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China's National Champions: Governance Change Through Globalization?

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CHINA'S NATIONAL CHAMPIONS: GOVERNANCE CHANGE THROUGH GLOBALIZATION?

Li-Wen Lin*

China is regarded as the world's leading practitioner of state capitalism in which important capitalist enterprises have a close relationship with the state. One prominent feature of China's state capitalism is the fundamental role of about 100 large state-owned enterprises (SOEs) controlled by organs of the central government in critical industries such as oil, telecom, and transportation. These SOEs are often dubbed "China's national champions." They are not only important players in China's domestic economy but also major contributors to China's fast-growing global investment. Their global expansion however often encounters political and regulatory challenges abroad, partly because their corporate governance practices are opaque and often deviant from international standards. Prevailing theories suggest that political and regulatory pressure arising from institutional distance between China and host countries (particularly advanced economies such as the United States) may act as an effective force to push for SOE governance change. Empirical findings in this Article however indicate that the development of global equity connections that potentially expose SOEs to foreign institutional pressure seems virtually irrelevant to the reform patterns of these most important non-financial SOEs in China. The absence of correlation may be related to investment structure and geography, investment motives, and importantly, China's domestic political institutions. This Article offers insights into the perennial scholarly debate about the future of national corporate governance systems in the era of globalization and also provides practical recommendations for Chinese and international policymakers

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I. Introduction

The downfall of Eastern European socialism and the softening of Chinese communism in the 1980s appeared to conclusively declare a victory of free market capitalism. The victory however turns out to be rather uncertain as the twenty-first century unfolds. The financial crisis in 2008 unabashedly disgraced liberal capitalism. The U.S. economy, the champion of free market, even resorted to government ownership for relief. Meanwhile, as noted in the *Economist*, "[t]he crisis of Western liberal capitalism has coincided with the rise of a powerful new form of [state] capitalism in emerging markets,"[1] frequently described as state capitalism. It is now often, albeit subject to debate, characterized as "a system in which governments use state-owned companies and investment vehicles to dominate market activity."[2]

China is regarded as the world's leading practitioner of state capitalism. One prominent feature of China's state capitalism is the fundamental role of about 100 large, state-owned enterprises (SOEs) under the central government's control in "critical industries such as oil, steel, telecom, and transportation."[3] These SOEs are often dubbed "China's national champions." Many of them, including China National Petroleum Corporation and China Mobile Communications Corporation, are Fortune Global 500 companies (the world's largest 500 companies by revenues).[4]

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[1] Adrian Woolridge, *The Visible Hand*, ECONOMIST, Jan. 21, 2012, http://www.economist.com/node/21542931.

[2] Ian Bremmer & Devin T. Stewart, *China's State Capitalism Poses Ethical Challenges*, ASIA TIMES, Aug. 17, 2010,http://www.atimes.com/atimes/China_Business/LH17Cb01.html.

[3] Li-Wen Lin & Curtis J. Milhaupt, *We Are the (National) Champions: Understanding the Mechanisms of State Capitalism in China*, 65 STAN. L. REV. 697, 725 (2013).

[4] *Id.*

These SOEs are not only prominent companies in China's domestic economy, but also active players in the field of global investment. At present, China is the third largest country, behind the United States and Japan, with respect to outward foreign direct investment (FDI) flow.[5] Notably, a massive portion of China's outward FDI is contributed by the national champions.[6]

In recent years, Chinese SOEs' global expansion has aroused great controversies in host countries. State ownership often raises the specter of undue government influence in SOE management, which may pose threats to the host country's national interests. This concern is exacerbated by the fact that Chinese SOEs have low transparency and their actual corporate governance practices usually deviate from international standards. In response, some host countries including Australia, Canada and the United States have welcomed Chinese SOEs with great caution through (usually politicized) regulatory reviews.[7] Often, the regulators scrutinize the acquiring SOE's corporate governance quality and sometimes may condition their approval by requiring the SOE to adopt certain governance practices.[8]

As China's national champions continue to globalize, it raises important questions about how their governance would change in the face of mounting political and regulatory pressure in host countries. Specifically speaking, can exposure to international environments serve as an effective mechanism for Chinese national champions to learn and converge on prevailing international corporate governance practices? Do foreign investment regulatory regimes in the United States and other countries play any significant role in modernizing governance practices of Chinese SOEs? Does Chinese SOEs' global expansion through subsidiaries or other channels diffuse any positive effects back to their parent companies headquartered in Beijing?

The pursuit of these questions will shed some light on the perennial scholarly debate about the trajectory of national corporate governance systems in the age of globalization. It will also make an interdisciplinary contribution. Researchers of international business typically focus on how

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[5] U.N. Conference on Trade and Development, *World Investment Report 2014 – Investing in the SDGs: An Action Plan*, 7, UNCTAD/WIR/2014, (June 24, 2014), http://unctad.org/en/PublicationsLibrary/wir2014_en.pdf [hereinafter World Investment Report 2014].

[6] *See* MINISTRY OF COMMERCE OF PEOPLE'S REPUBLIC OF CHINA, REPORT ON CHINA'S OUTWARD INVESTMENT AND ECONOMIC COOPERATION 2011-2012, at 117 (reporting that 70.5% of China's FDI flow was contributed by the SOEs controlled by the central government; also see Section II for more detailed information discussing the role of China's National Champions).

[7] *See* Section III (analyzing the regulatory challenges abroad).

[8] *See infra* Table 2 (discussing major countries that have a regulatory system of foreign investment).

corporate governance structures including ownership structure,[9] board composition,[10] top management team,[11] and executive compensation[12] influence a firm's internationalization strategies. Little attention has been paid to the flipside of this research inquiry, namely how the investing firm located in the home country may change its governance practices as a result of internationalization.[13] This Article attempts to fill this void by investigating Chinese national champions' government reform pattern in the course of globalization. Beyond scholarly contributions, this Article has practical policy implications. It provides a better understanding of whether and how to utilize globalization to improve the SOE reform in China. Moreover, it provides better knowledge for international investors and regulators as to how to implement foreign investment regulations to develop mutually beneficial relationships with China's SOEs.

This Article draws on network and institutional theories in sociology, the approaches commonly adopted in relevant international business studies, to hypothesize the relationship between international investment and governance reform patterns of the 100 or so non-financial SOEs under the Chinese central government's control. It predicts that outward investment will create inward influence on SOE governance, especially when the SOE invests in a foreign regime that has much higher corporate governance standards than its home regime, and the degree of influence is mediated through different investment structures. This theoretical thinking however seems to have limited explanatory power for Chinese national champions. The empirical findings in this Article indicate that international exposure to strong corporate governance regimes and investment regulatory systems hostile to foreign SOEs (e.g. Australia, Canada and the United States) appears virtually irrelevant to the reform patterns of these most important non-financial SOEs in China. This Article offers a number of possible explanations for the absence of correlation

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[9] Gabriel R. G. Benito et al., *Distant Encounters of the Third Kind: Multinational Companies Locating Divisional Headquarters Abroad*, 48 J. MGMT. STUD. 373, 373 (2011); Sumon Kumar Bhaumik et al., *Does Ownership Structure of Emerging-Market Firms Affect Their Outward FDI? The Case of the Indian Automotive and Pharmaceutical Sectors*, 41 J. INT'L BUS. STUD. 437, 437 (2009).

[10] Igor Filatotchev & Mike Wright, *Agency Perspectives on Corporate Governance of Multinational, Enterprises*, 48 J. MGMT. STUD. 471, 471 (2011); Yung-Chih Lien et al., *The Role of Corporate Governance in FDI Decisions: Evidence from Taiwan*, 14 INT'L BUS. REV. 739, 739 (2005).

[11] Laszlo Tihanyi et al, *Composition of the Top Management Team and Firm International Diversification*, 26 J. MGMT. 1157, 1157 (2000).

[12] WM. Gerard Sanders & Mason A. Carpenter, *Internationalization and Firm Governance: The Roles of CEO Compensation, Top Team Composition, and Board Structure*, 41 ACAD. MGMT. J. 158, 158 (1998).

[13] *See* Nai H. Wu & Laszlo Tihanyi, *Corporate Governance, Multinational Firms, and Internationalization*, OXFORD HANDBOOK OF CORPORATE GOVERNANCE, Mar. 2013, at 449-464 (Mike Wright et al. eds., 2013) (noting that extant research on multinational firms unfortunately has limited integration with corporate governance).

between internationalization and governance reform. Among other reasons, investment structures and investment geography pose obstacles to transmitting positive governance effects back to the (ultimate) parent SOEs. Moreover, SOE governance reform is a result more of the Chinese government's central planning than market behavior decided at the firm level. The popular hypothesis that internationalization leads to governance reform is founded on market-driven logic, and it does not apply well to the SOEs that are deeply embedded in the state system.

This Article is organized as follows. Section II provides an overview of the organizational structure of China's national champions and their magnitude in China's globalization scheme. Their organizational structure forms a corporate network through which influence may possibly be transmitted. In Section III, this Article reviews foreign investment regulations in some major countries and recent controversial investments involving Chinese SOEs. The review identifies which regulatory jurisdictions may pose institutional pressure on Chinese SOEs in their course of globalization. Section IV hypothesizes how globalization through international investment may influence an investing SOE's governance practices based on the popular assumption that firms are responsive to international market and institutional disparity pressure. Section V offers preliminary empirical evidence concerning the 113 non-financial SOEs under the Chinese central government's control as of the end of 2013. Section VI discusses scholarly and policy implications. Section VII finally concludes with questions for future research.

II. Globalizing China's National Champions

China is not only a major recipient of FDI but also has become a significant FDI source. China's outward FDI flow (excluding Hong Kong) increased from $2.3 billion in 2000 to $101 billion in 2013, ranking as the country with the third largest outward FDI flow in the world, behind the United States and Japan.[14] This astonishing growth in outward FDI is mainly contributed by the government's "going global" policy, formally launched in 2000, which encourages Chinese firms to invest aboard. Under this policy, the Chinese government provides financial and diplomatic resources, particularly for SOEs to go on a shopping spree acquiring prominent companies and valuable assets worldwide.[15]

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[14] U.N. Conference on Trade and Development, *World Investment Report 2001: Promoting Linkages*, 298, UNCTAD/WIF/2001, (Sept. 17, 2001), http://unctad.org/en/Docs/wir2001_en.pdf; World Investment Report 2014, s*upra* note 5, at 205.

[15] It has been estimated that 95-97% of the outward foreign investment lending provided by the policy banks in China went to the SOEs. *See* Amos Irwin & Keven P. Gallagher, *Exporting National Champions: China's OFDI Finance in Comparative Perspective* (B.U.

As of 2013, wholly government-owned SOEs accounted for 55.2% of China's non-financial outward investment stock.[16] It has been estimated that SOEs of all kinds, including wholly- and partially-state controlled, contributed approximately 85-90% of China's outward FDI.[17] A vast majority of China's top 100 companies by outward FDI stock and flow are SOEs wholly owned by the State-Owned Assets Supervision and Administration (SASAC), the central government's ownership agency. Table 1 below shows a list of the top twenty non-financial Chinese firms by outward investment stock as of 2012. All the top twenty contributors are SOEs owned by SASAC.[18]

Table 1: Top 20 Non-Financial Chinese Enterprises by Outward Investment Stock, 2012[19]

Rank	Name of Enterprise	Industry	Ownership
1	China Petrochemical Corporation (Sinopec)	Petroleum	SOE under SASAC
2	China National Petroleum Corporation (CNPC)	Petroleum	SOE under SASAC

Global Econ. Governance Initiative, Working Paper No. 6, 2014) (discussing the financial role of the state in relation to China's outward foreign direct investment).

[16] 2013 Niandu Zhongguo Duiwai Zhijie Touzi Tongji Gongbao (2013 年度中国□外直接投□□□公报) [2013 Statistical Bulletin Of China's Outward Foreign Direct Investment] (promulgated by the Ministry of Commerce, National Bureau of Statistics, and State Administration of Foreign Exchange of People's Republic of China, Sept. 9, 2014), http://fec.mofcom.gov.cn/article/tjzl/jwtz/201409/1838257_1.html. Note that in the government's report, state-owned enterprises refer to those 100% owned by the government; it does not include partially state-owned SOEs.

[17] Limin Zhang, Wenbu Tisheng Guoyou Qiye de Guojihua Jingying Nengli (□步提升国有企□的国□化□□能力) [Steadily Improving SOEs' International Management Capability], CHINA ECON. TIMES, Aug. 15, 2013, at A05 (noting that the official government's report underestimated the SOE's share in outward FDI because it does not account for partially-owned SOEs and according to KPMG's data, SOEs accounted for 88% of China's overseas mergers and acquisitions for the period of 2009-2011; therefore reporting estimate that SOEs should account for 85%-90% of China's outward FDI stock).

[18] 2012 Nian Zhongguo Fei Jinrong Lei Kuaguo Gongsi 100 Qiang (An 2012 Nianmo Duiwai Zhijie Touzi Cunliang Paixu) (2012 年中国非金融□跨国公司 100 □(按 2012 年末□外直接投□存量排序)) [The Top 100 China's Non-Financial Multinational Companies in 2012 (Arranged by Direct Outward Investment Stock)] (promulgated by the Ministry of Commerce, Sept. 16, 2013), http://fec.mofcom.gov.cn/article/tjzl/jwtz/201309/1775847_1.html.

