

# GOOD CORPORATE GOVERNANCE

East Asian Perspectives



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## 完善 公司治理

东亚视角

Board of  
Directors  
董事会

Shareholders  
股东

Corporation  
公司

Management  
管理层

Stakeholders  
利益相关者

世界知识出版社

7. In this context, we pledge to accelerate our domestic efforts to build capacity and deepen structural reform so as to strengthen the market fundamentals across the region. To this end, we emphasize the importance of sound economic policies and corporate governance as well as the important role and responsibility of governments in shaping the legal and regulatory framework that encourages competition and innovation, with an increased emphasis on capacity building. Developing the social safety net is a high priority, as it can make an important contribution to reducing the harmful effects of economic shocks on vulnerable groups. As noted in the 2001 Economic Outlook, enhancing financial efficiency is also essential to promoting growth. We thus welcome efforts made in these areas in APEC, including strengthening economic legal infrastructure, supervision of capital markets, corporate governance, and implementation of international financial standards, as exemplified by the work done through the Finance Ministers' process. We also welcome contributions by Pacific Economic Cooperation Council (PECC) in these areas. We direct responsible Ministers and Officials to build on their work.

**from APEC ECONOMIC LEADERS' DECLARATION:  
MEETING NEW CHALLENGES IN THE NEW  
CENTURY**

**Shanghai, China      21 October 2001**

7. 鉴此，我们呼吁强化成员内部的能力建设，深化结构性改革，巩固本地区的经济基础。对此，我们重视合理的经济政策和良好的公司治理，强调政府应制定合理的法律、法律框架，鼓励创新竞争，加强能力建设。建立完善的社会安全体系十分重要，它有助于减少经济危机对社会弱势群体的负面影响。正如 APEC 《2001 年经济展望报告》中所提到的，提高金融效率是促进经济增长的关键。因此，我们欢迎 APEC 在这方面所做的努力，包括加强建设经济、法律基础设施、对资本市场进行监督、在公司治理和执行国际金融标准等方面的合作。APEC 财政部长会议为此做出了贡献。我们还欢迎太平洋经济合作理事会（PECC）在这些方面做出的努力。我们指示相关的部长和官员们继续推进他们在此方面的工作。

**摘自 APEC《领导人宣言》**  
**——迎接新世纪的新挑战**  
**中国上海 2001/10/21**

“40. Ministers commended the significant efforts made by member economies in strengthening the functioning of markets, which complement the APEC trade and investment liberalization and facilitation process. Acknowledging the importance of developing transparent, favorable and predictable policy as well as legal and regulatory environment for business, Ministers:

...

—Endorsed the Guidelines for Good Corporate Governance Practice developed by PECC and encouraged APEC members to implement the Guidelines on a voluntary basis;

...”

**JOINT STATEMENT of the 13th APEC MINISTERIAL  
MEETING**

**Shanghai, China 2001/10/18**

“40. 部长们对各成员在加强市场功能方面所作的工作表示赞赏，认为这一领域的工作是对 APEC 贸易投资自由化和便利化进程的补充。认识到为工商界制定透明、有利和可预见的政策法规环境的重要性，部长们：

.....

通过了太平洋经济合作理事会（PECC）提交的《公司治理规范指导原则》，鼓励各成员在自愿的基础上予以实施。”

**APEC 第 13 届部长级会议《部长联合声明》**

**中国上海 2001/10/18**

## PECC Peer Assistance and Review Network (PARNET)

In November 1998 in Kuala Lumpur, the Standing Committee of PECC decided to initiate discussions on an agenda that will help APEC achieve stability and avoid another crisis such as the one that has recently hit East Asia. The agenda includes:

- corporate and institutional governance
- macro – economic risk management of economies
- banking and financial sector restructuring and reform

It is in this light that the PECC created a task force on peer assistance and review which formally became the PECC PARNET (Peer Assistance and Review Network). PARNET is an open network of research institutes, government officials and market players, committed to undertake continuing research and open communication on the areas specified above.

Under the PECC PARNET and in connection with the corporate and institutional governance reform work area, a network was pursued among existing Institutes of Directors and institutions actively involved in promoting corporate governance from the following East Asian economies: China, Hong Kong (China), Indonesia, Japan, Korea, Malaysia, Philippines, Singapore, Chinese Taipei, and Thailand. In November 2000, the Institutes of

Directors in East Asia Network was established with the following goals:

- to train those who can help train corporate directors in each of the East Asian economies
- to design a common research program aimed at producing case studies, codes of conduct for directors, issue papers on the components of a code of corporate governance, adapted to each East Asian economy but consistent with the broad OECD principles, other teaching material and related policy briefs.
- To support one another in our reform advocacy initiatives, especially to formulate and implement a comparable corporate governance scorecard.

