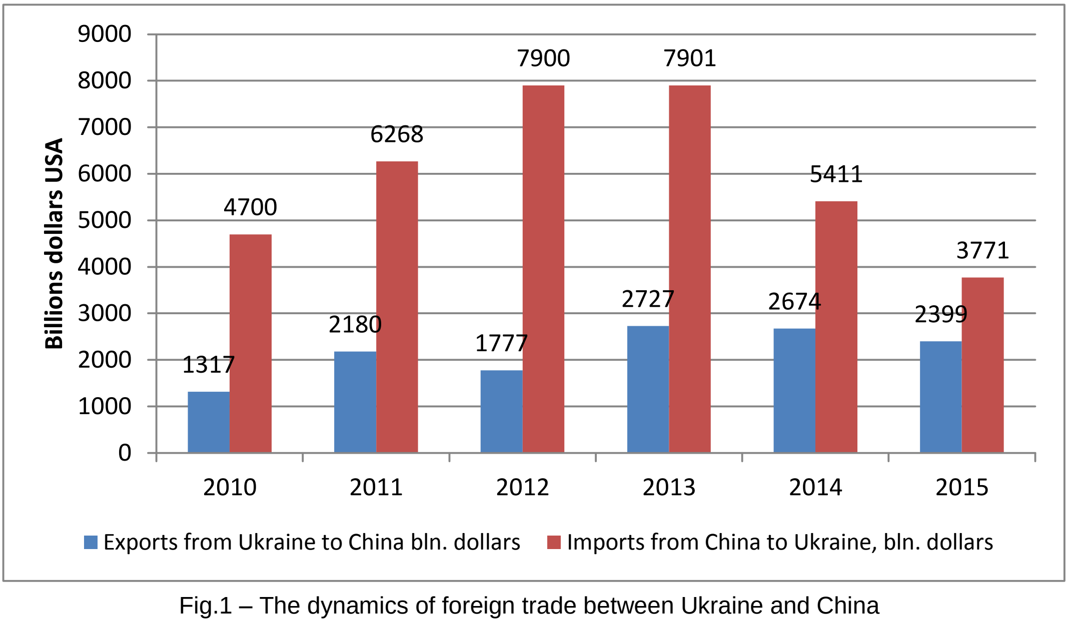

Fig.1 – The dynamics of foreign trade between Ukraine and China
Source: State Statistics Service of Ukraine. Ukrainian Analytical Center

As shown in fig. 1, according to the results of 2015 Ukraine has sold to China goods and services for a total amount of 2.4 bln. USD, which is 10% less than in 2014, but 3.8 times more, than in 2005. Since 2010 Ukraine is quite actively increasing exports to China, and in 2013 a record was set in fact, when Ukraine has sold to China goods valued at 2.7 bln. USD.

Despite of the negative trade balance, it can be argued, that Ukraine seeks to enter the Chinese market. Analysis of export-import operations between Ukraine and China, has shown, that the major share of Ukraine's exports is raw materials: iron ore (40.2%), cereal crops (28.2%), sunflower oil (22.2%), and only 2.9% - mechanical engineering production (Table. 1).

In this situation it is advisable to "build bridges" of economic cooperation between China and EU via Ukraine by joint ventures creating, with orientation toward the markets of the third countries.

Recently China and Ukraine are discussing a number of agricultural, energy and infrastructural projects (Инвестиции в странах БРИК, 2010). Thereby, Ukrainian national companies have a real opportunity to become business partners of Chinese organizations. However, for successful business it is necessary to understand its specific and distinctive features. Both in China and in Ukraine corporate enterprises are the prevailing form of economic management (joint-stock companies, limited liability companies, corporations). The models of corporate management in these organizations have fundamental distinctions, and this research is devoted to their identification.

Table 1

Structure of China-Ukraine exports and imports in 2015.

