

Legal Development of the State Ownership in China

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[Abstract]

Since the adoption of China's reform and opening-up policy at the Third Plenary Session of the 11th CPC Central Committee in 1978, the Chinese economy has gradually shifted from a centrally planned system to a socialist market economy. Within this transformation, the reform of state-owned enterprises (SOEs) has served as a core pillar of economic modernization and legal restructuring. This paper examines the legal development of state ownership in China through a historical and institutional lens, focusing on the progressive separation of government and enterprise functions (政企分开), corporatization reforms, and the establishment of a state asset governance framework. The paper traces early administrative reforms in the 1980s—such as profit retention, contract responsibility, and the factory director responsibility system—which reduced direct bureaucratic control over enterprise operations. It then highlights the emergence of a formal legal foundation for SOEs, particularly through the 1988 Industrial Enterprises Law, followed by the decisive shift to corporatization after the 1993 CCP Decision on establishing a socialist market economy. The Company Law (1993) and Securities Law (1998) enabled the creation of modern enterprise structures and capital markets, facilitating SOE restructuring into limited liability companies and joint stock companies. The late-1990s consolidation period, accompanied by bankruptcy mechanisms and restructuring policies, further advanced market-based discipline. The establishment of the State-owned Assets Supervision and Administration Commission (SASAC) in 2003 and the adoption of the Enterprise State-owned Assets Law (2008) marked the institutionalization of state ownership management through investor-style governance. In the Xi Jinping era, reforms increasingly emphasize mixed ownership, performance accountability, compliance systems, and strategic sector leadership, while reinforcing Party leadership in corporate governance through mechanisms such as 双向进入, 交叉任职. The paper concludes that China's legal development of state ownership reflects a dual trajectory: market-oriented corporate reform combined with enduring state control and Party governance, shaping a distinctive model of state capitalism under law.

[Keywords]

State owned enterprise, State ownership and Socialist market economy.

I. Introduction

Chinese national economy has been transferred from planned economy to socialist market economy.¹ The process of separating government from enterprise functions² is commonly known as “政企分开”.³ The State Council introduced two administrative measures during the 1980–84 period which established the “profit retention”⁴ and “contract responsibility” systems to enable SOEs to keep profits or meet state performance targets.

The main objective of SOE reform during the 1980s focused on decreasing Party/state oversight of business operations on a daily basis. The factory director responsibility system established the SOE director as the legal representative who controlled operations instead of Party secretaries or bureaucrats. According to scholar Zhang,X, the Party organizations received instructions to concentrate on political activities while supporting the director’s choices instead of controlling the business operations.⁵ Scholars Li. Xin, Brødsgaard, Kjeld Erik considered that the reform approach reached its peak with the Law of the People’s Republic of

¹ The legal regime regulating state ownership in China appears complicated as it seeks to combine the communist legacy of the state with the new era of adopting market economy. See more: Li-Wen Lin, & Milhaupt, C. J. (2011). We are the (National) Champions: Understanding the Mechanisms of Socialist market economy in China (Columbia Law and Economics Working Paper No. 409, pp. 9–15). Retrieved from https://commons.allard.ubc.ca/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1199&context=fac_pubs

² The SOE sector experienced a movement during the 1980s which aimed to provide enterprises with more independence while creating distinctions between government oversight and enterprise operational control. See more: Sheng, B. (2015). China’s trade development strategy and trade policy reforms: Overview and prospect. (pp. 9-13). International Institute for Sustainable Development.

³ China’s current leadership has swerved off the path of gradual marketization, once defined by deepening support for a semi-autonomous private sector and embrace of “government-enterprise separation” (zhengqi fenkai 政企分开) in SOE management. A profound shift now appears underway, towards a system in which the Chinese Communist Party (CCP) intervenes more directly and forcefully in corporate decision making. See more: Leutert, W., & Eaton, S. (2021). Deepening Not Departure: Xi Jinping’s Governance of China’s State-owned Economy. (pp. 200–221). *The China Quarterly*, 248(S1). doi:10.1017/S0305741021000795

⁴ The Chinese government-initiated pilot projects in Sichuan province during 1978 to enable selected state-owned enterprises (SOEs) to keep some of their profits instead of sending all profits to the state. The retained profits allowed enterprises to use them for production expansion and technical innovation and employee bonuses and welfare. This autonomy was expanded rapidly nationwide by 1983 to thousands of SOEs. See more: Wang, X. (2007). “One country, two systems:” China’s economic policies towards state & township/village-owned enterprises, 1978–1992. (pp. 163–182). *Journal of Third World Studies*, 24(2). University of Florida Press.