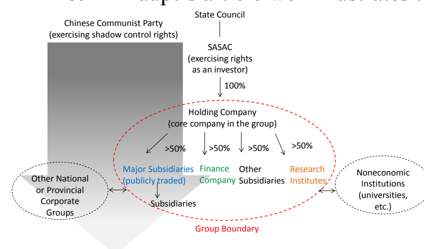
[19] MINISTRY OF COMMERCE OF PEOPLE'S REPUBLIC OF CHINA, 2012 STATISTICAL BULLETIN OF CHINA'S OUTWARD FDI.

3	China National Offshore Oil Corporation (CNOOC)	Petroleum	SOE under SASAC
4	China Mobile Communication Corporation	Telecom	SOE under SASAC
5	Chin Resources (Holdings) Co., Ltd.	Diversified	SOE under SASAC
6	China Ocean Shipping (Group) Company (COSCO)	Transportation	SOE under SASAC
7	Aluminum Corporation of China	Metal	SOE under SASAC
8	Sinochem Corporation	Chemical	SOE under SASAC
9	China Merchant Group	Diversified	SOE under SASAC
10	China State Construction Engineering Corporation	Construction	SOE under SASAC
11	China Unicom Corporation	Telecom	SOE under SASAC
12	China Minmetals Corporation	Metal	SOE under SASAC
13	China National Chemical Corporation	Chemical	SOE under SASAC
14	CITIC Group	Diversified	SOE under SASAC
15	China National Cereals, Oils & Foodstuffs Corporation (COFCO)	Food	SOE under SASAC
16	China National Aviation Holding Corporation	Transportation	SOE under SASAC
17	State Grid Corporation of China	Utility	SOE under SASAC
18	SinoSteel Corporation	Metal	SOE under SASAC
19	China Three Gorges Corporation	Utility	SOE under SASAC
20	Sinotrans & CSC Holdings Co., Ltd.	Logistics	SOE under SASAC

At present, there are 112 SOEs under SASAC's control. These SOEs are recognized as China's national champions. They are organized as vertically integrated corporate groups. Each corporate group has a holding company standing at the top of the ownership hierarchy. The holding company is 100% owned by SASAC. All the companies reported in Table 1 are the holding company of a state-owned corporate group. Each holding company controls a large number of subsidiaries including listed companies, finance companies, research institutes, and many other related firms along the production chain.[20]

It has been noted that the holding company has many governance features that diverge from prevailing international standards.[21] For instance, at the time of this writing, only about half of the 112 holding companies have successfully established a board of directors. SASAC and the Organization Department (i.e. the human resources department) of the Chinese Communist Party exercise the power of appointing top managers of the holding companies. "Political qualities," including loyalty to the Chinese Communist Party, are among the major criteria of managerial performance evaluation.[22] The holding companies' close connection with the government obviously raises concerns in host countries. Even if a holding company utilizes a listed subsidiary as an investment vehicle, it may not shed governance doubts because the holding company often is the absolute majority shareholder of the listed subsidiary.[23] As shown in the following section, regulators in some advanced economies including

[20] Li-Wen Lin & Curtis J. Milhaupt, *We Are the (National) Champions: Understanding the Mechanisms of State Capitalism in China*, 65 STAN. L. REV. 697, 710-711 fig.1 (2013). Figure 1 in Lin & Milhaupt's article well illustrates the organizational structure:



[21] *Id.* at 752.

[22] Zhongyang Qiye Lingdao Banzi He Lingdao Renyuan Zonghe Kaohe Pingjia Banfa (Shixing) (中央企□□□班子和□□人□□合考核□价□法 (□行)) [Measures Concerning the Integrated Evaluation of the Top Management Teams and Managers of the Central Enterprises (Provisional)] (promulgated by the Org. Dep't Communist Party of China, Nov. 6, 2009), http://gzw.xinjiang.gov.cn/10050/10090/10012/2010/19547.htm.

[23] Erica Downs, *China's NOCs: Lessons Learned from Adventures Abroad*, FUNDAMENTALS OF THE GLOBAL OIL AND GAS INDUSTRY 2008, at 30, http://www.brookings.edu/~/media/research/files/articles/2008/7/china-downs/07_china_downs.pdf. (arguing that foreign investors cannot differentiate the holding and the listed subsidiary as the holding controls an absolute majority).

Australia, Canada, and the United States have frustrated several potential takeovers by Chinese SOEs. In the face of legitimacy challenges, do China's national champions change their governance practices as they globalize? Do the regulatory regimes in some host countries exert any effective influence on the governance reform of China's national champions?

III. Regulatory Challenges Abroad

Host countries are usually ambivalent toward FDI. On the one hand, FDI is perceived desirable as it promotes economic development. On the other hand, a foreign investor may favor the interests of its home country or parent company to the detriment of national interests of the host country. To balance economic benefits and national interest concerns, many countries have regulatory regimes to scrutinize investment by foreign entities. Table 2 below shows a list of major countries that have a regulatory system of foreign investment.

Table 2: Comparison of Foreign Investment Regulatory Regimes[24]

Country	Sources of Law and Responsible Regulator	Key Concerns	Corporate Governance as an Explicit Factor in Review	Special Regulation for Foreign SOEs	High-Profiled Troubled Cases against Chinese SOEs
Australia	Foreign Acquisitions and Takeover Act 1975 (FETA); Foreign Acquisitions and Takeover Regulations 1989; Australia's Foreign Investment Policy (AFIP). Treasurer; Foreign Investment Review Board (FIRB).	"National interest" including national security, competition, other Australian Government Policies (including tax), impact on the economy and the community, character of the investor.	When considering "the character of the investor", the government considers "the corporate governance practices of foreign investors." (AFIP)	All foreign government investors must notify the Government and get prior approval before making a direct investment in Australia, regardless of the value of the investment. Where a proposal involves a foreign government investor, the Government considers if the investment is commercial in nature or if the investor may be pursuing broader political or strategic objectives that may be contrary to Australia's national interest. This includes assessing whether the prospective investor's governance	Minmetals/ OZ Minerals (2009): approval conditioned on excluding the Prominent Hill mine, based on national security as it is located close to a sensitive military zone in the deserts of outback South Australia. Chinalco/Rio Tino (2009): as the international commodity markets greatly improved during the prolonged regulatory approval process, Rio Tino unilaterally ended the deal one week before the regulator's meeting to decide on the deal.

[24] Information about the regulations in France, Germany and Japan is from United States Government Accountability Office, *Laws and Policies Regulating Foreign Investment in 10 Countries*, (Feb, 2008), *available at* http://www.gao.gov/new.items/d08320.pdf.

				arrangements could facilitate actual or potential control by a foreign government. (AFIP)	
Canada	Investment Canada Act 1985; Regulations Respecting Investment in Canada; National Security Review of Investments Regulations. Industry Canada; Canadian Heritage.	"Net benefit" to Canada (including economic impact) and national security	When assessing whether a deal is of net benefit to Canada, the Minister will examine the corporate governance and reporting structure of the non-Canadian. This examination will include whether the non-Canadian adheres to Canadian standards of corporate governance (including, for example, commitments to transparency and disclosure, independent members of the board of directors, independent audit committees and equitable treatment of shareholders), and to Canadian laws and practices, including adherence to free market principles. (The SOE Guidelines)	"Guidelines on Investment by State-Owned Enterprises" (*The SOE Guidelines*, first issued in 2007; amended in 2012) The Minister will assess whether a Canadian business to be acquired by a non-Canadian that is an SOE will likely operate on a commercial basis, including with regard to: where to export; where to process; the participation of Canadians in its operations in Canada and elsewhere; the impact of the investment on productivity and industrial efficiency in Canada; support of on-going innovation, research and development in Canada; and the appropriate level of capital expenditures to maintain the Canadian business in a globally competitive position.	CNOOC/Nexen (2012): approval conditioned on CNOOC's commitment to some undertakings including listing CNOOC on the Toronto Stock Exchange.
USA	Exon-Florio Amendment to the Defense Production Act of 1950, as Amended; Guidance Concerning the National Security Review Conducted by the Committee on Foreign Investment in the United States The Foreign Investment and National Security Act	National Security	When evaluating transactions by foreign government-controlled entities, CFIUS considers, among other factors, "whether governance structures are in place to ensure independence." (The CFIUS Guidance)	In reviewing foreign government-controlled transactions, CFIUS considers, among all other relevant facts and circumstances, the extent to which the basic investment management policies of the investor require investment decisions to be based solely on commercial grounds; the degree to which, in practice, the investor's management and investment decisions are exercised independently from the controlling government, including whether governance	CNOOC/Unocal (2005): CNOOC withdrew its bid in the midst of intensive political opposition played out in Congress and dissatisfaction with the CFIUS review process; its competing bidder, Chevron, won the deal at the end.

	of 2007 (FINSA) Committee on Foreign Investment in the United States (CFIUS).			structures are in place to ensure independence; the degree of transparency and disclosure of the purpose, investment objectives, institutional arrangements, and financial information of the investor; and the degree to which the investor complies with applicable regulatory and disclosure requirements of the countries in which they invest. (The CFIUS Guidance)	
EU	Currently there is no foreign investment review at the EU level.	None	None	None	None
France	Law 2004-1343; Decree 2005-1739	Public order, public safety, national Defense	None	None	None
Germany	2004 Amendment to 1961Foreign Trade and Payments Act.	Ensure essential security interests, prevent disturbance of peaceful international coexistence or foreign relations	None	None	None
Japan	1991 Amendment to the Foreign Exchange and Foreign Trade Act of 1949.	National security, public order, public safety, or the economy	None	None	None

While each country has unique characteristics in its own system to regulate foreign investment, in many ways the systems are quite similar to each other. Although the regulatory scope varies significantly, regulations that restrict foreign investment are generally based on national security. For instance, Australia, Canada, and Japan also formally include economic concerns as part of the criteria for foreign investment reviews. At present, there is no foreign investment regulation at the EU level, but there are some

variations among European countries. France and Germany have regulatory reviews based on national security, whereas countries including Belgium, the Czech Republic, Hungary, Iceland, Ireland, and the Netherlands (not shown in Table) do not have any investment regulations related to national security interests.[25]

Australia, Canada and the United States probably have the most detailed regulations and relatively active records in coping with investment by foreign SOEs. In Australia, all investments by foreign government-controlled entities are subject to regulatory review, regardless the size of the investment.[26] Investments by other entities are reviewable only when the transaction involves certain sectors and are above a certain monetary threshold.[27]

In Canada, the regulatory regime operates under the Investment Canada Act.[28] When a foreign investor acquires control of a Canadian business and the asset value of the Canadian business being acquired equals or exceeds a certain threshold, the foreign investor must prove that the investment is of net benefit to Canada.[29] In 2007, Industry Canada promulgated the SOE Guidelines under the Act partly as a reaction to growing public concerns over foreign SOEs' acquisition of controlling stakes in prominent Canadian businesses.[30] In 2009, the Investment Canada Act was amended to allow the government to block foreign investments based on national security concerns.[31] Recently, in 2012, the Canadian government further revised the SOE Guidelines and increased scrutiny, along with the announcement of approving the contentious acquisitions by Petronas and CNOOC.[32] The latest guidelines broaden the definition of SOE, covering any "enterprise that is owned, controlled or influenced, directly or indirectly by a foreign government."[33]

In the United States, parties to a transaction that could result in control of a U.S. business by a foreign person may file a notice with the Committee on Foreign Investment in the United States (CFIUS) to determine whether such transaction would present any national security risks. As stated in the CFIUS Guidance, foreign government control is obviously an important factor though it does not necessarily, in itself, pose

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[25] Angela Huyue Zhang, *Foreign Direct Investment from China: Sense and Sensibility*, 34 NORTHWESTERN J. INT'L L. & BUS. 395, 433 (2014).

[26] *Australia's Foreign Investment Policy 2015*, http://www.firb.gov.au/content/_downloads/Australias_Foreign_Investment_Policy_June_2015.pdf.

[27] *Id.*

[28] Investment Canada Act, R.S.C. 1985, c. 28.

[29] *Investment Canada Act Guidelines – Investment by State-Owned Enterprises*, https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/lk00064.html#p2.