Ukraine's exports to China			Ukrainian Imports from China		
	ths. dollars	share in exports, %		ths. dollars	share in imports, %
Iron ore	964 170	40,2	Household appliances	866 082	23,0
Cereal crops	676 941	28,2	Machinery and equipment	585 727	15,5
Sunflower oil	533 208	22,2	Polymers and plastics	239 287	6,3
Machinery and equipment	70 303	2,9	Organic chemistry	150 330	4,0
Timber	490 30	2,0	Shoes	140 906	3,7

Source: State Statistics Service of Ukraine. Ukrainian Analytical Center

Analysis of the recent studies. General theoretical foundations of corporate management are presented in the papers of H. Mintzberg, B. Alstrend and G. Lempel (Минцберг, Альстрэнд, Лэмпел, 2000), Black B.C. (Black, 2006), E Porter (Портер, 2005). Practical aspects of studying of the features of national corporate enterprises management are addressed to in the works of P. Krush (Круш, Кавтиш, Гречко, Чихачьова, 2007), I. Mazur, V. Szapiro, N. Olderogge (Мазур, Шапиро, Ольдерогге, 2003), M. Kudinova and V. Purtov (Putrov, Kudinova, 2011) and others. At the same time, the issue of comparative analysis of the emerging corporate management models in China and Ukraine was not practically addressed and need in-depth research.

Research goal is to reveal the peculiarities of Chinese and Ukrainian models of corporate management in order to create in the future Ukrainian-Chinese joint-stock companies.

Presentation of the main research material. The existence of various approaches to the problem of creation of corporate management models in modern organizations is caused both by historical factors of the development of the country, and by its legal and social features. Thus, the role of corporate management in the countries, where considerable equity holdings are concentrated in the hands of individual actors, significantly differs from that in the countries with a high degree of dispersion of shareholders. In spite of the fact that certain domestic provisions, which regulate corporate management system in joint-stock companies, are different, the accumulated experience of the majority of corporations and regulatory support in a given country allow to define “model of corporate management” concept for a group of countries or for a continent. The notion of insider and outsider management is decisive for corporate management typologization. As a rule, insider management is understood as seizure of significant control rights by managers or employees of the former state enterprise in the process of its corporatization. Dependant on national conditions and forms of privatization, the degree and scope of insider control may be different in transitional economies.