⁵ Zhang, X. (2019). Integration of CCP leadership with corporate governance: Leading role or dismemberment? (pp. 55–63). *China Perspectives*, 2019(1).

China on Industrial Enterprises Owned by the Whole People (1988) which became China's first national law for state-owned enterprises.⁶ Based on the law, state-owned enterprises began issuing stocks, and the securities market emerged accordingly.

The 1993 CCP Decision for establishing a socialist market economy through corporatization and corporate governance implementation in SOEs served as the central policy document.⁷ The reform established two essential laws through the Company Law of 1993 and the Securities Law of 1998.

The Company Law (1993)⁸ enabled the establishment of limited liability companies and joint stock companies which gained legal person status while defining their organizational structure (shareholders' meetings, boards of directors and supervisors, etc.). The law served as a fundamental element for establishing a contemporary enterprise framework in China. The Company Law of the mid-1990s enabled the transformation of numerous SOEs into limited liability companies (LLCs) and joint stock companies (JSC) with the state maintaining full or majority ownership through government agencies.⁹

The corporatization process established ownership control by the state as shareholder while entrusting management responsibilities to company executives and board members thus creating a major change from previous administrative oversight.¹⁰ Scholar Milhaupt, C.J. observed this event and

⁶ The legal framework established by this reform enabled subsequent changes that brought SOEs toward market-based operations through improved ownership-management separation and corporate governance implementation in the 1990s. See more: Li, X., & Brødsgaard, K. E. (2013). SOE Reform in China: Past, Present and Future. (pp. 54-78). Copenhagen Journal of Asian Studies, 31(2). <https://doi.org/10.22439/cjas.v31i2.4333>

⁷ The Third Plenary Session of the 14th Central Committee of the Communist Party of China adopted the Decision in November 1993 to establish a complete reform plan that combined public ownership with multiple non-public ownership systems (社會主義市場經濟) and created a modern enterprise system with corporate governance in state-owned enterprises. The policy sought to reshape China's economic framework through market-based mechanisms under state direction while keeping public ownership as the dominant force. See more: Jiayong, Hu (2019). Analysis of the innovation and development of the socialist market economy theory. (pp. 12-26). China Political Economy, 2(1).

⁸ National People's Congress of the People's Republic of China. (1993). Company law of the People's Republic of China (Revised in 2020). Retrieved from <http://www.npc.gov.cn>

⁹ *Ibid*, Article 2.67

¹⁰ The Company Law established future corporate governance standards through its requirement of shareholder meetings and fiduciary duty definitions which supported accountability in SOEs especially when major SOEs started listing their shares on stock exchanges during the late 1990s. See more: Wang, X. (2007). The evolution of corporate governance in China: The impact of the 1993 Company Law on state-owned enterprises. (pp. 163-182). Journal of Third World Studies, 24(2).

stated that the adoption of the Company Law in 1993 marked a watershed moment in the evolution of SOE law and practice towards SOE business modernization in China.¹¹

The consolidation and corporatization and drive often involved layoffs and mergers in the late 1990s, including pushing struggling SOEs into bankruptcy under new legal mechanisms. Notably, China's first Bankruptcy Law for enterprises was trialed in 1986¹² and updated in the Enterprise Bankruptcy Law of 2006¹³, providing legal procedures to liquidate or reorganize insolvent SOEs – a necessary complement to the “let go the small” policy.¹⁴

II. Institutionalization of State Ownership Governance: SASAC and the State Assets Law

The government established SASAC through the State Council in 2003¹⁵ as a special commission to oversee and manage state-owned enterprise assets. The government established SASAC through a reorganization that received approval from the 10th National People's Congress during March 2003.