[30] *Id.*

[31] *Id.*

[32] *Id.*

[33] *Id.*

a national security risk.[34] Other factors such as whether appropriate corporate governance structure is in place to ensure the investing entity's independence of the foreign government shall be considered as well.[35] Similar to the United States, both Australia and Canada include corporate governance structure, among other things, as an important concern.[36]

In recent years, a number of prominent Chinese SOEs have encountered regulatory challenges in Australia, Canada, and the United States. Loosely defined regulatory concepts, including national security and interests in foreign investment regulations, provide ample political space to galvanize public debate in the host country. For instance, in 2005, CNOOC Limited (a listed subsidiary of an oil SOE under SASAC's control) attempted to acquire Unocal, a U.S. oil producer. The CNOOC-Unocal deal faced unprecedented political opposition by the U.S. Congress based on the claims that the takeover would threaten US national security. Congress, through its legislative power, significantly dragged the CFIUS review process. The politicized regulatory review process eventually forced CNOOC to retreat from the bidding war and the American-owned Chevron Corporation won the deal.[37]

The Chinalco-Rio Tinto deal in Australia faced a similar challenge. In 2009, Chinalco, one of the SOEs under SASAC, planned to acquire an 18% stake of Anglo-Australian mining giant, Rio Tinto. But the regulatory process was prolonged in the debate of the consequences of giving Chinese SOEs access to an enormous trove of natural resources in Australia. Rio Tinto unilaterally terminated the deal just days before Australian regulators were expected to impose tough conditions for their approval of it.[38] Another prominent case in Australia was the sale of OZ Minerals to China Minmetals Non Ferrous Metals Co., Ltd (Minmetals), a subsidiary of China Minmetals Corporation. China Minmetals Corporation is a central SOE under SASAC's control. The Australian government announced that it would not approve the transaction if it included the Prominent Hill operation based on national security concerns. A subsequent agreement was reached whereby Minmetals would purchase OZ Minerals assets except for Prominent Hill.[39]

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[34] Guidance Concerning the National Security Review Conducted by CFIUS, 73 Fed. Reg. 74567, 74571 (Dec. 8, 2008).
[35] *Id.*
[36] *Id.*
[37] GARY CLYDE HUFBAUER ET AL., US-CHINA TRADE DISPUTES: RISING TIDE, RISING STAKES, ch. 5 (2006).
[38] Dana Cimilluca et al., *Rio Tinto Scuttles Its Deal with Chinalco*, WALL ST. J., June 5, 2009, http://www.wsj.com/articles/SB124411140142684779.
[39] Peter Smith, *Oz Minerals Shareholders Accept Minmetals Bid*, FIN. TIMES, June 11, 2009, http://www.ft.com/intl/cms/s/0/9056355a-559f-11de-ab7e-00144feabdc0.html#axzz3rOmaygK9.

Recently, CNOOC's acquisition of Nexen also aroused great public concerns in Canada. After a delayed review process, the Canadian government finally approved the deal with conditions including requiring CNOOC's listing on the Toronto Stock Exchange. These conditions were meant to ensure that CNOOC's corporate governance and transparency were in compliance with Canadian standards.[40]

An overview of the foreign investment laws shows that a foreign SOE's relation with the government in its home country is the root of regulatory concerns. Does a foreign SOE act as an independent enterprise for commercial interests or as an agent of the foreign government pursuing political interests? Regulatory regimes often consider whether adequate corporate governance structure is in place to shield the SOE management from interference by its home country government. If a foreign SOE's governance structure demonstrates independence of its home country government, the SOE will be more likely to obtain regulatory approval and public support in the host country. It suggests that the regulatory regimes scrutinizing investment by foreign SOEs may act as a potential mechanism to change investing foreign SOEs' corporate governance. The following section proposes a framework to analyze how institutional environments including corporate governance and foreign investment regulatory institutions in the host country may affect the governance of foreign SOEs. Based on this analytical framework, this Article will make hypotheses regarding whether globalization through foreign investment and overseas listing may prompt Chinese national champions to change their corporate governance practices.

IV. Theoretical Framework of Globalization and Governance Change

Relevant international business studies have investigated how institutional distance between the home country and the host country would affect a firm's entry modes and subsequent performance of the investment vehicle in the host country.[41] This body of literature often draws on sociological theories to explain institutional disparity between the home country and the host country as an important determinant of a firm's

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[40] Shawn Mccarthy and Steven Chase, *Ottawa Approves Nexen, Progress Foreign Takeover*, THE GLOBE AND MAIL, Dec. 10, 2012, http://www.theglobeandmail.com/globe-investor/ottawa-approves-nexen-progress-foreign-takeovers/article6107548/.

[41] Majid Abdi & Preet S. Aulakh, *Do Country-Level Institutional Frameworks and Interfirm Governance Arrangements Substitute or Complement in International Business Relationships?* 43 J. INT'L BUS. STUD. 477, 477 (2012); Lin Cui & Fuming Jiang, *State Ownership Effect on Firms' FDI Ownership Decisions under Institutional Pressure: A Study of Chinese Outward-Investing Firms*, 43 J. INT'L BUS. STUD. 264, 264 (2012); Klaus E Meyer et al., *Overcoming Distrust: How State-Owned Enterprises Adapt Their Foreign Entries to Institutional Pressures Abroad*, 45 J. INT'L BUS. STUD. 1005, 1020 (2014).

strategy to enter the foreign country. Existing literature, however, has paid little attention to how a company's outward investment would create inbound influence on the company itself. This inattention is explainable as the dominant players in the global investment market have traditionally been firms in advanced economies. Firms in advanced economies have little reason to emulate immature institutions in less developed countries. But the emergence of multinational firms from China and other developing countries calls for an evaluation of any effects in the reverse direction. Following similar sociological thoughts in the international business literature, this Article uses network analysis and institutional theories in economic sociology to build an analytical framework of how a firm may change its corporate governance practices due to institutional pressure faced in the host country. This Article will apply this framework to hypothesize how "going global" may influence Chinese national champions' governance practices.

Sociological network analysis is based on a fundamental assumption that interactions between social actors (whether individuals, organizations, or nations) shape their behavior. Social actors are viewed as interdependent, linking with one another by social ties through which information and other resources are channeled.[42] For instance, firms may be linked with one another though ownership ties (i.e. holding shares in another firm) or interlocking directorships (i.e. two firms sharing a common director). Material and non-material resources may flow through the concrete relationships and influence behavior or outcomes. Rich sociological evidence shows that inter-firm networks play an important role in sharing risks and diffusing information.[43]

From a sociological network perspective, foreign investment is relational in the sense that it creates not only flows of money, but also channels of influence. The relational nature of investment becomes particularly complex for overseas investment across different institutional environments. Institutional theory in economic sociology suggests that an organization's behavior is influenced by the economic, legal and political environment in which it operates.[44] This environment creates normative forces that drive how an organization should operate, regardless of whether a particular normative practice is useful to the organization's functioning. Conformity to institutional expectations helps the organization acquire

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[42] Mak Granovetter, *Economic Action and Social Structure: The Problem of Embeddedness*, 91 AM. J. SOC. 481, 481 (1985).

[43] For a summary of this body of sociological literature, see generally Joel M. Podolny & Karen L. Page, *Network Forms of Organization*, 24 ANN. REV. SOC. 57, 57 (1998).

[44] For the seminal work of institutional theory in sociology, see generally Paul J. DiMaggio & Walter W. Powell, *The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields*, 48 AM. SOC. REV. 147, 147 (1983); John W. Meyer & Brian Rowan, *Institutionalized Organizations: Formal Structure as Myth and Ceremony*, 83 AM. J. SOC. 340, 340 (1977).

legitimacy. Different environments impose different normative pressures and thus produce different organizational structures and behavior. When an organization born of and operating in a certain environment enters a new environment, it may be under normative pressure to change its organizational structures or behavior so as to adapt to and establish legitimacy in the new environment. The normative pressure may be more intense when the new environment is dissimilar from the original environment.[45]

As different countries have different institutional environments, this relational and institutional approach suggests that the potential of a SOE's corporate governance change depends on the institutional disparity between the SOE's origin country and its investment destination country. In other words, institutional distance between the origin country and the destination country of investment matters in evaluating the potential of SOE governance change. While there are many dimensions of institutional environments, this Article focuses on corporate governance institutions, which are a main concern in foreign investment reviews. Table 3 below illustrates the basic idea.

Table 3: Institutional Distance and the Potential of SOE Governance Change

		Destination Country	
		Strong Corporate Governance Regime	Weak Corporate Governance Regime
Origin Country	Strong Corporate Governance Regime	(High) *Institutional match* → Little need/pressure to change/improve governance	(High) *Institutional mismatch* → Little inbound influence on governance, but potentially positive effects along FDI on destination countries
	Weak Corporate Governance Regime	(High) *Institutional mismatch* → High suspicion and pressure to change	(High) *Institutional match* → Little need/pressure to change/improve governance

[45] Meyer et al. *supra* note 41, at 340.

For analytical convenience, a country can either be a (relatively) strong governance regime or a (relatively) weak governance regime. Admittedly, this dichotomous categorization may be oversimplified given the complexity of assessing the quality of corporate governance institutions. Several seminal attempts to compare corporate governance across countries through quantitative indicators have been subject to cautions and criticisms.[46] The quantitative governance indices present limitations and inconsistencies among themselves. Nevertheless, their results constantly show that most developed countries rank high on the indices and most developing countries including China gravitate toward the bottom. There should be little controversy if China is placed in the weak governance category and developed countries such as Australia, Canada, and the United States in the strong governance category.

When both the origin country and the destination country are of the same type of governance regime (either strong or weak), it is labeled as an *institutional match*. A high degree of institutional match indicates there would be of little normative pressure on the investing SOE or the investing state-owner to change its governance practices. In other words, there would be only marginal inbound influence on the SOE governance from such outward investment. The institutional match provides a comfort zone for the SOE to continue its traditional practices even when they operate across national boundaries. The upper left cell and the lower right cell in Table 3 show the scenarios of institutional match. The upper left cell shows a scenario in which an SOE from a strong corporate governance regime invests in a parallel regime. An example is Statoil, a Norwegian oil SOE, investing in Canada.[47] The lower right cell shows a situation where an SOE

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[46] The work that sparked using empirical methods in comparative corporate governance is Rafael La Porta et al., *Law and Finance*, 106 J. POL. ECON. 1113, 1113 (1998). Efforts on ranking national corporate governance systems include: GMI, *Country Rankings from Gover*nance Metrics International, http://www.gmiratings.com/BreakingNews.aspx; WORLD ECON. F., THE GLOBAL COMPETITIVENESS REPORT 2001-2014, http://www.weforum.org/reports; Marina Martynova & Luc Renneboog, *A Corporate Governance Index: Convergence and Diversity of National Corporate Governance Regulations* (CentER Discussion Paper Series No. 2010-17, 2010), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1557627. For critiques, *see* Ruth V. Aguilera & Kurt A. Desender, *Challenges in the Measuring of Comparative Corporate Governance: A Review of the Main Indices*, 8 RES. METHODOLOGY IN STRATEGY AND MGMT. 289, 290 (2012) (arguing that there are challenges to compare corporate governance effectiveness in different settings with a governance index); Sanjai Bhagat et al., *The Promise and Peril of Corporate Governance Indices*, 108 COLUM. L. REV. 1803, 1803 (2008) (arguing that "governance indices are highly imperfect instruments" for various corporate issues); Holger Spamann, *The "Antidirector Rights Index" Revisited*, 23 REV. FIN. STUD. 467, 467 (2010) (arguing that the corrected "antidirector rights index" fails to support widely influential claims).

[47] *See* STATOIL, STATOIL IN CANADA: FACTS, Statoil (2014), http://www.statoil.com/no/About/Worldwide/NorthAmerica/canada/OilSands/Downloads/statoilincanada.pdf (introducing Statoil's work in Canada).

from a weak governance regime invests in another weaker regime, such as Sinopec, a Chinese SOE, investing in Nigeria.

To the contrary, when there is a high degree of *institutional mismatch* between the origin country and the destination country, institutional conformity would be a source of pressure to change governance practices. But the direction of governance impact runs in different ways, depending on where the stronger institutions are located. The upper right cell in Table 3 illustrates a situation where a SOE from a strong governance regime invests in a weaker regime. An example is Norsk Hydro (controlled by the Norwegian government), which invests in Mozambique.[48] The governance impact tends to run in the direction from the better regime to the weaker regime. The governance implication of this type of investment has been well-examined in the FDI literature concerning how FDI from advanced economies benefit (or harm) domestic firms and institutional development of emerging markets.[49]

The lower left cell in Table 3 illustrates a scenario where an SOE from a weak governance regime invests in a strong regime, such as CNOOC investing in the United States. As shown in Section III, a number of advanced economies including Australia, Canada and the United States have enhanced review standards for foreign SOE investments. Corporate governance is a main factor considered in these review processes. Moreover, while the investment review systems are based on statutes or regulations, the process is often politicized because governments have considerable discretion in interpreting the meaning of "national interests," "net benefits," and "national security." As a result, foreign SOEs may face not only legal and market pressure, but also political pressure to change governance. This case of institutional mismatch has the greatest potential of generating positive influence on the investing SOE's governance practices. This Article labels this scenario as *positive institutional mismatch*, where there may be positive inward influence derived from the outward investment.

The gist of Table 3 suggests that China's SOEs are more likely to adopt internationally-recognized corporate governance practices when they invest in places of positive institutional mismatch and are much less likely

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[48] *See Hydro Worldwide*, NORSK HYDRO, fig.1, http://www.hydro.com/en/About-Hydro/Hydro-worldwide/ (illustrating the worldwide activities of Norsk Hydro and its relative involvement in each country).

