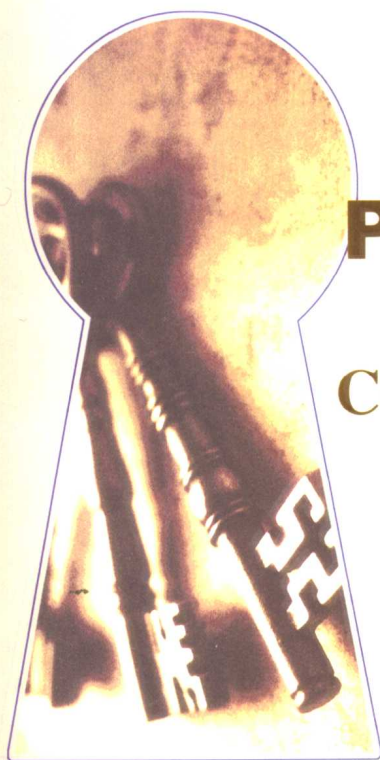


国家自然科学基金(NSFC)资助

于立于左/等著

中国乡镇企业产权 与 治理结构研究



**Property Right
and
Corporate Governance
of TVEs**

经济管理出版社
ECONOMIC MANAGEMENT PUBLISHING HOUSE

国家自然科学基金 (NSFC) 资助

中国乡镇企业产权与 治理结构研究

于立 于左 等著

经济管理出版社

责任编辑 卢小生

技术编辑 蒋 方

责任校对 平 实

图书在版编目 (CIP) 数据

中国乡镇企业产权与治理结构研究/于立, 于左等著. —北京: 经济管理出版社, 2003

ISBN 7-80162-760-1

I. 中… II. 于… III. 乡镇企业—产权—研究—中国 IV. F279.243

中国版本图书馆 CIP 数据核字 (2003) 第 093121 号

中国乡镇企业产权与治理结构研究

于立 于左 等著

出版: 经济管理出版社

(北京市新街口六条红园胡同 8 号 邮编: 100035)

发行: 经济管理出版社总发行 全国各地新华书店经销

印刷: 北京中租印刷厂

880mm×1230mm/32

9.5 印张

233 千字

2003 年 12 月第 1 版

2003 年 12 月北京第 1 次印刷

印数: 1-6000 册

ISBN 7-80162-760-1/F·679

定价: 22.00 元

·版权所有 翻印必究·

凡购本社图书, 如有印装错误, 由本社发行部负责调换。

通讯地址: 北京阜外月坛北小街 2 号 邮编: 100836

联系电话: (010) 68022974

《中国乡镇企业产权与治理结构研究》

项目负责人：于 立

课题助理：于 左 孟 韬 姜春海

课题组成员：

于 左 孟 韬 姜春海

张 媛 马丽波 郭永庆

钱 勇 孙亚锋 肖兴志

孔 文 宋 晶 丁 宁

陈艳利 范忠宝 王小兰

协助调研人员：

大连市人民政府：戴玉林

中共鞍山市委：王艳彬

辽宁省统计局：张兴珍

浙江省地税局：金一星

大连市乡镇企业局：王辉生 袁 辉

丹东市乡镇企业局：关凤霄 于 洋

海城市工业发展局：姜 军 祖国英

温州市国税局：邱建丰

前 言

中国乡镇企业的发展壮大不仅在中国经济发展史上是一个独创的、巨大的奇迹，而且也是世界经济发展史上的奇迹之一。它是在中国特殊的历史环境、社会体制和现实国情基础之上逐步发展壮大起来的，也是市场经济体制和规律突破中国原有计划经济体制的最早领域，同时又是农民自发的、自下而上的制度变迁积累和政府自觉的、自上而下的制度变迁安排顺利对接、取得巨大成功的典型案例。

从1978年开始，乡镇企业经历了社队企业恢复发展阶段、高速增长阶段、整顿提高阶段、第二轮高速发展阶段和改革提高阶段五个发展阶段，在曲折中前进，在波动中增长，取得了巨大的成就，已经成为中国农村经济的主体力量、全国工业的“半壁江山”和国民经济的重要组成部分，对促进国民经济增长和支持农业发展，对实现农村地区的工业化和城镇化，对增加农民收入和吸纳农村剩余劳动力，对出口创汇和支持农村各项社会事业，都发挥了不可替代的重要作用。实践证明，乡镇企业是中国农村实现工业化、城镇化和现代化的希望所在。