SASAC's reform rules focus on enhancing state ownership as a capital investor while promoting mixed ownership structures¹⁶, professional

¹¹ Milhaupt, C. J., & Zheng, W. (2015). Beyond ownership: Socialist market economy and the Chinese firm (pp. 45–48). *Georgetown Law Journal*, 103(1).

¹² Enterprise Bankruptcy Law of the People's Republic of China (for Trial Implementation), was enacted on December 2, 1986, by the Standing Committee of the Sixth National People's Congress. It applied exclusively to SOEs, excluding public utilities and enterprises deemed critical to national interests or public welfare that received government financial support. See more: Zheng, H. R. (1986). The Enterprise Bankruptcy Law of the People's Republic of China. (pp.2-3). *Vanderbilt Journal of Transnational Law*, 19(4). <https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=2187&context=vjtl>

¹³ Lin, J. Y., & Liu, Z. (2000). Reform and the performance of Chinese state-owned enterprises. (pp. 11–21). *Economics of Transition*, 8(1).

¹⁴ National People's Congress of the People's Republic of China. (2008). Law of the People's Republic of China on the State owned Assets of Enterprises. Retrieved from <http://www.lawinfochina.com/Display.aspx?lib=law&Cgid=109891>

¹⁵ These regulations emphasize management transparency, including internal supervision within the supervisory bodies, and seek to maintain a separation between the state's administrative functions and its role as an investor. The state asserts ownership of the assets and delegates the responsibilities of investor to both the State Council and local governments. Synthesis of newly defined obligations of internal control and allocation of new functions, which in fact serve to promote sole control over mechanisms of public fund investment. See more: State Council of the People's Republic of China. (2003). Interim Regulations on Supervision and Management of State-owned Assets of Enterprises (Decree No. 378).

¹⁶ SASAC initiated the “Double Hundred Action” plan in 2018 to test mixed ownership reforms through 404 central and local SOE subsidiaries which focused private capital entry into competitive and overcapacity sectors including machinery construction and chemicals. See more: State-owned Assets Supervision and Administration Commission

management¹⁷, and market discipline¹⁸. The implementation of mixed ownership structures together with performance evaluation systems and asset transfer regulations and governance reforms aims to transform SOEs into efficient competitive commercial actors that support China's economic modernization objectives.¹⁹

China joined the WTO in 2001 which accelerated legal reforms during the late 1990s. The China Securities Regulatory Commission published its first Code of Corporate Governance for Listed Companies²⁰ in 2002 which established rules to protect shareholder rights and define board responsibilities and ensure fair treatment of minority investors.

The Enterprise State-owned Assets Law²¹ became a defining achievement of SOEs. It provides extensive details about the roles and

(SASAC). (2018). "Double Hundred Action" pilot program for mixed ownership reform (2018-2020) and Beck, K. I. (2021). *Essays on Chinese State-Owned Enterprises: Reform, Corporate Governance and Subnational Diversity*. (96-110). Copenhagen Business School. Series No. 13.2021

¹⁷ The performance evaluation system of SASAC assesses state-owned enterprises through a differentiated framework which considers their industrial characteristics and strategic position and value creation potential. The system uses performance-based management compensation and places equal importance on market value and innovation capabilities. See more: SASAC Executive Committee. (2021). *Notice of Comprehensive Review and Announcement of Repealed and Invalidated Regulatory Documents*, and Lee, C., & Zhang, R. (2024). *From Cadres to Managers: The Double-hundred Action Programme and China's State-owned Enterprise Reform*. (pp. 1005–1023). *The China Quarterly*, 260. doi:10.1017/S0305741024000481

¹⁸ SASAC implements asset transfer rules that require major state equity transfers to occur through public exchanges or transparent market mechanisms to prevent asset loss and corruption. It works to enhance corporate governance through professional management practices that include separating ownership from management and establishing boards of directors and improving transparency and accountability within SOEs. See more: State Council and Central Leading Group for Deepening Overall Reform. (2015). *Guideline on Reform of State-Owned Enterprises*, and Jin, X., Xu, L., Xin, Y., & Adhikari, A. (2022). *Political governance in China's state-owned enterprises*. (pp. 36-49). *China Journal of Accounting Research*, 15(2). <https://doi.org/10.1016/j.cjar.2022.100236>