[49] Brian J. Aitken & Ann E. Harrison, *Do Domestic Firms Benefit from Direct Foreign Investment? Evidence from Venezuela*. 89 AM. ECON. REV. 605, 605 (1999); Anh Dang, *How Foreign Direct Investment Promote Institutional Quality: Evidence from Vietnam*, 41 J. COMP. ECON. 1054, 1054 (2013); Holger Gorg & David Greenaway, *Much Ado about Nothing? Do Domestic Firms Really Benefit from Foreign Direct Investment?* 19 WORLD BANK RES. OBSERVER 171, 171 (2004); Beata Smarzynska Javorcik, *Does Foreign Direct Investment Increase the Productivity of Domestic Firms? In Search of Spillovers through Backward Linkages*, 94 AM. ECON. REV. 605, 605 (2004).

to do so if they mainly invest in places of institutional match (i.e. countries with similarly weak or even worse institutional conditions). It raises an empirical question: in what types of foreign countries do Chinese SOEs mainly invest? Do Chinese SOEs mainly invest in countries of positive institutional mismatch, such as the United States? Extant literature has focused on Chinese SOEs' outward investment in Africa. While the SOEs have contributed some significant economic development to Africa, their governance, social, and environmental practices fail to meet international standards by a wide margin.[50] If Africa or other countries with weak corporate governance regimes are the main investment destinations, it indicates that Chinese SOEs' global expansion would face little normative pressure to change their governance practices. But governance reform potential is more likely to occur if they mainly invest in advanced economies, especially those with regulatory processes scrutinizing investments by foreign SOEs.

The macro-institutional distance between the origin country and the destination country of investment provides a broad-brush baseline of foreign SOEs' governance change potential. But not all SOEs, even from the same country, are the same. There are organizational-level variations that may bring about different inbound influence from outward investment. This Article considers two micro-organizational conditions, which are commonly examined in international business literature: the firm's entry modes and types of investing entities.

Existing literature has shown how institutional distance between the home country and the host country may influence a firm's internationalization strategies.[51] A recent study shows that Chinese SOEs

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[50] *See* Namukale Chintu et al., *Chinese State-Owned Enterprises in Africa: Myths and Realities*. IVEY BUS. J. (Mar./Apr. 2013), http://iveybusinessjournal.com/publication/chinese-state-owned-enterprises-in-africa-myths-and-realities/ (stating that Chinese SOEs fall short of "good governance" standards traditionally accepted in the international community, but these shortcomings are due to China's limited experience in internationalization); Patrick J. Kennan, *Curse or Cure - China, Africa, and the Effects of Unconditional Wealth*, 27 BERKELEY J. INT'L L. 84, 88 (2009), http://scholarship.law.berkeley.edu/bjil/vol27/iss1/4 (arguing that China's investments in Africa may have negative effects on local populations' social welfare).

[51] *See, e.g.*, Lorraine Eden & Stewart R Miller, *Distance Matters: Liability Of Foreignness, Institutional Distance And Ownership Strategy*, 16 ADVANCES IN INT'L MGMT. 187, 189 (2004) (suggesting that the key element of liability of foreignness is institutional distance and examines the manner in which institutional distance affects the liability of foreignness); Saul Estrin et al., *The Impact of Institutional and Human Resource Distance on International Entry Strategies*, 46 J. MGMT. STUD. 1171, 1171 (2009) (exploring the role of institutional and human resource distances on foreign investment strategy); Dean Xu & Oded Shenkar, *Institutional Distance and The Multinational Enterprise*, 27 ACAD. MGMT. REV. 608, 608 (2002) (analyzing the effect of institutional distance on the normative, regulatory and cognitive dimensions on foreign market entry strategies); Delia Ionascu et al., *Institutional Distance and International Business Strategies in Emerging Economies* (William Davidson

tend to choose joint ventures rather than acquisitions as the entry mode, because acquiring an existing business increases the likelihood of facing regulatory or political hurdles.[52] While the choice of entry modes is affected by institutional distance between the home country and the host country, once the choice has been made, the choice can subsequently produce different levels of inbound influence derived from such outward activity.

Common entry modes into foreign markets include two categories: equity-based and non-equity based. Non-equity based entry modes are exporting and licensing. Because non-equity based entry modes have little exposure to the local corporate governance system of the host country, it would induce only marginal inbound influence on the foreign SOE's governance. Equity-based entry modes can be divided into two types by ownership: wholly-owned and partially-owned operations. Wholly-owned operations are greenfield investments (i.e. setting up wholly-owned subsidiaries or branches) and full acquisition of existing local firms in the host country. Partially-owned operations refer to partial acquisition of existing local firms or setting up joint ventures with local firms in the host country. Among all these equity-based types, greenfield investment is probably most integrated with the SOE's headquarters and least interacts with corporate governance of local firms in the host country. Therefore, the inbound influence on the governance practices of the investing SOE (parent company) in the home country can be limited. Compared to greenfield investment, full acquisition will result in a higher level of exposure to local corporate governance practices in the host country.

Takeovers by foreign investors are often subject to regulatory approval conditioned on some governance changes of the investing SOE. Moreover, existing practices in the acquired company may continue and thus potentially diffuse to the parent SOE in the home country. Partially owned operations also possess great potential of inbound influence. Partial acquisitions and joint ventures require SOEs to negotiate and arrange governance structures with local shareholders. The ownership interaction and integration create opportunities for foreign SOEs to learn the operation of the corporate governance system in the host country. Table 4 summarizes the types of entry modes and the levels of potential inbound influence on corporate governance of SOEs in the home country.

Table 4: Entry Modes and Potential Inbound Influence on Corporate Governance

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Institute, Working Paper No. 728), (2004) (arguing that the "impact of distance varies with the different aspects of the concept of institutional distance").

[52] Lin Cui & Fuming Jiang, *supra* note 41 at 264.

Entry Modes	**Potential Inbound Influence on Corporate Governance**
Non-Equity Based	
Exporting	Low
Licensing	Low
Equity-Based	
Wholly-Owned Operations	
Green-Field Investment	Low-Medium
Full ***Acquisition***	Medium-High
Partially-Owned Operations	
Partial ***Acquisition***	Medium-High
Joint Ventures	Medium High

When deciding how to invest in a foreign country, firms need to decide whether to invest directly itself or through subsidiaries. As explained in Section II, a Chinese national champion is typically organized as a vertically integrated corporate group with a holding company controlling multiple layers of subsidiaries. If the holding company itself engages in foreign investment, the holding company will directly encounter normative pressure in the host country, which suggests great potential for a change in governance within the holding company. However, if foreign investment is mainly carried out through overseas subsidiaries, the holding company may hide behind the layers of ownership and avoid governance reform. This hierarchical ownership structure creates degrees of distance between the holding company and its overseas subsidiaries. On the one hand, the layered ownership may shield overseas subsidiaries from the state-owner's influence, which allows more freedom for overseas subsidiaries to adopt local corporate governance practices in the host country. On the other hand, the extended distance may weaken the potential inbound influence on the holding company. Therefore, it suggests a hypothesis that foreign investments made directly by the holding company itself rather than through its subsidiaries are more likely to elicit change in the holding company's governance practices.

Finally, in addition to FDI, overseas listing is another important strategy for Chinese SOEs to build international equity connections. Some Chinese SOEs have listed shares in the world's leading capital markets including Hong Kong, Singapore, the United States, and the United Kingdom. The institutional relationship between China and the major capital markets can be characterized as an institutional mismatch. According to the bonding theory in corporate governance literature, firms with a view to improve corporate governance, particularly those from emerging markets, may bond themselves to a better governance regime

through cross listing their shares.[53] By cross-listing in a stronger institutional regime, such as the United States, Chinese SOEs must comply with stricter standards and consequently have better governance. A study shows that Chinese firms cross-listed in Hong Kong have better pay-performance sensitivity than the mainland firms without cross-listing and the effect is greater for SOEs than private firms.[54] Another study also finds that Chinese firms listed in Hong Kong and Singapore have better corporate governance quality (measured by a combined index) than their counterparts with only domestic listings.[55] Scholars also find that China's overseas-listed SOEs have more professional boards of directors, greater accounting conservatism, higher investment efficiency, and better stock performance than their domestically listed counterparts.[56] Considering that overseas listed firms are major members of China's national champions and their top management teams (including boards of directors) often overlap with those of the holding companies, the overseas-listed subsidiaries may diffuse modern corporate governance practices, such as the use of independent directors, back to their holding companies. It suggests that the national champions that have an overseas listed subsidiary are more likely to engage in corporate governance reform than those without one.

Overall, the theoretical framework built with common ideas in relevant international business literature assumes that Chinese SOEs are responsive to market and other institutional pressures in host countries, but the responsiveness is also affected by organizational factors, such as entry modes and investment structure.[57] These theoretical predictions are subject to empirical investigation.

V. Empirical Evidence

A. Data and Methodology

This Article empirically investigates whether internationalization effectively drives the governance reform of China's national champions, the SOEs, under SASAC's control. The period of investigation in this study is

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[53] John C. Coffee, Jr., *Racing Towards the Top?: The Impact of Cross-Listings and Stock Market Competition on International Corporate Governance*, 102 COLUM. L. REV. 1757, 1757 (2002).

[54] Wei Chi & Haiyan Zhang, *Are Stronger Executive Incentives Associated with Cross-Listing? Evidence from China*, 21 CHINA ECON. REV. 150, 150 (2010).

[55] Ling Mei Cong, *Earnings Quality and Corporate Governance Bonding*, 10 CORP. OWNERSHIP & CONTROL 183, 183 (2013).

[56] Mingyi Hung et al., Political Relations and Overseas Stock Exchange Listing: Evidence from Chinese State-Owned Enterprises 2-4, (Aug. 2008) (unpublished manuscript), http://www.cuhk.edu.hk/acy2/Staff/tjwong/HungWongZhangAug2008v8.pdf.

[57] Meyer et al. s*upra* note 41, at 1009-10.

from 2003, the year of SASAC's establishment, to 2013. As of the end of 2013, there were 113 SOEs controlled by SASAC.[58]

Governance reform, as the dependent variable, will be measured in two ways: whether the SOE has any outside directors on the board and whether the SOE's top management team includes any foreign-educated executives. In the past decade, the most important governance reform of these central SOEs has been the institutionalization of the board of directors and independent directors. In 2004, SASAC began to experiment with the idea of establishing the board of directors in SOEs under its supervision. According to SASAC's initial design, the board of directors generally should be comprised of no less than nine directors and at least two should be outside directors; the percentage of outside directors should gradually increase with improvement in the supply of outside directors.[59] As per SASAC's most recent rules, the board size generally should be between seven and thirteen directors, with a majority as outside directors.[60] Note that although most of the central SOEs did not have a board of directors before SASAC's policy, there were a number of exceptions. For instance, China Chengtong Holdings Group Ltd, a diversified industrial group, established the board of directors as early as 1992. These pre-SASAC boards were comprised of insiders only and some had only chairman and vice-chairman without any other board members.[61] Unlike the pre-SASAC board, the new board model that SASAC promotes features outside directors.

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[58] At the beginning of SASAC's establishment (2003), there were close to 200 SOEs under SASAC's control. SASAC has a goal to reduce the number of the SOEs down to 50-100, mainly through the strategies of mergers and acquisitions among the enterprises. This Article focuses on the reform pattern of the existing 113 SOEs. For the list of the central SOEs, see Yangqi Minglu (央企名录) [Name List of SOEs], http://www.sasac.gov.cn/n86114/n86137/c1725422/content.html.

[59] Guanyu Guoyou Duzi Gongsi Dongshihui Jianshe de Zhidao Yijian (Shixing) (关于国有独□公司董事会建□的指□意□（□行）) [Directive Opinion on the Building of the Board of Directors in Wholly-State-Owned Companies] (promulgated by the State-Owned Asset Supervision & Administration Commission of the State Council, published June 10, 2004) No. 229, art. 16, http://www.sasac.gov.cn/n85881/n85921/c359263/content.html.

[60] Notice of the State-owned Assets Supervision and Administration Commission of the State Council on Issuing the Interim Measures for the Standard Operation of the Board of Directors of a Central Enterprise in the Pilot Program on Board of Directors, (promulgated by the State-owned Asset Supervision & Administration Commission of the State Council, Mar. 20, 2009), art.22, CLI.4.118357(EN) (Lawinfochina).

[61] Hongye Guo, Waibu Dongshi Dongshihui Shidian de Tupodian – Fang Zhongguo Chengtong Jituan Dongshizhang Mazhengwu (外部董事董事会□点的突破点 – □中国□通集□董事□□正武) [A Breakthrough of the Experiment of Boards with Outside Directors – An Interview with the Chairman of China Chengtong Holdings Group: Zhengwu Ma], DIRECTORS & BOARDS, no. 1, 2009, at http://www.dongshihui.com.cn/Magazine/ArticleDetail/551.