1997年以后，乡镇企业产权制度改革在全国范围内展开，到2000年基本结束，个体、私有企业成为乡镇企业的主体。这些个体、私有企业的经营目标就是实现企业利润最大化，原来由外部制度环境和乡镇企业内部制度安排共同强制决定的乡镇企业与“三农”——“农村、农业、农民”的联系逐渐被打破，乡镇

企业脱离“三农”的趋势日益加强，与《中华人民共和国乡镇企业法》（简称《乡镇企业法》）的规定也越来越远。乡镇企业的“乡镇”色彩越来越淡。

这种研究不能就产权论产权，就治理结构论治理结构，而是要将产权和治理结构结合起来研究。另外，乡镇企业在组织形式上也是多种多样的，必须进行分类研究。

恰在此时，国家自然科学基金管理科学部专门立项，资助我们进行《中国乡镇企业产权与治理结构研究》课题的研究。课题组在实际调查和吸收国内外相关研究成果的基础上，对乡镇企业产权和治理结构问题给出了明确解答。

课题组以乡镇企业产权制度改革和治理结构的演化作为研究的核心内容，首先从国内对乡镇企业产权和治理结构的若干认识误区开始，对乡镇企业不同于一般企业和国有企业的独特性质和分类进行了介绍，然后按照不同的企业组织形式，详细分析了乡镇企业的产权特征、演变原因和演变的历史过程，并对乡镇企业产权演变的未来趋势做出了预测。接着针对个人独资企业、合伙企业、股份合作制企业和公司制企业等不同的组织类型，对乡镇企业的治理结构进行了深入分析，特别是对家族制乡镇企业和股份合作制乡镇企业的治理结构进行了专门研究和分析。在此基础上，对与乡镇企业产权和治理结构相关的法律进行了梳理，对《乡镇企业法》的地位和作用做出了客观评价，并提出了完善乡镇企业产权和治理结构的法律建议。最后，总结了课题组的主要结论和政策建议。

课题组的基本结论是：作为特殊的土地制度和户籍制度的产物，中国乡镇企业担负着农村地区实现现代化、工业化和城镇化的历史重任；经过全国范围内的产权制度改革，乡镇企业产权制度体系已经由1995年之前的集体所有制企业为主转变为2000年后的以个体、私营乡镇企业为主；乡镇企业的产权制度是治理结

构的基础，不同类型的治理结构是与不同类型的产权制度相对应的；乡镇企业的产权制度和治理结构仍然处于不断的发展、演变过程之中；《乡镇企业法》并没有发挥实质性的作用，与乡镇企业相关的法律制度已经基本完备，政府应该从关注乡镇企业产权制度和治理结构改革转到提供更加完善的法律制度环境上。

我们希望，本课题的研究成果将有助于推进乡镇企业产权制度与治理结构的进一步改革，促进乡镇企业内部机制完善，进而推动乡镇企业发展；有助于推进中国农村地区的现代化、工业化和城镇化；有助于推进中国国民经济的持续发展，并对中国及世界其他国家的经济发展提供一定的借鉴。

Preface

The phenomenal expansion of China's Township and Village Enterprises (TVE's) is not only a unique and tremendous miracle in China's history of economic development, but also one of the great miracles in the world's economic development history. These TVE's have been developed gradually within China's specific historical environment and social systems, reflecting the characteristics of the national economy at the time. Also, the development of TVE's marks the earliest break-through of the constraints of the existing planning economy in China by the uprising systems and rules of a market economy. Meanwhile, the growth of TVE's has delivered a successful model case for the interactions and adaptation between the "bottom-up" accumulation approach adopted by China's farmers and the "top-down" policy reform approach instituted by the Chinese government.

Since 1978, TVE's have been transformed through five stages of development: (1) the recovering phase of the community-owned-enterprises; (2) the high-speed growth phase; (3) the rectification and improvement phase; (4) the second-round high-speed growth phase, and (5) the reform and enhancement phase. Now being the main engine of China's rural economy and generating a half of the country's industrial output, TVE's have grown with complications

and fluctuations and have achieved great success and become key components of the national economy. The TVE's make significant contributions to promoting national economic growth and supporting agricultural development, and play an indispensable role in promoting industrialization and urbanization of rural areas, raising farmers' income, absorbing rural surplus labor, creating foreign exchange earnings and providing rural social services. It is evident that the development of TVE's is a hope for industrialization, urbanization, and modernization of rural areas in China.