## PECC 同行相助与评估网络

PECC 在 1998 年吉隆坡常委会上决定，就如何使 APEC 地区获得稳定、避免亚洲金融危机的再次发生展开讨论。其议题包括“公司与机构治理”、“各经济体如何规避宏观经济风险”、“银行和金融部门的重组与改革”。由此正式成立了“同行相助与评估网络”。该网络是开放式的，由学术、政府和商业界人士组成，针对以上三个课题开展工作。

在同行相助与评估网络的主持下，为了推进公司和机构治理工作，成立了由中国、中国香港、印度尼西亚、日本、韩国、马来西亚、菲律宾、新加坡、中国台北和泰国等十个经济体的董事协会或类似机构组成的“董事协会网络”。其宗旨是：

1. 为东亚各经济体培训公司董事的机构培训师资。
2. 设计通用的计划，实行案例研究，制订董事行为守则，刊行关于公司治理守则要素的文章，立足东亚各经济体的实际情况，保持与经济合作与发展组织（OECD）原则一致，编制其他教学资料，交流相关政策通讯。
3. 相互支持，提供改革建议或行动，尤其是制定并实施具有可比性的公司治理记分牌。



## Acknowledgement

Our special thanks are due to Hong Kong Committee for Pacific Economic Cooperation, headed by Mr. William Fung, who offered major sponsorship to the PECC Consultative Meeting on Corporate Governance. In this connection, we are also grateful to China Galaxy Securities Company Limited, who also provided us with considerable financial assistance.

We owe thanks to all the participants to the meeting, and the speakers and discussants in particular. With their thought-provoking perspectives, realistic analyses, and valuable proposals, we are confident the proceedings will be an interest to all concerned about corporate governance. Dr. Jesus Estanislao, Prof. Li Wei'an, Prof. Lu Tong, and Prof. Stephen Cheung deserve special thanks as they successfully moderated the four sessions of the meeting.

All of us including the participants are obliged to the two simultaneous interpreters, Mr. Zhou Jingxing and Ms. Liang Yan, sent by the Translation and Interpretation Department of the Ministry of Foreign Affairs. The meeting would have been a Babel Tower event without their high caliber interpretation.

However, we would have had to fail the expectation of publication without the generous endowment of the Ford Foundation, to whom we are indebted for its commitment to the promotion of good corporate governance practices.

We thank each other of us, who have participated in the or-

ganization of the meeting (HKPECC, PECC PARNET, PECC International Secretariat, CNCPEC Financial Market Development Subcommittee, CNCPEC Human Resource Development Subcommittee, and CNCPEC) and the compilation of the proceedings for our happy cooperation.

## 鸣 谢

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我们感谢所有与会人员的参与。特别感谢演讲者和讨论人。正是由于他们所做出的精辟的见解和有益的建议，我们相信本书将会受到关心公司治理的人们的欢迎。Jesus Estanislao 博士、李维安教授、鲁桐教授、张仁良教授成功地主持了四个分会，对他们的指挥艺术和贡献我们表示欣赏。

特别感谢外交部翻译室为本会派遣周景兴和梁燕两位同声翻译。他们高水平的翻译令与会人员感到欣慰。

福特基金会的慷慨赞助使我们可以如愿以偿地将此书出版，在此特表感谢。

我们参与会议组织和文件编辑的各方（香港太平洋经济合作委员会、PECC PARNET、PECC 国际秘书处、中国太平洋经济合作全国委员会及其金融市场委员会和人力资源开发委员会）合作愉快，我们相互致谢。

## Introduction

On May 10<sup>th</sup> and 11<sup>th</sup>, CNCPEC hosted the PECC Consultative Meeting on Corporate Governance in Beijing. The purpose of the meeting was to solicit comments on PECC Frameworks on Good Corporate Governance Practices in East Asia, so as to make the documents reflect the universal concerns of East Asian Economies with a view to the endorsement of APEC process. Some sixty people from government, business and academia attended the meeting and about thirty of them gave speeches or participated in discussions in four sessions, namely, Elements of Code of Corporate Governance: East Asia Perspectives; Proper Practice for Directors; Transparency and Disclosure; and Corporate Reform in East Asia. The participants and speakers are mainly from China, although there are several specialists from Hong Kong (China), Indonesia, Korea, Malaysia, the Philippines, and Thailand. Therefore, the perspectives are mainly Chinese while to a considerable degree balanced by the views of the other East Asian participants, who are major protagonists of good corporate governance practices in their own economies. The agenda of the meeting well covered the major aspects of corporate governance. However, the actual process of the meeting encompassed many things beyond. For instance, people touched upon political and legal framework, efficiency and fairness, and tradition and culture.

The meeting was successful and meaningful. It is in fact one of

the very few meetings on the subject that have been held in China. It is just recently that the central authorities of China have begun to attach great importance to the improvement of corporate governance. The goal was established in the Fourth Plenary Session of the Fifteenth Central Committee of the Chinese Communist Party and reaffirmed in the tenth five - year plan. Anyhow, the OECD Principles of Corporate Governance was released in 1999. And the world-wide initiatives toward the convergence of the best practices of corporate governance have thrived since then. So far as we know, the Development Research Center of the State Council of PRC, OECD, and the Asia Development Bank co - organized a symposium addressing China's corporate governance in Beijing in early 1999. In late 2000, Nankai University and the China Society of Restructuring Economic System held a symposium on the relationship between WTO and good corporate governance with a view to drafting China's principles of corporate governance. Our meeting almost coincided with one of the several similar meetings held by China Securities Regulatory Commission this year.