¹⁹ International Monetary Fund (IMF). (2020). *State-Owned Enterprise Reform*. In *China: Selected Issues* (pp. 318-320). Retrieved from <https://www.elibrary.imf.org/downloadpdf/display/book/9781513539942/ch11.pdf>

²⁰ The majority of large and mid-sized state-owned enterprises underwent company reorganization during this period to become companies which included minority private or foreign shareholders and introduced independent directors and supervisory boards.

²¹ Law of the PRC on the State-Owned Assets of Enterprises and was adopted in October 2008 before taking effect in May 2009. This law established a complete framework to define state ownership practices for SOEs and the framework for supervising state-owned assets. The State-Owned Assets Law established legal status for numerous existing rules which were previously distributed across State Council regulations and SASAC policies. See more: National People's Congress of the People's Republic of China. (2008). *Law of the People's Republic of China on the State-Owned Assets of Enterprises*. <http://www.npc.gov.cn/englishnpc/c23934/202012/3fdf3c1e785a4c799499a2b920e1b913.shtml>

authorities of institutions that act as state contributor representatives (SASAC and similar bodies). These institutions maintain full investor rights on behalf of the government in state-invested enterprises through the ability to receive asset returns and take part in major decision-making and select managerial staff.

The legislation requires state assets protection through Article 12²² and Article 14²³ which instruct contributor institutions to defend State property rights and protect State-owned assets from loss. The law establishes ownership-management separation through Article 6²⁴ which requires state asset contributors to maintain non-interference with the legal independent business operations of enterprises. SASAC functions as the core institution responsible for overseeing state ownership.²⁵ SASAC began operations in 2003 to represent state interests as investor for central state-owned enterprises and to monitor local SASACs that oversee local state-owned enterprises. Central SASAC operates as a ministerial-level State Council agency which currently manages about 100+ central enterprise groups²⁶ although the number decreased from 196 in 2003 because of corporate consolidations. Through its shareholder authority SASAC makes corporate leader appointments and approves major asset deals and mergers and

²² *Ibid*, Article 12. A body performing the contributor's functions on behalf of the corresponding people's government shall enjoy the return on assets, participation in major decision-making, selection of managers and other contributor's rights to the state-invested enterprises according to law. A body performing the contributor's functions shall formulate or participate in the formulation of the bylaws of state-invested enterprises according to the provisions of laws and administrative regulations. For the major matters on the performance of the contributor's functions that are subject to the approval of the corresponding people's government as prescribed by laws, administrative regulations and the corresponding people's government, a body performing the contributor's functions shall report such matters to the corresponding people's government for approval.

²³ *Ibid*, Article 14. Bodies performing the contributor's functions shall perform the contributor's functions according to laws, administrative regulations and enterprise bylaws, safeguard the contributor's rights and interests, and prevent the loss of state-owned assets. Bodies performing the contributor's functions shall protect the rights legally enjoyed by the enterprises as the market participants, and shall not intervene in the business activities of enterprises except to legally perform the contributor's functions.

²⁴ *Ibid*, Article 6. The State Council and the local people's governments shall, according to law, perform the contributor's functions, based on the principles of separation of government bodies and enterprises, separation of the administrative functions of public affairs and the functions of the state-owned assets contributor, and non-intervention in the legitimate and independent business operations of enterprises.

²⁵ State-owned Assets Supervision and Administration Commission (SASAC). (2003). Regulations on the supervision and administration of state-owned assets of enterprises [Policy document]. State Council of the People's Republic of China.