The adoption of outside directors creates the appearance that China's SOEs are converging with the international standard (or the Anglo-Saxon model). While this governance change could be more in form than substance, as the board of directors lacks the power to appoint top managers and outside directors are often retired government officials or former SOE executives, it may be an encouraging step forward to substantive governance change. This Article uses the existence of outside directors on the board to represent a type of governance change.[62] The data regarding whether and when the SOE has a board of directors and outside directors were manually collected from the personnel appointments announcements and enterprise reform releases posted on SASAC's website. Corporate websites, annual reports, securities prospectuses and news reports are also used as supplementary sources. According to the data collected through this methodology, as of 2013, forty-five of the 113 SOEs had at least one outside independent director on the board.[63]

Whether the SOE has any foreign educated executive is the other indicator of governance change. As the SOEs become multinational firms, their management teams may include professionals with international experience. My previous research shows that the SOE executive labor market is overwhelmingly dominated by system-insiders and only a marginal minority of the CEOs have any foreign education experience.[64] Staffing with foreign-educated executives is a change of this governance tradition. This Article collected data on educational backgrounds of the CEOs and vice CEOs of the 113 SOEs as of 2013. Biographic information was collected from corporate websites, annual reports and prospectuses, government websites and documents, industrial association websites, and news reports. There are 639 executives (113 CEOs and 526 vice CEOs). Of the 639 executives, fifty-six hold a foreign degree; and of the 113 SOEs, thirty-six have at least one foreign-educated executive.

Internationalization, as the independent variable, will be focused on international equity linkages. As illustrated in Section IV, equity connections have greater potential to trigger governance change, compared to non-equity connections, such as exporting. International equity connections may be constructed in many forms and will be tested in the following ways. First, international equity connections can be made through cross-border joint ventures, mergers, and acquisitions. Data on

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[62] If the SOE has at least an independent director, it is coded as 1; if not, it is coded as 0. It would be ideal to use the number of independent directors as a dependent variable. However, in many cases, the exact number of independent directors cannot be confirmed.

[63] Note that there are cases where the board of directors was announced to be established but the positions of outside directors were not filled or could not be confirmed through publically available data. Such cases were not included in the study. This typically happened for firms that announced the intention to establish a board in 2012 or 2013.

[64] Li-Wen Lin, *State Ownership and Corporate Governance in China: An Executive Career Approach*, 2013 COLUM. BUS. L. REV. 743, 770 (2013).

cross-border joint ventures as well as mergers and acquisitions were manually collected from the SDC Platinum Database. The transactions include deals by the parent company and its subsidiaries in the period of 2003-2011. An SOE's degree of internationalization is operationalized as the number of deals accumulated from 2003 to year t-1.[65] Year t is the data year for the dependent variable. Correlation coefficients will be computed to examine the relationship between the accumulated number of deals (at year t-1) and the dependent variables (at year t).

Second, the central SOEs' overseas greenfield establishments are another type of equity connections that expose the SOEs to foreign institutional pressure. Data on the number of the central SOEs' overseas subsidiaries were collected from the Directory of Overseas Investment Institutions, a database maintained by the Ministry of Commerce of China. The database contains the new establishments of overseas investment entities subject to the Ministry of Commerce's approval.[66] While not all establishments of overseas operations are subject to regulatory approval, the data can serve as an estimate of the number of overseas greenfield subsidiaries.[67] The database covers the central SOEs' investments as early as 1983, but most of the investment occurred after 2000, the year in which the "going global" policy was formally introduced. According to the database, as of 2012, the central SOEs established 1,680 overseas operations. The degree of internationalization is measured as the accumulated number of overseas subsidiaries toward year t-1. Correlation coefficients will show the relationship between the accumulated number of subsidiaries (at year t-1) and the dependent variables (at year t).

Third, overseas listing is another way to build international equity connections. Simple linear regression will be used to examine the relationship between the time of overseas listing and the time of introducing independent directors.

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[65] Ideally, it would also include the volume of the transactions. Unfortunately, the SDC Platinum Database does not provide the dollar amount of many of the transactions.

[66] The database is accessible at Jingwai Touzi Qiye (Jigou) Minglu (境外投□企□（机构）名 录) [Name List of Overseas Investment Companies (Agencies)], http://wszw.hzs.mofcom.gov.cn/fecp/fem/corp/fem_cert_stat_view_list.jsp.

[67] Guowuyuan Guanyu Touzi Tizhi Gaige de Jueding (国□院关于投□体制改革的决定) [Decision of the State Council on Reforming the Investment System], Guo Fa [2004] No.20, (promulgated by the State Council, July 16, 2004, effective July 16, 2004), LEXIS China Online, htttp://www.lexiscn.com (stating the State Council's Decision declares that all of the central SOEs' overseas investments should be subject to approval or notice, depending on the size of the investment); Jingwai Touzi Guanli Banfa (境外投□管理□法) [Measures on the Administration of Overseas Investment] Order of the Ministry of Commerce [2009] No. 5, (promulgated by the Ministry of Commerce, Mar. 16, 2009, effective May 1, 2009), LEXIS China Online, htttp://www.lexiscn.com (providing the latest conditions under which the investment would be subject to approval by Ministry of Commerce).

Finally, this Article will use logistic regressions to examine the relationship between internationalization and governance attributes.[68] The dependent variables will be whether there was any outside director on the board and whether there was any foreign-educated top manager in 2013. The independent variables will be various internationalization indicators, including the accumulated number of acquisitions toward 2011, the accumulated number of joint ventures toward 2011, the accumulated number of overseas subsidiaries as of 2012, and whether the group has an overseas-listed firm.[69] The control variables will include: logged revenues (2010) to control for firm size, ROA (2010) for efficiency,[70] and whether the SOE has vice-ministerial rank.[71] Groups that hold a higher status in the government system (i.e., vice-ministerial rank) would be more impervious to international pressure, as they are closer to the inner circle of China's domestic political power.

B. Results

Table 5 shows the number of the central SOEs' overseas acquisitions, joint ventures, and subsidiary establishments by country in the period of 2003-2011. Hong Kong has been an important place for the central SOEs' activity in overseas acquisitions, joint ventures, and subsidiaries. However, Chinese SOEs' investments in Hong Kong very often are simply "round-tripping" – where Chinese firms take money offshore, dress up in financial secrecy, then return back home to enjoy the tax benefits available only to foreigners.[72] Moreover, the SOEs often use Hong Kong incorporated companies to engage in investment in other

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[68] Logistic regression is used to model dichotomous outcome variables. The dependent variables (whether the SOE has at least one independent director and whether the management team includes any foreign educated executive) have binary outcomes (i.e., yes or no).

[69] The data years vary because the data collection process for the variables started and ended at different times. The time difference would not significantly change the outcomes as the numbers of deals do not change significantly from year to year. As to the variable of whether the group has an overseas listed firm, it is coded 1 if the SOE has an overseas listed firm; 0 if without an overseas listed subsidiary.

[70] The 113 central SOEs are not publicly traded companies and therefore do not have an obligation to publish their financial performance or other information. SASAC occasionally disclosed some of these SOEs' individual financial data. The latest release was the 2010 data.

[71] Of the 113 central SOEs, fifty-three hold vice-ministerial ranks in the government administration system. The top managers of these vice-ministerial level SOEs are directly appointed by the Central Organization Department of the Chinese Communist Party.

[72] Randall Morck et al., *Perspectives on China's Outward Foreign Direct Investment,* 39 J. INT'L BUS. STUD. 337, 340 (2008); Dylan Sutherland & John Anderson, *The Pitfalls of Using Foreign Direct Investment Data to Measure Chinese Multinational Enterprise Activity*, 221 CHINA Q. 21, 24-25 (Mar. 2015); Geng Xiao, *People's Republic of China's Round-Tripping FDI: Scale, Causes and Implications* (Latin Am./Caribbean and Asia/Pac. Econ. and Bus. Ass'n, Working Paper No. 24, 2004).

countries, which makes Hong Kong more a portal than a destination of the SOEs' foreign investment.[73] Excluding Hong Kong, the top countries of the central SOEs' acquisition activities are Australia, Canada, the United States, Singapore, and the United Kingdom. These countries (except Singapore) are liberal markets as per the varieties-of-capitalism literature,[74] politically mature democracies, and within the common law family. In other words, the central SOEs' acquisition activities take place significantly in countries whose institutional environments are very dissimilar from China, which features state ownership, authoritarian government, and the civil law system (considered a "bad" corporate law regime as per the "law and finance" literature).[75] Australia, Canada, and the United States are also the countries that have regulations specifically addressing concerns about investment by foreign SOEs. This high degree of institutional mismatch suggests Chinese SOEs could face great normative pressure on their governance structure when entering these markets.

Table 5: Overseas Investment Deals of China's National Champions, 2003-2011[76]

Location of Acquisitons Number of Acquisition Deals (%)	**Location of Joint Ventures Number of JV Deals (%)**	**Location of Subsidariy Establishements Number of Subsidairy Establishments (%)**
Hong Kong 198 (35.5%)	Australia 26 (12.3%)	Hong Kong 360 (15.5%)
Australia 76 (13.6%)	Hong Kong 21 (10.0%)	United States 91 (3.6%)
Canada 47 (8.4%)	United States 21 (10.0%)	United Arab Emirates 64 (2.8%)
United States 27 (4.8%)	Canada 11 (5.2%)	Australia 62 (2.7%)
Singapore 20 (3.6%)	Russia 11 (5.2%)	Singapore 55 (2.4%)
Brazil 18 (3.2%)	Saudi Arabia 8 (3.8%)	British Virgin Island 54 (2.3%)
United Kingdom 16 (2.9%)	Taiwan 7 (3.3%)	Saudi Arabia 48 (2.1%)
Nigeria 8 (1.4%)	Indonesia 6 (2.8%)	Russia 45 (1.9%)
Kazakhstan 8 (1.4%)	Japan 5 (2.4%)	Germany 39 (1.7%)
Chile	India	Indonesia

[73] Morck et al., *supra* note 72, at 339-340.
[74] Peter A. Hall & David Soskice, VARIETIES of CAPITALISM: THE INSTITUTIONAL FOUNDATIONS OF COMPARATIVE ADVANTAGE 1, 19 (Peter A. Hall & David Soskice eds., 2001).
[75] Rafael La Porta et al., *supra* note 46, at 1113 (arguing that the common law system is better able to protect investors than the civil law system).
[76] Raw data on acquisitions and joint ventures are manually collected from the SDC Platinum M&A database; raw data on subsidiary establishments are manually collected from Directory of Overseas Investment Institutions published by Ministry of Commerce of China.

8 (1.4%)	5 (2.4%)	39 (1.7%)
Indonesia	South Korea	Zambia
8 (1.4%)	5 (2.4%)	38 (1.6%)
Others	Others	Others
124 (1.4%)	85 (40.3%)	1,431 (61.5%)
Total	Total	Total
558 (100%)	211(100%)	2,326 (100%)
Chinese Aquisitor (by type)	**Chinese JV Partner (by type)**	**Investing Entity**
Parent Company	Parent Company	Parent Company
90 (16.1%)	77 (34.5%)	192 (8.3%)
Subsidiary	Subsidiary	Subsidiary
468 (83.9%)	134 (63.5%)	2,134 (91.7%)
Total	Total	Total
558(100%)	211 (100%)	2,326 (100%)
Ownership Stake After Acquisition	**Equity Stake in JV**	
<50 percent	<50 percent	
77 (13.8%)	36 (17.1%)	
>=50 percent	>=50 percent	
190 (34.1%)	93 (44.1%)	
Unknown	Unknown	
291 (52.2%)	82 (38.9%)	
Total	Total	
558 (100%)	211(100%)	
Average Stake	Average Stake	
68.9% (N=267)	48.9% (N=129)	

Table 5 also shows that, excluding missing data, a majority of the deals are acquisitions of absolute controlling stakes. The average acquisition of a controlling stake was 68.9%. The popularity in acquiring controlling ownership suggests Chinese SOEs may be more interested in being an active controller than a passive observer in corporate management. Their control interest is often suspected especially when there is a great degree of institutional mismatch between China and the investment destinations.

Table 5 further shows that 83.9% of the acquisitions are done through the downstream subsidiaries rather than the parent companies in the corporate groups (i.e. the holding companies directly under SASAC's control). As discussed in Section IV, the subsidiaries are embedded in the business group network controlled by the holding company and ultimately by the party-state. This ownership structure can effectively shield the holding company and the party-state from disclosing their governance practices and even hide actual practices behind subsidiaries. In such cases, the holding companies are not directly exposed to foreign normative pressure; therefore, governance influence, if at all, tends to be limited to the subsidiaries.

In addition to direct acquisitions, joint ventures are another type of international equity connections. Australia, the United States, and Canada again have the highest concentration of the foreign joint venture deals.

About 35% of the joint ventures are established through the parent companies, much higher than acquisition deals, where there are only about 16% via the parent companies. Because joint ventures are usually not subject to foreign investment regulatory reviews in the host country, parent companies themselves, even without using subsidiaries as a shield, can still maintain obscurity about their governance practices to foreigners.[77]

Table 5 also shows the geographic distribution of subsidiary establishments. Hong Kong again tops the list, as it has been used as a main portal to foreign investment. Unlike mergers and joint ventures, subsidiary establishments are not obviously concentrated in a few advanced economies, but, rather, are widely dispered in a large number of countries. No single country (except Hong Kong) exerts any significant influence. Diverse investment locations may dilute institutional pressure from any particular country. Moreover, most (91.7%) of them are established through subsidiaries rather than parent companies, which distance the parent SOEs from foreign institutional pressure.