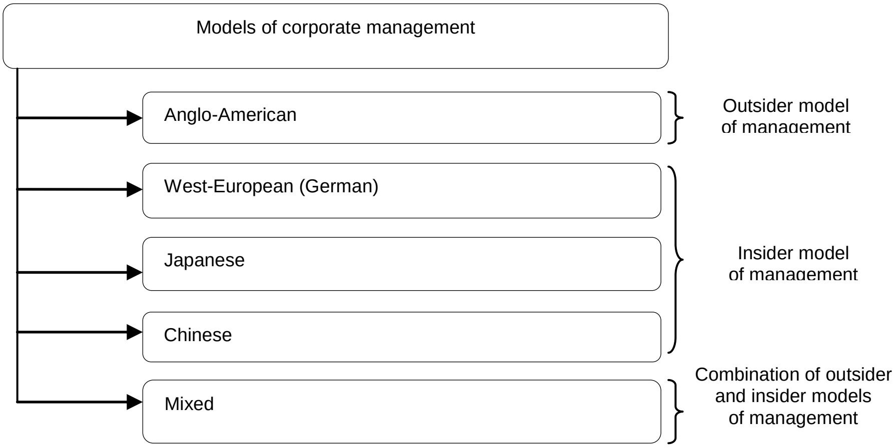

Fig. 2 − Models of corporate management

Source: author's development

Table 2

Top-20 of the largest companies of the world

Company	Country	Sphere of activity	March 31, 2013		March 31, 2008	
			Rank	Market capitalization $ bln.	Rank	Market capitalization $ bln.
1	2	3	4	5	6	7
APPLE	USA	Technology	1	416	41	126
EXXON MOBIL	USA	Oil and gas	2	404	1	453
GOOGLE	USA	Technology	3	263	36	138
BERKSHIRE HATHAWAY	USA	Finance	4	257	13	207
PETROCHINA	China	Oil and gas	5	255	2	424
WAL-MART STORES	USA	Consumer services		246	11	208
GENERAL ELECTRIC	USA	Industry	7	240	3	369
MICROSOFT	USA	Technology	8	240	7	264
IBM	USA	Technology	9	238	27	159
NESTLE	Switzerland	Consumer goods	10	233	14	197
IND&COMM BK	China	Finance	11	232	6	277
CHEVRON	USA	Oil and gas	12	231	19	177
JOHNSON& JOHNSON	USA	Health	13	228	17	184
CHINA MOBILE	Hong Kong	Telecommunication	14	213	5	298
PROCTER&GAMBLE	USA	Consumer goods	15	211	9	216
ROYAL DUTCH SHELL	Great Britain	Oil and gas	16	209	10	216
PFIZER	USA	Health	17	207	33	142
CHINA CONST BK	China	Finance	18	203	20	176
SAMSUNG ELECTRON	South Korea	Consumer goods	19	202	68	93
AT&T	USA	Telecommunication	20	201	8	231

Source: (Топ-100 крупнейших компаний мира по рыночной капитализации).

The outsider model is the model, in which the rights of control – depending on the financial state of an enterprise – are transferred from insiders to an outsider – to a bank, to other financial structures or to external investors. Fig. 2 presents modern corporate management models.

Now Chinese markets of the capital adapt to a new, more rigid and dynamic regulatory regime of corporate management. In recent years the questions of business transparency, responsibilities of Boards of Directors, of investors and interested parties, including their responsibility for risk management, have drawn little attention on the background of the outstanding achievements of Chinese economy, which made China the third largest economy in the world after the USA and Japan, considering exchange rates. According to the data of the international research company "PricewaterhouseCoopers" (PwC), in 2013 four Chinese companies have entered the top-20 of the largest companies of the world (Table 2).

Companies law was adopted in PRC by the 8-th convocation of the National People's Congress in December 1993; it was revised thrice (in December 1999, in August 2004 and in October 2005); the last revision came into force on January 1, 2006. The law regulates the questions of commercial structures organization and activity and of protection of the companies', shareholders' and creditors' commercial interests. The law envisages two types of companies:

- limited liability companies
- joint-stock ones.

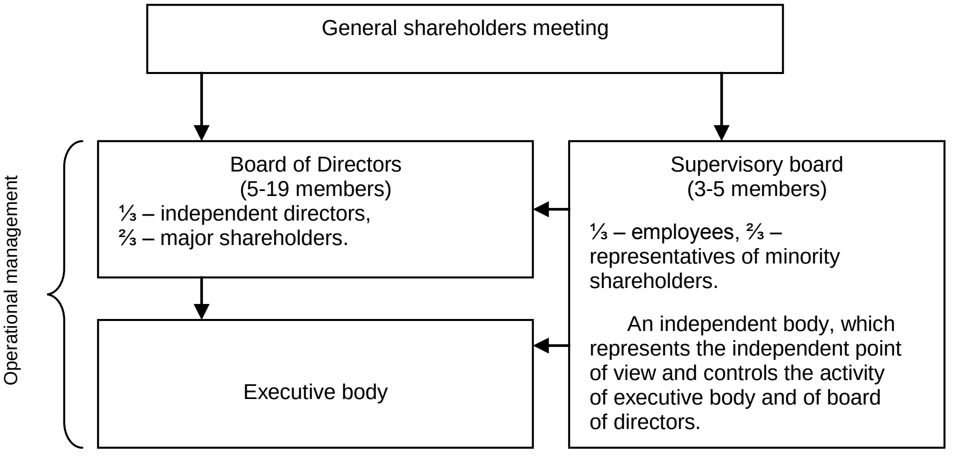

Fig. 3 − The model of corporate management in China
Source: e-resource: www.fialan.info

All limited liability companies are obliged to have the Board of Directors. For "large" companies creation of a separate Supervisory board is envisaged, which should represent the interests of employees and on one third be composed of the company employees. Boards of Directors of the majority of public companies should also include the representatives of minority shareholders, who own insufficiently big equity stakes in order to submit nominations for the Board of Directors. The law enshrines the right of shareholders to appoint and withdraw directors and the members of the Supervisory board and to establish the amount of remuneration for shareholders. In addition to this basic law a whole series of rules and provisions was adopted, regulating listing on the stock exchange and capital markets functioning.