To our understanding, people in East Asia, or at least those people present at the meeting, are serious about improving corporate governance in East Asia in accordance with the OECD principles. The commitment is explicit, as borne in the speeches and the introduction to the Guidelines. However, the task cannot be finished overnight. The gap between the East Asia realities and the internationally accepted principles is very wide. The Guidelines may serve to bridge the gap. It is not a substitute for the OECD Principles. It is rather a set of measures to implement the internationally recognized principles in a pragmatic and realistic way. This may satisfy the concerns of some economies in the APEC.

The subject of good corporate governance is as new as it is still controversial in many ways. We particularly selected five topics, which aroused hot discussions at the meeting and put the discussions right after the articles. These discussions include "Stock Option and Independence of Independent Directors," "Is a Supervisory Board Necessary?" "Incentives and Transparency," "Is Corporate Governance for Efficiency or Equality?" and "Legal Protection and Good Corporate Governance." These topics are some of the conspicuous concerns in East Asia. One can be conscious of the seriousness of the East Asian people about good corporate governance on the one hand, and get a general picture of the road map toward good corporate governance in East Asia. There are some other topics, for instance, the difference between "independent director" and "Independent, non - executive director". However, due to time limit, these discussions were not unfolded.

One may notice that there is great contrast between the draft frameworks and the final guidelines for good corporate governance practices, attached respectively in Appendix I and II. At the meeting, people made many comments on the documents per se, ranging from clarification of nomenclature through specific articles to the general structure and scope of the document. So much so that, the concepts are unified; some articles, for instance, the one on cumulative voting, are omitted; the scope is extended to cover shareholders, stakeholders, executives and the board of directors; and the original four documents have been reduced to the present two, i.e., an introduction plus the Guidelines for Good Corporate Governance Practices in East Asia (hereafter in the present introduction, Guidelines). All these changes undergo with an

all – accepted principle that the articles should be as broad as to cover the commonality of East Asia while take the international standards into good consideration.

The articles included may be self – explanatory as to why we juxtapose these two sets of documents. We still have another reason. When preparing the meeting, one of the participants complained that for the time being we do not have a set of technical guidelines to establish rules or laws or code of good corporate governance practices. For instance, we do not have any rationale or criteria to determine the number of members of the board of directors or the number of independent, non – executive directors. The changes between the two documents will well illustrate how to accommodate the internationally recognized standards and the realities that a stipulator has to face, be it a government, an institution, or a company.

Together with these two sets of documents, we also attached two similar guidelines, one by Nankai University under the leadership of Prof. Li Wei' an, and one by Shanghai Stock Exchange headed by Prof. Hu Ruyin. We do so because, on the one hand, they submitted their guidelines to the meeting, on the other, the meeting also encouraged competing guidelines. Unfortunately, we do not have their English versions. They may provide upon request in future.

Although the meeting language was English, many people gave speeches in Chinese with English simultaneous interpretation. The articles included are based on the remarks at the meeting. They present in their original languages, English or Chinese. Due to very limited resources, we have to sacrifice readers' comfort and only provide English abstracts for articles in Chinese. However, where

there is an article produced bilingually, we provide the English version followed by the Chinese version without abstract. Some abstracts were provided by the authors themselves. Some were translated by Mr. Wang Zhenyu and endorsed by the authors.

Considering the improvement of good corporate governance needs a network, we provided resumes, contact details, where available, of the authors again in English. We hope the interested readers can contact the authors directly. We also have a plan to upload the book some day in a website.

The translation of the preliminary frameworks of corporate governance and the Guidelines and the respective introductions as attached in Appendix I and II is undertaken by Mr. Wang Zhenyu and proofread by Amb. Guo Jiading and Amb. Jiang Chengzong. The Chinese versions are just tentative and for reference only. They are not yet official. Due to our limited knowledge in the field, there are even some mistakes, as some specialists already pointed out at the meeting. We leave it as it was, and have provided notes where there are proposed revisions.

Dr. Jesus Estanislao and Amb. Guo set the framework and principle of editing the proceedings. Amb. Jiang Chengzong supervised over the edition and publication process. Mr. Eduardo Pedrosa did the proofreading of the English part of the texts and assisted Prof. Stephen Cheung in drafting the documents contained in Appendix I and Appendix II. Mr. Wang Zhenyu wrote the outline of the book, collected the articles and the related materials, incorporated them in the proceedings, and did most of the translation work. Mr. Yang Zerui translated the introductions to PARNET and PECC, did proofreading of the Chinese part of the texts together with Amb. Jiang Chengzong, and contacted the publisher and the Ford Foundation. Ms. Peng Wei did



some proofreading and helped in typing and page set - up.

**Amb. Jiang Chengzong**

**Secretary General, CNCPEC**

**Mr. Wang Zhenyu**

**Assistant Research Fellow, CNCPEC**