Table 6 further shows the correlation between various internationalization indicators and whether the central SOE has any outside director on its board. The degree of internationalization, whether measured as the number of overseas acquisitions, the number of overseas joint ventures, or the number of overseas subsidiary establishments, has a very weak or virtually zero correlation with the existence of an outside director on the board. Investments directly made by the parent companies themselves do not present any better chance of adopting an outside director. Furthermore, investments in Australia, Canada, and the United States also do not provide a meaningful positive correlation. In contrast, the high degree of institutional mismatch theoretically may generate regulatory or normative pressure to change governance. Internationalization is also virtually irrelevant to whether the SOE has any foreign-educated executives, as shown in Table 7.

[77] As shown in Table 2, all the foreign investment regulations only regulate acquisition of an existing business rather than creation of a business entity such as a joint venture.

Table 6: Point-Biserial Coefficients between Internationalization and Outside Directors

	2005	2006	2007	2008	2009	2010	2011	2012
Correlations between Number of Acquisitions and Existence of Outside Directors								
All Deals	.008	-.027	-.049	-.067	-.111	-.120	-.141	-.006
Deals by Parent Company	-.045	-.091	-.074	-.084	-.132	-.126	-.169	.046
Deals in Advanced Economies (Hong Kong Excluded)	.123	-.031	-.024	-.045	-.084	-.093	-.119	.009
Deals in Advanced Economies (Hong Kong Included)	.110	-.003	-.028	-.057	-.106	-.116	-.125	-.021
Deals in Advanced Economies (Hong Kong Excluded) by Parent Company	-.037	-.085	-.032	-.010	-.101	-.109	-.172	.073
Deals in Advanced Economies (Hong Kong Included) by Parent Company	-.038	-.085	-.032	-.019	-.109	-.119	-.182	.086
Deals in Australia, Canada, USA by Parent Company	-.023	-.067	-.079	-.086	-.128	-.123	-.173	.027
Correlations between Number of Joint Ventures and Existence of Outside Directors								
All Deals	.082	-.039	-.024	-.037	-.043	-.086	-.099	.051
Deals by Parent Company	.103	-.032	-.004	-.019	-.026	-.072	-.071	.052
Deals in Advanced Economies (Hong Kong Excluded)	-.065	-.023	-.052	-.058	-.024	-.080	-.041	.111
Deals in Advanced Economies (Hong Kong Included)	-.062	-.050	-.061	-.074	-.064	-.113	-.082	.046
Deals in Advanced Economies (Hong Kong Excluded) by Parent Company	-.022	-.053	-.058	-.001	.020	-.065	.059	.126
Deals in Advanced Economies (Hong Kong Included) by Parent Company	-.022	-.065	-.069	-.014	.006	-.074	.048	.103
Deals in Australia, Canada, USA by Parent Company	---[a]	-.040	-.041	056	.038	-.046	-.057	-.044
	2005	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**
Correlations between Number of Overseas Subsidiaries and Existence of Outside Directors								
All Establishments	-.052	.015	.146	.013	.006	-.018	-.032	.008
Establishments by Parent Company	-.052	.058	.131	.121	.054	.121	.162	.168

Establishments in Advanced Economies (Hong Kong Excluded)	-.067	.051	.084	.041	.049	.031	.058	.120
Establishments in Advanced Economies (Hong Kong Included)	-.047	.101	.136	.105	.077	.046	.052	.165
Establishments in Advanced Economies (Hong Kong Excluded) by Parent Company	-.046	.063	.037	.026	-.018	-.039	.047	.107
Establishments in Advanced Economies (Hong Kong Included) by Parent Company	-.049	.056	.029	.014	-.038	-.032	.066	.161
Establishments in Australia, Canada, USA by Parent Companies	-.037	.022	.004	-.014	-.067	-.075	.107	.097
N	113	113	113	113	113	113	113	113

Deals are accumulated to the prior year. For example, in 2005, the correlation is between the number of deals accumulated toward 2004 (t-1) and whether the firm had an outside director in 2005 (t). Advanced economies include countries according to IMF Advanced Economies List (World Economic Outlook, October 2012, p. 180).

Point-biserial correlation is a measure of the strength of a relationship between one continuous variable and one dichotomous variable. The correlation coefficient is between 1 (perfect positive correlation) and -1 (perfect negative correlation). When the correlation coefficient is close to zero, it means virtually no correlation. It is generally considered a weak positive correlation if the coefficient is between 0.1 and 0.3; a weak negative correlation if between -0.1 and -0.3.

[a] All the observations have zero deals; therefore, no value can be provided.

Table 7: Correlation between Internationalization and Foreign-Educated Top Managers

	Existence of Foreign-Educated Executives (2013)	Number of Foreign-Educated Executives (2013)
	(1)	(2)
Accumulated Number of Acquisitions (2011)		
All Deals	.089	.139
Deals by Parent Companies	.145	.107
Deals in Advanced Economies (Hong Kong Excluded)	.071	.060
Deals in Advanced Economies (Hong Kong Included)	.098	.157
Deals by Parent Company in Advanced Economies (Hong Kong Excluded)	.194	.157
Deals by Parent Company in Advanced Economies (Hong Kong Included)	.205	.166
Deals by Parent Company in Australia, Canada, USA	.148	.149
Accumulated Number of Joint Ventures (2011)		
All Deals	.156	.173
Deals by Parent Companies	.191	.148
Deals in Advanced Economies (Hong Kong Excluded)	.093	.214
Deals in Advanced Economies (Hong Kong Included)	.109	.240
Deals by Parent Company in Advanced Economies (Hong Kong Excluded)	.194	.157
Deals by Parent Company in Advanced Economies (Hong Kong Included)	.161	.193
Deals by Parent Companies in Australia, Canada, USA	.071	.030
Accumulated Number of Subsidiary Establishment (2012)		
All Establishments	.039	-.028
Establishments by Parent Companies	.133	.185
Establishments in Advanced Economies (Hong Kong Excluded)	.009	-.025
Establishments in Advanced Economies (Hong Kong Included)	.013	.004
Establishments by Parent Company in Advanced Economies (Hong Kong Excluded)	.063	.162
Establishments by Parent Company in Advanced Economies (Hong Kong Included)	.093	.182
Establishments by Parent Companies in Australia, Canada, USA	-.037	.042

N	113	113

Column 1 reports point-biserial correlation coefficients that measure the relationship between a dichotomous variable and a quantitative variable. Column 2 reports Pearson correlation coefficients that measure the relationship between two quantitative variables. The correlation coefficients are always between 1 (perfect positive correlation) and -1 (perfect negative correlation). When the correlation coefficient is close to zero, it means virtually no correlation. It is generally considered a weak positive correlation if the coefficient is between 0.1 and 0.3; a weak negative correlation if between -0.1 and -0.

Figure 1 shows a simple linear regression on the time of an SOE's overseas IPO (initial public offering) and the time of its establishment of outsider directors.[78] It shows that earlier overseas listing is associated with later, rather than earlier, adoption of outsider directors. In theory, a parent SOE that is exposed to international corporate governance through its overseas-listed subsidiary should adopt outsider directors earlier than a parent SOE who has not been exposed as long to international corporate governance. However, the findings here cast doubt over the idea that international influence is a main driver of the central SOEs' governance reform.

Figure 1: Relationship between Time of Overseas Listing and Time of Institutionalizing Independent Directors

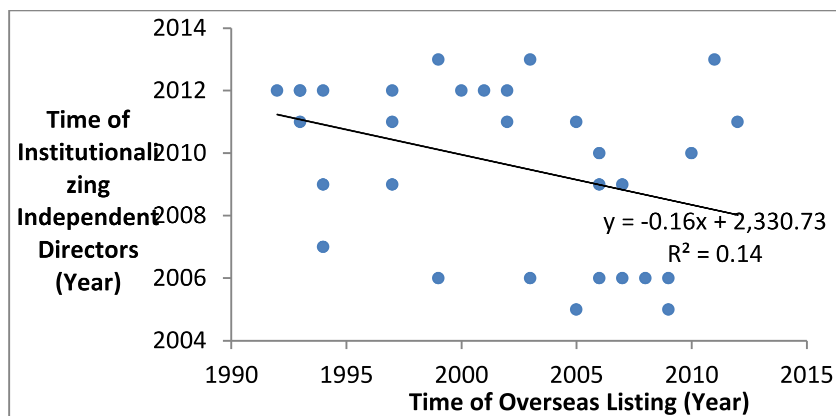

Table 8 shows logistic regressions on internationalization indicators and governance attributes. Models 1-8 show the relationship between internationalization and existence of any outside directors on the board. Note that in Models 2, 4, 6, and 7, all of the odds ratios for international indicators are close to one, suggesting virtually no effect of internationalization on the existence of outsider directors. The odds ratios for the number of acquisitions (.760, Model 3) and the number of joint ventures (.367, Model 5) made by parent companies in Australia/Canada/USA are less than one. It means that parent SOEs that have more acquisitions and joint ventures in countries with high institutional mismatch are less likely to have outsider directors on the board. This finding is contrary to the theoretical prediction. Having an overseas listing subsidiary increases the odds of having an outside director on the board in the parent SOE, but the effect is small (1.841, Model 8).

[78] Some Chinese national champions have multiple overseas listed subsidiaries. Figure 1 uses the time of the earliest overseas IPO in the corporate group.

Models 9-16 show the relationship between internationalization and existence of any foreign educated executives. Note that the odds ratios of the number of overseas acquisitions (.998, Model 10), joint ventures (1.063, Model 12), and overseas subsidiary establishments (.998, Model 14) are close to one, indicating virtually no relationship between these internationalization indicators and existence of any foreign educated executives in the parent SOE. Both the number of acquisitions (1.391, Model 11) and the number of joint ventures (1.332, Model 13) made by parent companies in Australia, Canada, and the U.S. have positive effects on the existence of foreign educated managers, but the effects are small. Moreover, having an overseas-listed subsidiary significantly reduces the odds of having a foreign-educated executive in the parent SOE by 73.9% (=1-0.261). The result is contrary to the expectation that overseas listing would indirectly expose the parent SOE to international corporate governance and thus increase the chances of including a foreign-educated professional in the top management team.

Table 8: Logistic Regressions on Internationalization and Governance Attributes, Odds Ratios

	Existence of Outside Director (2013) (Yes=1; No=0)								Existence of Foreign Educated Top Manager (2013) (Yes=1;No=0)							
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
Internationalization Indicators																
Number of Overseas Acquisitions (2003-2011)		.968								.998						
		(.025)								(.020)						
Number of Overseas Acquisitions in Australia/Canada/USA by Parent Company (2003-2011)			.760								1.391					
			(.231)								(.418)					
Number of Overseas Joint Ventures (2003-2011)				.916								1.063				
				(.056)								(.064)				
Number of Overseas Joint Ventures in Australia/Canada/USA by Parent Company (2003-2011)					.367								1.332			
					(.269)								(.741)			
Number of Overseas Subsidiary Establishments (toward 2012)						.996								.998		
						(.008)								(.008)		
Number of Overseas Subsidiaries in Australia/Canada/USA by Parent Company (toward 2012)							1.067								.803	
							(.349)								(.299)	
Overseas Listing (Yes=1)								1.841								.261*
								(.978)								(.156)
Controls																
(log)Revenues (2010)	1.564*	1.717**	1.623**	1.767**	1.709**	1.618*	1.556*	1.444	.896	.902	.858	.830	.873	.911	.910	1.054
	(.275)	(.335)	(.296)	(.356)	(.324)	(.307)	(.276)	(.274)	(.145)	(.154)	(.143)	(.148)	(.148)	(.158)	(.149)	(.191)
ROA (2010)	1.119	1.138	1.126	1.150	1.123	1.118	1.119	1.117	1.123	1.124	1.121	1.105	1.125	1.122	1.122	1.137
	(.093)	(.099)	(.095)	(.100)	(.098)	(.093)	(0.93)	(.091)	(.090)	(.091)	(.092)	(.090)	(.090)	(.090)	(.091)	(.098)
Status (Vice-Ministerial Level=1)	.630	.753	.698	.736	.632	.610	.621	.554	1.939	1.965	1.731	1.744	1.958	1.914	2.022	2.702
	(.340)	(.417)	(.384)	(.407)	(.349)	(.332)	(.338)	(.311)	(1.066)	(1.099)	(.980)	(.989)	(1.082)	(1.056)	(1.119)	(1.642)
Constant	.035**	.029**	.028**	.016**	.022***	.030**	.036**	.046**	.546	.526	.687	.851	.610	.510	.509	.301
	(.039)	(.025)	(.032)	(.021)	(.067)	(.035)	(.040)	(.052)	(.526)	(.531)	(.676)	(.891)	(.602)	(.509)	(.495)	(.310)
X^2	9.48(3)	11.48(4)	10.32(4)	11.66(4)	11.93(4)	9.73(4)	9.52(4)	10.81(4)	3.75(3)	3.76(4)	5.01(4)	4.85(4)	4.00 (4)	3.82(4)	4.13(4)	9.28(4)
p-value	.024	.022	.035	.020	.018	.045	.049	.029	.290	.439	.287	.304	.406	.431	.388	.054
N	92	92	92	92	92	92	92	92	92	92	92	92	92	92	92	92

*p <.05, ** p <.01, *** p<.001; note that given the sample size is close (81.4%) to the whole population and the purpose of the study is to provide a historical review rather than future prediction, p-values are not the focus of interpretation. The coefficients reported in this table are odds ratios. An odds ratio of 1 indicates that the event under study is equally likely to occur in both groups. In other words, an odd ratio close to 1 indicates little effect. An odds ratio less than 1 suggests that the event is less likely to occur in the group coded 1 than in the group coded 0; an odds ratio greater than 1 indicates that the event is more likely to occur in the group coded 1 than the group coded 0. Cohen's (1988) rule of thumb for interpreting odds ratios is as follows: 1.5 = small, 2.5= medium and 4.3 = large.