However, the property right system reform for TVE's across China started in 1997 and finished around 2000, when the individual and private enterprises became the main body of the TVE's. The sole operational purpose of these individual and private enterprises is to maximize their profits. The relationship between the TVE's, and "rural areas, farming and farmers", as compulsively determined jointly both by the external system environment and the internal governance structure of the TVE's has been gradually de-linked. The TVE's have embarked on a trend to move away from "rural areas, farming and farmers", and become more and more remote from the provisions as stipulated in "the TVE Law". The TVE's are no longer a group of enterprises sharing similar rudimentary characteristics, but have turned into some "rural enterprises" with fewer and fewer emphases on the system of ownership.

These internal qualitative changes urgently require deep and comprehensive studies on TVE's, especially on issues related to property right and corporate governance. However, although some researchers and institutions have conducted relevant studies to a

certain degree, most of them have focused on single aspect of the problems and have not adopted an integrated framework, therefore missed the crucial systematization of combining property right and corporate governance. Because the TVE's vary in types and should not be treated as a whole, the existing studies of property right and corporate governance that refer only to a few types of the TVE's cannot deliver a complete picture.

Just at this time, the Management Science Department of the National Natural Science Foundation of China launched this particular project to sponsor us to conduct the "Research on Property Right and Corporate Governance of China's Township and Village Enterprises". Based on solid field investigation and comprehensive literature review of the existing domestic and foreign researches on the relevant topics, the project team can now present a clear solution.

Our research centers on the evolution of property right and corporate governance among China's TVE's. Firstly, the project team begins with clarifying certain controversies toward property right and corporate governance of China's TVE's, which have in fact confused many domestic scholars. Then we introduce and classify certain types of property right and corporate governance and highlight their specific features that differentiate the TVE's from other enterprises and state-owned enterprises. Furthermore, we analyze the TVE's property right features, as well as causes and process of evolution, based on their different organizational forms, and this helps in predicting the future tendency of this evolution. In addition, a deeper analysis is conducted on governance structure of the TVE's, especially that of family-business-based TVE's and

joint-stock cooperative TVE's, corresponding to different organizational forms such as proprietorship enterprises, partnership enterprises, joint-stock cooperative enterprises, and corporation-style enterprises. On these bases, the project team has examined the relevant laws, evaluated objectively the position and function of "the TVE Law", and presented the juristic suggestions on completion of property right and corporate governance of the TVE's. Finally, the research conclusions and policy recommendations are delivered.

The basic conclusion is as follows: as the special outcome of our country's land system and citizenship policy, the TVE's have shouldered up a historical duty of realizing modernization, industrialization, and urbanization in the rural areas. Through a nation-wide reform of the property right, the ownership of the TVE's has been transformed from "mainly owned by collectives" as before 1995 to "mainly owned by individuals" as after 2000. The property right system of the TVE's is the basis for corporate governance, and they are, and must be, in accordance with each other. The TVE's property right and corporate governance are still evolving. "The TVE Law" does not function well in practice. But the relevant laws and regulations are almost completed. Therefore, the government should shift its emphases from the reform of property right and corporate governance to the promotion of improving the juristic environment.

We hope that the outcome of this project will contribute to deepening the reform of the TVE's property right and corporate governance, improving the internal management mechanisms of the TVE's, and thus advancing the development of the TVE's, which will in turn facilitate modernization, industrialization, and

urbanization of China's rural areas and promote sustainable economic development in China. This research may also shed some guiding lights for economic development in China as well as in other countries.

Li Yu

**Director of The Research Center for Industries and Business
Organization, Dongbei University of Finance and Economics
Dalian, July 2003**

目 录

1. 引论：有关乡镇企业产权与治理结构的误区	1
1.1 误区一：重产权改革，轻治理结构	1
1.2 误区二：企业组织形式、所有制形式与经营模式 混淆不清	2
1.3 误区三：分不清企业家与经营者（职业经理人） 的区别	2
1.4 误区四：乡镇企业产权改革方向就是建立现代 企业制度	3
1.5 误区五：完全否定乡镇企业家族制	4
1.6 误区六：不了解股份合作制的过渡性	5
1.7 误区七：只知《乡镇企业法》	6
2. 乡镇企业的性质与分类	9
2.1 引言	9
2.2 一般企业的性质与分类	10
2.3 国有企业的性质与分类	12
2.4 乡镇企业的性质	15
2.5 乡镇企业的分类	18
3. 乡镇企业的产权特征与演变	23
3.1 引言	23
3.2 乡镇企业的产权特征	24
3.3 乡镇集体企业产权的演变	30