In order to improve corporate management and increase the transparency of Chinese companies' activity the latest edition of the Law about companies was adopted (in force from January 1, 2006). It has simplified the process of companies establishment, has expanded the rights of minority shareholders, has tightened the requirements for corporate management in public companies, has improved the protection of creditors' rights and has given employees the right to participate in company management.

Companies law obliges the companies, which are registered on the stock exchange, to create a two-tier board structure. Two thirds of the board members should be major shareholders, and one third – independent directors. The Board of Directors may include from five to 19 members. Boards of Directors are accountable directly to shareholders. The second tier is the Supervisory board, which should include the representatives of employees (not less than one third) and of minority shareholders. As a rule, a Supervisory board includes from three to five members. Board members and the executive management can't be members of the Supervisory board (Мазур, Шапиро, Ольдерогге, 2003, p. 69).

With two-tier structure the Board of Directors works closely with company management. In most cases the positions in the Board of Directors and in executive management are occupied by the same persons, who just perform daily operational management of the company. The Supervisory board is an independent body, which represents an independent point of view and controls the activity of executive management and of the Board of Directors. However, since the majority of the members of the Supervisory board are the company staff, who are subject to management and are appointed by the major shareholders, it is difficult for them to play a role of absolutely independent observers, without thinking about their own career interests.

According to the existing registration system, all the registered shares have certain rights and may circulate freely. Shareholders have equal rights from the point of view of participation in profits, participation at shareholders meetings – personally or by voting by proxy, of making/contesting recommendations for management. However, in practice, the existence of a single large controlling shareholder in the majority of the companies leads to the fact, that it is difficult for minority shareholders to consolidate a sufficiently large equity stake and to overcome the minimum threshold for receiving such rights, as nomination of the candidates for the Board of Directors, convocation of extraordinary shareholders meetings and adding items to the agenda at the general shareholders meetings.

The charter of the company is the obligatory document for all shareholders, Board of Directors members, members of the Supervisory board and the executive management. The charter has to be approved by the general shareholders meeting. The law allows shareholders to make amendments in the text of the charter. Besides, Chinese legislation gives shareholders a preferential right to buy shares. Such a measure allows to prevent distribution of additional issues of shares among new shareholders and, thus, to reduce potential risks of dilution of shares in stock capital and of the existing shareholders' voices (Мазур, Шапиро, Ольдерогге, 2003, p. 70).

Ukrainian corporate management model was formed in difficult social and economic conditions. Due to the need for accelerated privatization and corporatization of domestic enterprises, the mechanism of corporate management remained insufficiently elaborated. Thereby the currently existing model of corporate management in Ukraine, represents the synthesis of outsider and insider systems, and is a typical example of the so-called "mixed" model of corporate management.

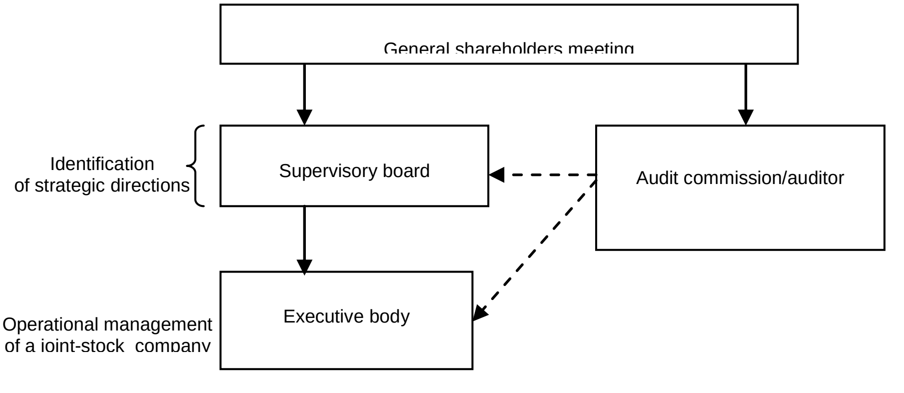

Fig. 4 − The model of corporate management in Ukraine

Source: (Пуртов, Кудінова, 2011).