For control variables, SOEs with larger revenues are more likely to adopt outside directors but generally less likely to have foreign-educated executives. More profitable firms (measured by ROA) are more likely to have outside directors and foreign-educated top managers. The vice-ministerial SOEs in the government system are less likely to have outsider directors on the board but more likely to have foreign educated executives.

VI. Implications

A. *The Convergence-Persistence Debate*

A major debate in comparative corporate governance scholarship since the turn of the century has been focused on the future of national corporate governance systems in the era of globalization—will systems converge on a universal model (especially the Anglo-Saxon model) or will they continue to retain their national characteristics?

The debate has reached a theoretical impasse between market-imperative theories predicting global embracement of shareholder primacy and path-dependence theories predicting persistence of national institutions that protect domestic vested interest. [79] China, despite its enormous economy, is glaringly absent in the debate, particularly in the works that set the fundamental framework of analysis. The persuasive power of these competing theories would be limited without China.

According to the convergence school, capital market integration through cross-border mergers and acquisitions as well as overseas listing is a strong driver of governance convergence.[80] International mergers and acquisitions connect firms of different governance systems and often require changes in the governance structure of acquiring or acquired firms, or both. Overseas listing connects the listing firm to foreign investors and requires the firm to adopt governance rules set by the foreign stock exchange and relevant regulators, making the governance structure of the listing firm converge on the model of the listing jurisdiction.[81] Unlike the convergence school, the persistence theories suggest limited convergence for SOEs embedded in China's idiosyncratic state capitalism.

Recent SOE reforms in China, such as launching the board of directors and institutionalizing independent directors, indicate at least some

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[79] For the major pieces in the debate, see generally CONVERGENCE AND PERSISTENCE IN CORPORATE GOVERNANCE 6-14 (Jeffrey N. Gordon & Mark. J. Roe eds., 2004) (discussing forces inducing convergence and forces inducing persistence in corporate governance systems).
[80] Toru Yoshikawa & Abdul A. Rasheed, *Convergence of Corporate Governance: Critical Review and Future Directions*, 17 CORP. GOVERNANCE: INT'L REV. 388, 390 (2009).
[81] Coffee, *supra* note 53, at 1799-1800.

"formal convergence"[82] or "de jure convergence"[83] toward the Anglo-Saxon model. Ostensibly, the adoption of Anglo-Saxon practices appears to be encouraging evidence to convergence theories. However, preliminary empirical findings in this Article raise questions about whether internationalization is an apt explanation for Chinese SOEs' governance change, particularly for those deeply embedded in the political and economic network controlled by the state owner. Why do Chinese national champions' international investment activities have little bearing on their governance reform pace? If it is not internationalization, what is the main driving force for their governance reform? This Article offers some possible explanations for the weak relationship between international equity connections and the central SOEs' governance change.

First, the idea that international equity connections either through FDI or overseas listing can push for governance change of the parent SOEs assumes that there is some diffusion of governance practices flowing from the host country back to the headquarters in the home country. However, the diffusion influence may be diluted through layers of ownership that shield the parent SOE from international pressure to reform. As shown previously in Table 5, a majority of the investment deals are done through subsidiaries rather than the holding companies themselves. Available information suggests there is often limited communication between the overseas subsidiaries and their parent companies headquartered in Beijing.[84] This investment structure and limited communication may weaken the potential governance influence. Moreover, while the top investment destinations are advanced economies with regulatory processes scrutinizing investments by foreign SOEs, they only account for a minority of the transactions. As of the 558 acquisitions, only 150 of the deals are

[82] Ronald J. Gilson, *Globalizing Corporate Governance: Convergence of Form or Function*, 49 AM. J. COMP. L., 329, 332 (Spring 2001).

[83] *See* Tarun Khanna et al., *Globalization and Similarities in Corporate Governance: A Cross-Country Analysis*, 88 REV. ECON. & STAT. 69, 71 (2006) (defining *de jure* convergence as the adoption of similar corporate governance laws across countries and *de facto* convergence as similarities in actual practices); *id.* at 76-81 (finding empirically strong evidence of *de jure* convergence, though not on the U.S. style, and no evidence of *de facto* convergence).

[84] Interview with a manager of central SOE's listed subsidiary who managed legal issues of the company's overseas acquisitions (May 21, 2011); interview with an executive of central SOE's overseas subsidiary in North America (Dec. 10, 2013). News reports also often report that the parent SOEs have little tracking ability over their overseas subsidiaries' activities. *See, e.g.*, Bingning Wang, *Zhongshiyou Fanfu Yanshen Zhi Haiwai Yewu Lvgongxun Jieguan Zhuoshou Chongzheng* (*中石油反腐延伸至海外□□ □功□接管着手重整*) [*CNPC Anti-Corruption Extends to Overseas Business, Gongxun Lv Takes on the Task to Reform*], CHINA TIMES, May 24, 2014; Bang An, *Yangqi Haiwai Zichan Jianguan Queshi Youxiao Zhidu* (*央企海外□□□管缺失有效制度*) [*The Lack of Effective Supervision over Central SOEs' Overseas Assets*], CAIJING (Mar. 20, 2015), http://comments.caijing.com.cn/20150320/3844611.shtml (stating the lack of communication between the foreign subsidiaries and the parent company).

invested in Australia, Canada and United States; and of the 150, only twenty-six are by holding companies themselves. As a result, China's national champions may have insufficient direct exposure to environments of high institutional mismatch.

Second, it entails an inquiry into Chinese SOEs' globalization motivation. The Chinese government formally ushered in the "going global" policy in 2000. According to the official statements, the "going global" policy is aimed at participating in international technology cooperation and competition, take full advantages of international and domestic markets, encourage external processing trade, resources exploration as well as international construction contracting and develop a collection of multinational companies and well-known brands.[85] Corporate governance improvement seems not a primary consideration from Chinese policymakers' perspective. Consistent with the government's policy, existing empirical studies focus on non-corporate governance factors and confirm that market size expansion and natural resources acquisitions are important motives for Chinese SOEs' outward direct investments.[86]

Also, individual firms may not be motivated to improve corporate governance through FDI. As we have seen, Hong Kong accounts for a large portion of the foreign investment deals. It is believed that most of Hong Kong transactions are through shell companies for "round-tripping" rather than real investments.[87] Therefore, this form of foreign investment does not really expose the investing SOEs to any institutional pressure in the host country, let alone generating any positive flow-back effect to their headquarters. As the Chinese government recently has completely phased out all preferential treatments for foreign enterprises,[88] it is to be observed how this policy change will reshape the SOEs' foreign investment motivation and destination choices.

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[85] Guomin Jingji He Shehui Fazhan Dishige Wunian Jihua Gangyao (国民□□和社会□展第十个五年□划□要) [Guidelines on National Economic and Social Development of the 10th Five Year Plan] (promulgated by the 4th Meeting of the National Congress, Mar. 15, 2001), http://www.gov.cn/2011lh/content_1825838.htm.

[86] *See* Peter J. Buckley et al., *The Determinants of Chinese Outward Foreign Direct Investment*, 38 J. INT'L BUS. STUD. 499, 499 (2007) (arguing that natural resource seeking is one of the main reasons for China's FDI); Luke Hurst, *Comparative Analysis of the Determinants of China's State-Owned Outward Direct Investment in OECD and Non-OECD Countries*, 19 CHINA & WORLD ECON. 74, 74 (2011) (arguing that market size expansion and natural resources are reasons for China's outward direct investment); Ivar Kolstad & Arne Wiig, *What Determines Chinese Outward FDI?*, 47 J. WORLD BUS. 26, 26 (2012) (arguing that China's outward FDI focuses on large markets with abundant natural resources).

[87] Xiao, *supra* note 72.

[88] In the past, China gave a variety of favorable treatments for foreign investors, but this preference policy began to change in 2006. In 2007, China enhanced its supervision over foreign investments involving national security sectors. In 2008, the unified Corporate Income Tax Act, which treats domestic and foreign corporations alike. As of Dec. 1, 2010, China terminated the last two tax preferences (urban maintenance and construction tax and education surcharge) for foreign investors.

While Chinese policymakers might not intend governance improvement through international trade or outward direct investment, they indeed took overseas listing as an important internationalization strategy to improve SOE governance.[89] Scholars have shown that overseas listed SOEs have lower earnings management, more professional directors on the board, higher investment efficiency and greater firm valuation than their domestically listed counterparts.[90] However, preliminary empirical evidence in this Article indicates that the positive effects are limited to the listed subsidiaries and not effectively reflected in their parent companies. The lack of positive diffusion to the parent companies may be related to the typical way of how Chinese SOEs crafted their overseas listings. The conventional strategy has been to carve out the crown jewel assets of the group and bundle them into the listed firm while leaving bad assets and other problems in the unlisted part of the corporate group, usually the holding company.[91] This assets segregation strategy may practically concentrate complex corporate problems in the holding company and thus make the governance reform of the holding company more challenging and insensitive to international influence.

Finally, the behavior of China's SOEs is determined not only by market forces but probably more by the government's decisions. It is often the Chinese government rather than the market that selects which firms to engage in reform. The Chinese government determined which firms could list shares publicly and abroad.[92] SASAC selected in batches which SOEs were eligible to experiment with the board of directors, independent directors and other reform measures.[93] SASAC together with the Party's Organization Department consider factors (e.g. political loyalty) other than market demand when appointing top managers.[94] While there is no direct

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[89] Niuyue Shangshi Yangqi Yida 68 Jia, Jixu Guli Yangqi Haiwai Shangshi (□□上市央企已达 68 家，□□鼓励央企海外上市) [*Already 68 NYSE Listed Central SOEs, Continue Encouraging More*], SECURITIES DAILY, Aug. 24, 2008 (reporting then-SASAC chairman's statements in a press conference regarding the purposes of overseas listing).

[90] *See* Mingyi Hung et al., *supra* note 56, at 22-26 (showing that overseas listed SOEs tend have lower profitability and more professional boards than the domestically listed SOEs). .

[91] CARL WALTER & FRASER HOWIE, PRIVATIZING CHINA: INSIDE CHINA'S STOCK MARKETS 99 (2003).

[92] The initial public offering (IPO) system in China is approval-based system. But the Chinese Securities Regulatory Commission is considering a registration-based system in replace of the approval-based system.

[93] For instance, in 2004, seven SOEs were selected in the first batch to institute a board of directors; afterwards, many SOEs in several batches were included to participate in the reform. A recent example is in July 2014, SASAC selected six SOEs to experiment with "four major reforms" (i.e. creation of a state-owned assets operation company, implementation of mixed ownership, marketization of the top management team, and establishment of anti-corruption inspection committees).

[94] *See* Lin, *supra* note 64 at 789-791 (noting that an investigation of Chinese SOE executive backgrounds show that factors such as political loyalty play a role in determining SOE leadership).

evidence showing how Chinese policymakers prioritize SOEs on the reform agenda, it seems that the degree of internationalization is an unimportant factor in determining who gets reformed first. The reform pace is more determined by complex domestic forces than by international market or regulatory pressure.

Over the past decade, China's national champions have made some headway toward international standard practices (such as adopting the board of directors and independent directors), but their reform pace appears largely unrelated to their activity in international investment or exposure to global capital markets. Their (at least) formal governance change lends some support to convergence, but the impetus for change seems to have little to do with their degree of integration with international markets. Neither the convergence nor persistence side alone offers a full explanation.

B. China's SOE Reform Forward

With the political transition in 2012, China's SOEs have entered a new round of reform. The reform agenda appears ambitious and comprehensive, ranging from ownership to various corporate governance issues. Among other changes, "going global" remains a key strategic policy for corporate growth.[95] The recently unveiled "Silk Road Economic Belt" policy, which seeks to establish new trade and transport links between China, Central Asia, and Europe, involves a tremendous amount of overseas infrastructure investment typically undertaken by the SOEs under SASAC.[96] Thus, the Chinese national champions are likely to continue their important roles in China's global expansion.

Chinese SOEs often perceive foreign investment reviews in host countries as unfriendly or discriminative.[97] This perception partly induces Chinese SOEs to use subsidiaries to engage in their overseas expansion in order to avoid opposition in the host country.[98] But the use of subsidiaries, sometimes chains of subsidiaries, may exacerbate the agency problem in

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[95] Guomin Jingji He Shehui Fazhan Di Shier Ge Wunian Guihua Gangyao (国民经济和社会发展第十二个五年规划纲要) [Guidelines on National Economic and Social Development of the 12th Five-Year Plan] pt. 52 (Mar. 16, 2011), http://ghs.ndrc.gov.cn/ghwb/gjwngh/201109/P020110919590835399263.pdf.