²⁶ State Council of the People's Republic of China. (2017). Guiding opinions on further regulating the restructuring of central enterprises [Policy document]. http://www.gov.cn/zhengce/content/2017-xx/xx/content_XXXX.htm

evaluates enterprise performance while creating regulations and providing guidance.²⁷ SASAC maintains its rights to intervene in enterprise business operations only through its capacity as owner at the board/shareholder level.²⁸

The State Council published a directive²⁹ in December 2006 which designated defense and power generation and grids and petroleum and petrochemicals and telecom and coal and civil aviation and shipping as strategic industries that required state control. The state would maintain control over these strategic industries as China moved toward its next phase of development.

In 2008, the NPC passed The Law of the People's Republic of China on the State-owned Assets of Enterprises, and put forward the expression of "state-invested Enterprises" which is defined as wholly state-owned company with the state being the sole investor, or a company in which the state has a stake, whether controlling or non-controlling. Mixed ownership can be adopted by state-owned enterprises, whereas state-owned assets are owned by the state, which is, owned by the whole people.

This law grants SASAC full authority to obtain state capital returns and approve major decisions and select managers for state-invested enterprises.³⁰ The organization must verify that enterprises follow state macro policies and Party directives. SASAC maintains the right to interfere in business operations only through its shareholder role under legal authority. SASAC operates departments which duplicate its responsibilities through three specific bureaus: enterprise reform, finance supervision and audit. The organization runs a cadre management system together with the CCP Organization Department to oversee senior SOE executives.³¹ SASAC has

²⁷ Lin, L.-W., & Milhaupt, C. J. (2013). We are the (national) champions: Understanding the mechanisms of socialist market economy in China. (pp. 697–760). *Stanford Law Review*, 65(4).

²⁸ Dong, M.-S., Hong, G.-X., Hussain, R. Y., & Tajeddini, K. (2023). Is state-owned enterprise merging private enterprise "market choice" or "space crowding"? —Based on the motives of equity transfer of mixed-ownership enterprises. (pp. 23–29). *Heliyon*, 9(8). <https://www.sciencedirect.com/science/article/pii/S2405844023062229>

²⁹ Information Office of the State Council of the People's Republic of China. (2006, December). China's national defense in 2006. (pp. 195-235). Beijing. Reprinted in *Chinese Journal of International Law*, *6*(1), (2007). <https://ssrn.com/abstract=1154948>

³⁰ Article 12–14: Grants SASAC authority to: Claim state capital returns Approve major decisions (M&A, restructuring) Appoint/remove senior managers, Article 6: Restricts SASAC to shareholder-level oversight (no operational interference)., Article 15: Mandates SASAC to "preserve/increase state asset value.". See more: Standing Committee of the National People's Congress. (2008). *Enterprise State-Owned Assets Law of the People's Republic of China*. Effective May 1, 2009.

³¹ State Council of the PRC. (2008). Regulations on the responsibilities, internal organization, and staffing of SASAC [Administrative regulation]. <http://www.sasac.gov.cn/>

dedicated its efforts to two main areas: capital management for strategic sector development and risk control through debt reduction and financial risk elimination in state-owned enterprises.³²

III. Contemporary Developments: Competitive Neutrality, Mixed Ownership, and Party Governance

In China, state-owned enterprises are subject to the same core tax laws as other businesses, most notably the Enterprise Income Tax Law (2008, as amended in 2018)³³, which mandates a standard enterprise income tax rate of 25 percent for all enterprises, regardless of ownership structure.³⁴ Historically, China's tax system was marked by significant preferential treatment for foreign-invested enterprises (FIEs), which played a central role in the country's rapid economic growth by attracting large inflows of foreign direct investment.³⁵

These tax preferences were complex and extensive: FIEs located in special economic zones, national hi-tech industrial zones, and national economic and technical development zones enjoyed reduced tax rates of 15 percent³⁶, compared to the general rate of 30 percent (prior to tax reform), while those in coastal areas or provincial capitals often paid 24 percent.

The legal framework mandates that SOEs and non-SOEs alike are governed by the same tax laws, and the principle of “competitive neutrality”³⁷ is increasingly emphasized. While SOEs may still receive certain government support in other forms, there are no longer legal provisions for systematic tax advantages, and contemporary tax enforcement seeks to

³² Zhang, C. (2020). Capital management and risk control in China's SOEs: SASAC's evolving role. (pp. 512–530). *Journal of Comparative Economics*, 48(3).