3.4 乡镇私有企业产权的演变	39
3.5 本章小结	42
4. 乡镇企业治理结构的特征	45
4.1 引言	45
4.2 个人独资企业	46
4.3 合伙企业	47
4.4 股份合作制企业	48
4.5 公司制企业	51
4.6 本章小结	56
5. 家族制乡镇企业治理结构的特征与演变	59
5.1 家族、家族企业与生命周期	59
5.2 一般家族企业治理结构的特征与演变	64
5.3 家族制乡镇企业治理结构的特征与演变	65
5.4 本章小结	72
6. 股份合作制乡镇企业治理结构的特征	75
6.1 股份合作制在乡镇企业中快速兴起的原因	75
6.2 股份合作制乡镇企业的三种来源	78
6.3 股份合作制乡镇企业治理结构的特征	80
6.4 乡镇企业中股份合作制的过渡性	84
7. 乡镇企业产权与治理结构的相关法律问题	89
7.1 《乡镇企业法》的出台背景与法律意义	89
7.2 《乡镇企业法》与其他法律的分工与衔接	91
7.3 乡镇企业发展中亟须明确的法律问题	93
7.4 完善乡镇企业产权与治理结构的法律建议	98
8. 主要结论与政策建议	101
附录一：乡镇企业案例	105
例 1：关于海城市西洋耐火材料公司的调查报告	105
例 2：大连亿达集团有限公司	116

例 3: 丹东市安民服装一厂产权纠纷案	127
例 4: 大连后石村——“政企合一”型乡镇企业	133
例 5: 大杨创世股份有限公司	139
例 6: 广东科龙电器股份有限公司——从乡镇小厂 到上市公司	146
例 7: 海城市石油化工仪器厂	157
例 8: 海城市企业产权出售的形式	160
例 9: 丹东市青城子铅矿	161
例 10: 大连华农企业集团	162
例 11: 大连华南企业集团	163
例 12: 海城铁塔厂	164
例 13: 湖北省山灵食品厂	165
附录二: 公开发表的相关研究成果	169
1. 顺其自然, 各得其所——顺德之行观感	169
2. 乡镇企业组织形式演变的规律与问题	172
3. 家族企业治理结构的“三环模式”	187
4. 中国乡镇企业吸纳劳动就业的实证分析	203
5. 技术进步拉动乡镇企业产出增长的实证分析	219
6. 从国有企业到家族企业	232
7. 中国乡镇企业发展历史回顾	247
8. 对乡镇企业的重新审视与思考	261
主要参考文献	271
后记	279

Contents

1 Introduction: Controversies on property right and corporate governance / 1

- 1.1 Controversy 1: overemphasizing property right reform, but ignoring corporate governance / 1
- 1.2 Controversy 2: confusion of the organizational forms, the ownership forms and the operating patterns of the enterprise / 2
- 1.3 Controversy 3: confusion of entrepreneurs and professional managers (CEO) / 2
- 1.4 Controversy 4: the direction for TVE's property right reform is just to build modern corporation system / 3
- 1.5 Controversy 5: completely negating family-business-based TVE / 4
- 1.6 Controversy 6: unaware of the temporariness of joint-stock cooperative enterprise / 5
- 1.7 Controversy 7: only knowing the TVE Law / 6

2 Characteristics and Categories of TVE / 9

- 2.1 Introduction / 9
- 2.2 Characters and categories of common enterprises / 10
- 2.3 Characters and categories of state-owned enterprises / 12
- 2.4 Characters of TVE's / 15

2.5 Categories of TVE's / 18

3 Characteristics and Evolution of the TVE's Property Right / 23

3.1 Introduction / 23

3.2 Characteristics of the TVE's Property right / 24

3.3 Evolution of township and village collective enterprises' property right / 30

3.4 Evolution of township and village private enterprises' property right / 39

3.5 Summary / 42

4 Characteristics of Corporate Governance of the TVE's / 45

4.1 Introduction / 45

4.2 Proprietorship enterprises / 46

4.3 Partnership enterprises / 47

4.4 Joint-stock cooperative enterprises / 48

4.5 Corporation-style enterprises / 51

4.6 Summary / 56

5 Characteristics and Evolution of Property Right and Corporate Governance of Family-Business-Based TVE's / 59

5.1 Family, family business and business life cycle / 59

5.2 Characteristics and evolution of property right and corporate governance of common family business / 64

5.3 Characteristics and evolution of property right and corporate governance of family- business-based TVE's / 65

5.4 Summary / 72

6 Characteristics of Property Right and Corporate Governance of Joint-Stock Cooperative TVE's / 75

6.1 Causes of the swift emergence of stock cooperation TVE / 75

6.2 Three origins of stock cooperation TVE / 78