[96] *See* Dingding Chen, *China's 'Marshall Plan' Is Much More*, DIPLOMAT, Nov. 10, 2014 (explaining the meaning behind China's "one belt, one road" plan); Jeremy Page, *China Sees Itself at Center of New Asian Order*, WALL ST. J., Nov. 9, 2014 (explaining China's plan on "Silk Road Economic Belt").

[97] *See, e.g.*, Chester Dawson and Elena Cherney, *China Diplomat Assails Canada's Restrictions on Foreign State Enterprises*, WALL ST. J., Oct. 10, 2014, http://www.wsj.com/articles/chinese-oil-patch-diplomat-assails-canadas-investment-restrictions-on-foreign-state-owned-enterprises-1412948502 (discussing China's top diplomat's criticism towards Chinese SOEs' being unfairly treated in Canada).

[98] To be sure, besides political concerns, there are some economic reasons such as tax benefits to invest through subsidiaries.

SOEs. Globalizing SOEs have a “triple” agency problem.[99] The first agency relationship exists in which the citizens of the country as nominal shareholders (principals) task politicians (agents) to monitor the SOE’s behavior and performance. Politicians may use SOEs to serve their own interests rather than pursing the objectives mandated by the citizens. But citizens have limited control over politicians, especially in a political regime where democratic elections are prohibited. The second agency relationship exists where politicians delegate managers to manage the SOE. The managers may have objectives diverging from the objectives of citizens and politicians. If the SOE is globalized through subsidiaries, a third agency relationship exists between the headquarters and the subsidiaries. Overseas subsidiaries may escape their principals’ monitoring; as the Chinese proverb says “Heaven is high and the emperor is far away.” It has been reported that SASAC and the parent SOEs headquartered in Beijing have little tracking over foreign subsidiaries’ activities and there is ample room for overseas managers to engage in corruption.[100] It is hard to expect that the “going out” policy would generate any positive flow-back effects to the parent SOEs if they have little knowledge about what is going on in their subsidiaries.

In very recent years, SASAC has introduced many regulations in an attempt to intensify monitoring over SOE overseas subsidiaries.[101] In March 2015, SASAC further announced that it will purchase third party

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[99] Alvaro Cuervo-Cazurra et al., *Governments as Owners: State-Owned Multinational Companies*, 45 J. INT’L BUS. STUD. 919, 931 (2014).

[100] *See, e.g.*, Bingning Wang *supra* note 83; *Meiti Cheng Yangqi Haiwai Yewu Cun Fubai, Guoyou Zichan Liushi Hen Pubian* (**媒体称央企海外□□存腐□ 国有□□流失很普遍**) [*Media Reports Corruption in Central SOEs’ Overseas Business, Squandering State-Owned Assets is Common]*, PEOPLE DAILY, May 26, 2014, http://world.people.com.cn/n/2014/0526/c1002-25066234.html (discussing the corruption in China’s overseas business which has caused squandering of state-owned assets).

[101] In response to an outbreak of SOE overseas investment scandals, SASAC promulgated Provisional Measures on Supervising Central Enterprises’ Overseas Assets (2011) and Provisional Measures Managing Central Enterprises’ Overseas Property Rights (2011) and Provisional Measures Managing Central Enterprises’ Overseas Investment (2012). As of 2011, 27.3% of the about 2000 overseas subsidiaries of the central SOEs were running at a loss and 72.7% were making profits or breaking even, according to the Department Head (Mr. Ziming Shi) of Outward Investment and Economic Cooperation, Ministry of Commerce Press Conference. Press Release, Ministry of Commerce of the People’s Republic of China, Shangwubu Guojiatongjiju Guojiawaihuiguanliju Gongtong Juban "Duiwai Zhijie Touzi Tongji Zhidu Sheli Shi Zhounian Ji 2011 Niandu Zhongguo Dui wai Zhijie Touzi Tongji Gongbao Xinwen Fabuhui" (商□部 国家□□局 国家外□管理局共同□□“□外直接投□□□制度□立十周年□《2011 年度中国□外直接投□□□公□》新□□布会) [PRC Ministry of Commerce, National Bureau of Statistics of China, and State Administration of Foreign Exchange jointly held "The Tenth Anniversary of Setting up Statistical Measures for the Direct Outward Investment & Press Conference on Public Report on Chinese Direct Outward Investment Statistics for the year 2011”], (Aug. 31, 2012), http://www.mofcom.gov.cn/article/ae/slfw/201208/20120808315863.shtml.

services from accounting firms through a bidding process to audit SOEs' overseas assets.[102] Enhancing supervision over SOEs' overseas activities has also become part of the government's anti-corruption campaign. But the monitoring effectiveness so far seems limited as SASAC's resources are unable to handle the scale and complexity of the SOE overseas assets.[103] Ironically, foreign investment reviews in host countries perhaps may alleviate the agency problem to some extent by acting as an additional mechanism to track SOE overseas operations and safeguard state-owned assets from being squandered. Rather than simply viewing foreign investment reviews as hostile, SASAC may take foreign regulatory reviews as an opportunity to identify possible problems associated with SOEs' foreign operations.

C. Foreign Investment Regulations and Beyond

Foreign investment reviews can easily get politicized as the key concepts (e.g. national interests and national security) in the regulations are so loosely defined that they allow domestic interest parties to escalate a business decision to a political controversy. The poor transparency of Chinese SOEs further creates a convenient setting to play a politicization drama. In the face of potential political challenges in the host country, Chinese SOEs may use several strategies to avoid hostile encounters. For instance, they may use chains of subsidiaries or even individual managers as investment entities to hide their sensitive identities. These strategies unfortunately make the governance of Chinese SOEs more obscure to outsiders and increase agency and corruption problems. The host country may lose economic benefits if the investment is killed in the politicized debate. At worst, it creates a vicious circle. To turn the vicious circle into a virtuous one, Chinese SOEs should make efforts to improve their governance quality. But it is also important for the host country to keep its regulatory review decisions based on rational deliberation of facts rather than driven by irrational fear.[104]

Since the key concern of foreign SOE investment is that the foreign government may interfere with the SOE management and extend its

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[102] Guoyou Zhongdian Daxing Qiye Jianshihui 2015 Niandu Jizhong Zhongdian Jiancha Xiangmu He Jingwai Guoyou ZichanJiancha Xiangmu Fuwu Caigou Zhaobiao Gonggao (国有重点大型企□□事会 2015 年度集中重点□□□目和境外国有□□□□□目服□采□招□公告) [Procurement and Tenders Notice for 2015 State-Owned Key Enterprise Supervision Board's Focused Inspection Items and Overseas State-Owned Assets Inspection Services] (promulgated by SASAC, Mar. 17, 2015) http://www.sasac.gov.cn/n85881/n85901/c1809041/content.html.

[103] *See* Bingning Wang, *supra* note 83 (discussing the need for anti-corruption measures); Bang An, *supra* note 83 (discussing the need for better monitoring of the SOEs).

[104] *See generally* Zhang, *supra* note 25 (arguing that current foreign investment reviews regarding Chinese SOE investments are often dominated by fear rather than based on rational analysis).

tentacles to the invested entity in the host country, regulators in the host country typically want to make sure the investing SOE can make commitments to good corporate governance, which often means the invested subsidiary should operate independently of its parent SOE. The independence demand may limit positive influence diffused from the subsidiary to the parent SOE. Nevertheless, given that positive flow-back influence is likely elusive due to politics in the SOEs' home country and many other factors such as managerial incentives, the independence or isolation policy is consistent with the host country's interest, at least from a short-term perspective.

Public controversies about Chinese SOEs' international investments often have been concentrated in the foreign investment review process which acts a first-line safeguard against threats to the host country's national interests. But we should note that a vast majority of foreign investments either pass regulatory screening or proceed without triggering any regulatory scrutiny.[105] Therefore, the practical issue for most foreign investments is about how foreign investors after entry in the host country operate their business entities, including economic, social, and environmental performance. This continuous exposure to foreign institutional pressure is another potentially important source for governance change. Thus, the question is how effectively the host country monitors foreign investors' on-going performance. For instance, it is often believed that many Chinese SOEs use their overseas subsidiaries to engage in corrupt activities.[106] If a Chinese SOE uses its U.S. subsidiaries to bribe "foreign officials" (including Chinese officials), it may incur liability under the Foreign Corrupt Practices Act (FCPA) where the Department of Justice and the Securities and Exchange Commission (SEC) may jointly or separately initiate an FCPA investigation.[107] And if the Chinese SOE's shares are registered in the United States, it is subject to numerous continuous disclosure obligations under securities regulations. The SEC used to have a virtually blank record of enforcement against foreign issuers, but there seems a recent change in the enforcement passivity.[108] This sort of ongoing

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[105] Australian, Canadian, and U.S. regulators periodically publish the number of approved and rejected applications. FOREIGN INVESTMENT REVIEW BOARD, ANNUAL REPORT 2013-2014 (2015), http://www.firb.gov.au/content/publications.asp; INDUSTRY CANADA, INVESTMENT CANADA ACT: QUARTERLY STATISTICS, https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/h_lk00015.html; COMMITTEE ON FOREIGN INVESTMENT IN THE U.S. ANNUAL REPORT TO CONGRESS FOR CY 2013 (2015), http://www.treasury.gov/resource-center/international/foreign-investment/Pages/cfius-reports.aspx.

[106] *See, e.g.*, Bingning Wang, *supra* note 83 (discussing the need for anti-corruption measures).

[107] *See* ROBERT W. TARUN, BASICS OF THE FOREIGN CORRUPT PRACTICES ACT (2006), http://www.lw.com/upload/pubcontent/_pdf/pub1287_1.pdf (providing an overview of the FCPA).

[108] *See* Jordan Siegel, *Can Foreign Firms Bond Themselves Effectively By Renting U.S. Securities Laws*? 75 J. FIN. ECON. 319, 335 (2005) (finding very little enforcement against

oversight may play a more important role in protecting host countries' interests and influencing foreign SOEs' economic, social, and environmental practices than the entry screening of foreign investment reviews. Host countries should not be so obsessed with one-shot foreign investment reviews while being oblivious to a raft of available regulatory tools that can protect their own interests on a continuing basis.

VII. Conclusion

This Article has tried to investigate whether internationalization explains Chinese national champions' governance reform patterns. Preliminary empirical findings in this Article suggest that Chinese SOEs' international investment activity appears virtually irrelevant to their governance reform pace. It casts a shadow over the optimistic view that international exposure would be an effective driving force to change the SOEs' governance practices. A complex combination of domestic politics, investment motives, investment structure, and locations restrict the direct linkage between internationalization and governance change. This Article provides a better understanding of the complexity of governance change in the age of globalization. It provides an innovative view for Chinese regulators with regard to the value of foreign investment reviews in a host country. It calls for a depoliticized decision-making process in foreign investment regulatory regimes to create a virtuous circle for both investing SOEs and host economies.

This early effort to understand the governance implications of Chinese SOEs' globalization raises important questions for future research. Fundamentally, is globalizing Chinese SOEs desirable? The global expansion of Chinese SOEs may have an effect of reversing China's privatization efforts over the past three decades. If internationalization plays a limited role in the national champions' governance reform pace, what should be expected out of their global expansion? Are the globally growing SOEs crowding out private enterprises in the Chinese economy and beyond? It should be noted that the recent phenomenon of globalizing SOEs is not limited to China but many other economies such as Norway and Malaysia where state capital plays an important role in allocating resources.[109] Given that SOEs are closely connected with their home countries' economic and political institutions, an immediate question that comes to mind is whether all SOEs are the same. Existing literature

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foreign issuers). *But see* Roger Nelson Silvers, *SEC Enforcement of Foreign Firms: Is Bonding Really a Myth?* (Univ. of Mass., Working Paper, Feb. 2012) (noting an increase of SEC enforcement against foreign issuers).

[109] *See* Cuervo-Cazurra et al., *supra* note 86, at 919 (discussing the rise of state-owned enterprises in international business).

provides sparse analysis on comparative SOE governance.[110] There may be a variety of SOEs across countries. Even within national borders, diversity may exist. For instance, while preliminary evidence in this Article suggests that the governance change of China's central SOEs has been largely unrelated to their degree of internationalization. It is uncertain whether the empirical findings are equally applicable to provincial or local SOEs in China. It has been proposed that local SOEs are subject to less government prerogatives and are more market-oriented.[111] It requires future empirical research to confirm this proposition. If it is true, then regulators should be sensitive to the diversity of SOEs, rather them treating them all alike.

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[110] There are only a few studies on comparing state capitalism and SOEs. *See* Aldo Musacchio & Sérgio G Lazzarini, *Leviathan in Business: Varieties of State Capitalism and Their Implications for Economic Performance,* (Harv. Bus. Sch., Working Paper, No. 12-108, June 2012) (discussing the relationship between different state capitalism and SOEs); Mariana Pargendler, *State Ownership and Corporate Governance*, 80 FORDHAM L. REV. 2917, 2917 (2012) (examining how government ownership in the United States, Brazil, China, and Europe may make corporate law design less desirable for private companies).

[111] *See* Ming Hua Li et al., *Varieties in State Capitalism: Outward FDI Strategies of Central and Local State-Owned Enterprises from Emerging Economy Countries,* 45 J. INT'L BUS. STUD. 980, 980 (2014) (discussing how local SOEs are subject to less governmental pressure and display greater market orientation).