³³ Standing Committee of the National People's Congress of the People's Republic of China. (2007). *Enterprise Income Tax Law of the People's Republic of China (Amended 2017)*. Adopted March 16, 2007.

³⁴ *Ibid*, Article 4. The rate of enterprise income tax shall be 25 percent. On the income derived by a non-resident enterprise, as specified in the third paragraph of Article 3 of this Law, the applicable tax rate shall be 20 percent.

³⁵ Whalley, J., & Wang, L. (2007). The unified enterprise tax and SOEs in China (NBER Working Paper No. 12899). (pp. 6-9). National Bureau of Economic Research. Retrieved from <http://www.nber.org/papers/w12899>

³⁶ *Ibid*, Article 28. With respect to a qualified small and low-profit enterprise, the tax on its income shall be levied at a reduced rate of 20 percent. With respect to a high-tech enterprise that is specifically supported by the State, the tax on its income shall be levied at a reduced rate of 15 percent.

³⁷ The principle of “competitive neutrality” ensures that state-owned and private companies compete on a level playing field, preventing undue advantages or disadvantages for any entity in the market. It aims to create fair competition and benefits consumers and the wider economy, according to the OECD. See more: Capobianco, A., & Christiansen, H. (2011). *Competitive neutrality and state-owned enterprises: Challenges and policy options*. (pp. 36-57) (OECD Corporate Governance Working Papers, No. 1). OECD Publishing. <https://dx.doi.org/10.1787/5kg9xfjgdhg6-en>

ensure equal treatment for all enterprises under the law.³⁸

China's President Xi Jinping introduced a comprehensive economic reform plan through the CCP's 3rd Plenum (18th Central Committee) in 2013.³⁹ SOE reform was a central element. The plenum's Decision required SOEs to evolve into "modern enterprises" while introducing three new measures which included mixed ownership models and professional management appointments and board of directors' decision authority and capital investment portfolio management by the government.⁴⁰ The policy maintained the State Assets Law principles of non-interference in operations while concentrating on maximizing state capital effectiveness.

The Chinese Communist Party Central Committee together with the State Council released the Guiding Opinions on Deepening the Reform of SOEs in September 2015⁴¹ to create a policy framework for SOE reform until 2020. The 2015 Guiding Opinions reinforced SOE modernization efforts and state asset management improvement and ownership diversification and state asset preservation objectives. Moreover, it laid emphasis on the reform via the capital operation and mixed ownership of state-owned enterprises. The document established two SOE categories consisting of commercial enterprises (商业类) alongside public welfare enterprises (公益类). Commercial organizations operated in competitive or strategic industries for economic value optimization while public welfare enterprises-maintained state ownership for social impact.⁴² The Guiding

³⁸ Kowalski, P. et al. (2013), State-Owned Enterprises: Trade Effects and Policy Implications, (pp. 9-15). OECD Trade Policy Papers, No. 147, OECD Publishing. <http://dx.doi.org/10.1787/5k4869ckqk71-en>

³⁹ Chinese Communist Party Central Committee. (2013, November 12). Communiqué of the Third Plenary Session of the 18th Central Committee of the Communist Party of China. Beijing, China.

⁴⁰ The "capital management" approach envisioned the state functioning as an investor who would direct funds toward strategic sectors instead of controlling business activities. See more: Song, X. (2016). Corporate governance: A legal study on the reform of state-owned enterprises in China (pp. 15-19). SOAS University of London. <https://doi.org/10.25501/SOAS.00023583>

⁴¹ The document established the basis for multiple subsequent detailed directives which became known as the "N" documents. Such as, the corporate-style reform of SOEs shall be largely completed. The following objectives shall be achieved in this regard; to make positive progress in developing the mixed ownership economy; to perfect the corporate governance structure; and, to fine-tune the market-oriented mechanisms featuring the survival of the fittest under which SOEs engage in autonomous and flexible business operations, and promote and demote internal management personnel, employ and let go staff members, and increase and cut remunerations according to market practices. See more: Central Committee of the Communist Party of China & State Council of the People's Republic of China. (2015, September). Guiding opinions on deepening the reform of state-owned enterprises [Policy document]. Beijing, China.