The basic elements of joint-stock company corporate management system under the current legislation of Ukraine are presented in fig. 4.

Table 3

Comparative analysis of corporate management models in China and Ukraine

Ukrainian model	**Chinese model**
Countries of distribution	
Ukraine	China
Main characteristics	
- insufficiently effective system of legislative regulation of corporate management; - poorly functioning stocks and bods market; - a large number of commercial banks which play a major role in attraction of financial resources by joint-stock companies	- rigid system of state regulation and control - two-tier structure of a representative body of company management (Supervisory board and Board of Directors) - developed stock market
Participants of model realization	
Majority shareholders, Supervisory board, governing body, banks, public and regional government bodies	Majority and minority shareholders, independent directors, management and company stuff, stock exchanges, state
Shareholding structure	
- a large number of minority investors, who were involved in the process of privatization and corporatization; - the share of financial intermediaries, who control joint-stock companies shares, is insignificant.	- prevalence of the large majority investors, who hold controlling stakes of joint stock companies. - a number of minority shareholders is minimum.
Activity monitoring	
Mainly state monitoring	Mainly state monitoring
Management structure	
Two-tier structure of management in a joint-stock company: supervisory board and governing body, consisting mainly of insiders.	Two-tier structure of management: two thirds of the Board members should be major shareholders, one third – independent directors. Boards of Directors are accountable directly to shareholders. The second tier – a Supervisory board – has to include the representatives of employees (not less than one third) and minority shareholders.
Legislative base	
Legislative documents, Corporate Governance Code, Principles of corporate management and international standards (advisory nature).	Companies Law in various editions, Corporate Governance Code
Requirements for information disclosure	
State reports with the specified structure of the capital, the members of the Supervisory board, data about shareholders, owning more than 5% of corporation shares, information about possible merges and absorption.	Reports reveal the information about the practice of corporate management, such as Board of Directors and Supervisory board composition, members of the Boards assessment, attendance of the meetings by independent directors, their independent judgment about transactions with interest and appointment / dismissal of executive officers, establishment of functional subcommittees and their activity, the facts and the reasons of failures to comply with the requirements of the Code, presentation of the plan, how to improve corporate management practice.

Source: (Ассоциация украинско-китайского сотрудничества: www.aucc.org.ua), www.fialan.info; (Пуртов, Кудінова, 2011)

As can be seen from the data presented, the structure of governing bodies of joint-stock companies includes General shareholders meeting, Supervisory board, Executive body (individual or collegial) and Audit commission (auditor), which all are accountable to the General shareholders meting. Their set provides regulation of all the aspects of domestic economic entities functioning.

According to the Law of Ukraine "About joint-stock companies", which is the main normative document, regulating issues of corporate management in national organizations, the minimum size of the authorized capital of a joint-stock company is 1250 minimum wages (based on the minimum wage at the moment of establishment (registration) of an organization). The rights and obligations of shareholders are concretized, according to which each common share gives a shareholder the same set of the rights for management, getting dividends and part of property of the organization in case of its liquidation. Shareholder's pre-emptive right to acquire shares of the company in proportion to the share, owned by him/her, is secured. The process of information storage and disclosure is defined. A joint-stock company provides for each shareholder access to the documents of the company, except for accounting documents, and places corporative information on its web-site, in accordance with the current legislative rules (Про акціонерні товариства, 2008).

The results of comparative analysis of Chinese and Ukrainian corporate management models, using a number of selected criteria, are represented in table 3.

Conclusions and perspectives of further research. Having done the comparative analysis of corporate management models in China and Ukraine, using a number of features, we can make a conclusion, that their basic elements – shareholders' rights, actors and organization management structure and activity monitoring – are similar in substance. Therefore, the formal features of corporate enterprises management are close both in Ukraine, and in China. This is an essential advantage in running business with Chinese partners.

The vector of further research may be in-depth study of legislative regulation of corporate management, development at the state level of joint program packages for corporate enterprises management, resolution of organizational issues of the establishment of Ukrainian-Chinese joint stock companies.

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