⁴² *Ibid*, Article 5. Commercial SOEs shall engage in commercial operations in accordance with market requirements, and independently carry out production and business activities pursuant to the law primarily for the purposes of enhancing the vitality of

Opinion established distinct roles for critical national security and lifeline sectors under full state control but allowed private participation in fully competitive sectors.

CPC functions as an essential governing force for State-Owned Enterprises although it operates outside state organ structures. The Party's Central Committee and Politburo establishes high-level guidelines regarding state ownership through their joint publication of the 2015 Guiding Opinion.⁴³ The Organization Department of the CCP determines executive appointments for central SOEs through party clearance before SASAC makes official appointments. Each SOE maintains a Party committee which follows Party regulations and company charters to review and approve significant business choices through the dual-entry principle of Party and management roles.⁴⁴ The principle of “双向进入, 交叉任职” allows Party and management roles to overlap so the Party Secretary typically takes on the role of board Chair.⁴⁵ The CCP Central Committee issued an opinion in 2020 to expand its influence on private companies but the Party's formal role in SOEs has existed for a long time. The legal system of China's SOEs requires understanding of Party governance as an essential component that operates parallel to corporate governance since Party directives shape both law interpretation and enforcement practices.⁴⁶

In 2016, SASAC took measures to decrease SOE leverage ratios and to deal with excess capacity in steel and coal industries. The government announced in 2017 that all central SOEs had completed corporatization under the Company Law even though some were previously run as state-owned public institutions were converted into companies. Also notable, the government mandated in 2017 that SOEs had to transfer 10% of their state equity to the national social security fund to strengthen the social safety

the State-owned economic sector, amplifying the functions of State-owned capital, and preserving and increasing the value of State-owned assets, so as to achieve the survival of the fittest and orderly market entry and exit.

⁴³ Communist Party of China Central Committee & Politburo. (2015). Guiding Opinion on Deepening the Reform of State-Owned Enterprises. (pp. 13-19). Beijing: Central Party Literature Press.

⁴⁴ Li, H., & Xue, L. (2021). Party leadership and corporate governance in Chinese state-owned enterprises. (pp. 16-19). *China Economic Journal*, 14(1). <https://doi.org/10.1080/17538963.2020.1859659>

⁴⁵ The concept of “双向进入, 交叉任职” (shuāngxiàng jìn rù, jiāochā rènzhí), often translated as “dual entry and cross-appointment,” is a key principle in the governance of Chinese state-owned enterprises (SOEs) that reflects the integrated role of the Communist Party and corporate management within these entities. See more: Rosen, D. H., Leutert, W., & Shang-Jin, W. (2018). Corporate governance in China's state sector. (pp. 7-9). Asia Society. <https://asiasociety.org/ChinaSOE>

⁴⁶ Almén, O., & Carlsson, H. (2025). The Chinese Communist Party's influence over businesses. (pp. 45-51). Swedish Defence Research Agency (FOI). https://www.ui.se/globalassets/ui.se-eng/publications/other-publications/particeller_nkk_report_2025.pdf

net – a policy designed to distribute SOE wealth for public welfare but its execution continues.⁴⁷ Although numerous reforms were implemented the state maintained an extensive influence. In fact, during the mid-to-late 2010s the slogan “强国有企业做强做优做大” (“make the state-owned enterprises stronger, better, and bigger”) was often promoted (including by Xi Jinping at the 19th CCP Congress in 2017).⁴⁸

SASAC reported in 2022 that the action plan achieved most of its targets⁴⁹ because central SOEs displayed enhanced operational efficiency and competitive capabilities yet provided minimal specific metrics. The establishment of compliance committees by all central SOEs became mandatory in 2022 because of high-profile fraud cases which also led to improved internal compliance systems.⁵⁰ SOEs received two major priorities from the government during this period: innovation leadership in strategic technologies and digital transformation of their operational models.⁵¹

The 2023 revision of the Company Law⁵² represents an essential modern development in corporate regulations. The modified legislation affects all companies yet specific changes benefit State-owned Enterprises through enhanced state-invested company frameworks⁵³ and stronger

⁴⁷ State Council of the People’s Republic of China. (2017, July 26). Action plan to reform central SOEs toward corporations. Retrieved from http://english.www.gov.cn/policies/latest_releases/2017/07/26/content_281475754202054.htm

⁴⁸ Xi, J. (2017, October 18). Secure a decisive victory in building a moderately prosperous society in all respects and strive for the great success of socialism with Chinese characteristics for a new era [Speech at the 19th National Congress of the Communist Party of China]. Xinhua News Agency. http://www.xinhuanet.com/english/download/Xi_Jinping’s_report_at_19th_CPC_National_Congress.pdf

⁴⁹ The Chinese government initiated a Three-Year Action Plan for SOE Reform (2020-2022) to finalize all reform objectives established by the 2015 Guiding Opinions. State Council authorization supported this plan which defined particular targets that should be accomplished by the end of 2022 including establishing functional modern corporate governance systems in SOEs with director boards taking leadership roles and implementing substantial mixed-ownership structures at multiple levels and resolving fundamental weaknesses in subsidiary management and debt control. See more: Xinhua. (2022, May 7). *Over 90% of China’s SOE reform three-year action plan completed* [News report]. https://english.www.gov.cn/news/topnews/202205/07/content_WS62765a03c6d02e533532a5f9.html

⁵⁰ Wang, X. (2025). Compliance framework pending for SOEs. (pp. 2). <https://law.asia/compliance-framework-soes-sasac-2025/>

⁵¹ Liu, G., Liu, J., Gao, P., Yu, J., & Pu, Z. (2024). Understanding mechanisms of digital transformation in state-owned enterprises in China: An institutional perspective. *Technological Forecasting and Social Change*. (pp. 202), <https://doi.org/10.1016/j.techfore.2024.123288>

⁵² Standing Committee of the National People’s Congress. (2023). *Company Law of the People’s Republic of China (Amended 2023)*. Beijing: People’s Publishing House.

⁵³ *Ibid*, Article 168. The provisions of this Chapter shall apply to the organizational structure of state-invested companies. Where there is no relevant provision in this Chapter, other provisions of this Law shall apply. For the purpose of this Law, “state-

director duties and liability rules⁵⁴ and improved corporate group governance standards⁵⁵. Companies under this law must follow Party and government decisions that have legal or regulatory authorization because the corporate sphere operates under integrated Party leadership.⁵⁶ These provisions maintain alignment between China's evolving company legislation and state ownership characteristics.

IV. Conclusion

The legal development of state ownership in China demonstrates a distinctive trajectory in which market mechanisms have been progressively integrated into the governance of state-owned enterprises, while Party-state leadership has remained central to the system. Beginning with reform and opening-up in 1978, China initiated administrative measures aimed at weakening direct bureaucratic management of SOEs and introducing enterprise autonomy. Early reforms, including profit retention and contract responsibility systems, represented a transition from total administrative control toward performance-based management. This shift was further strengthened by the factory director responsibility system and the 1988 Industrial Enterprises Law, which provided the first nationwide legal framework for enterprise operation and laid the foundations for corporatization and capital market development.

invested companies” refer to the solely state-owned companies or state-owned capital holding companies invested by the state, including the limited liability companies and joint stock limited companies invested by the state.

⁵⁴ *Ibid*, Article 180. Directors, supervisors and senior executives shall assume the obligation of loyalty to the company and take measures to avoid the conflict between their own interests and those of the company and may not seek any improper interests by taking advantage of their powers. The directors, supervisors and senior executives shall assume the duty of diligence to the company. When performing their duties, they shall, for the best interests of the company, exercise the reasonable care that shall be generally possessed by a manager. The provisions of the preceding two paragraphs shall apply to the controlling shareholder or actual controller of a company who does not serve as a director but actually executes the affairs of the company.

⁵⁵ *Ibid*, Article 19. When engaging in business operations, a company shall comply with the laws and regulations, social morality and business ethics, be honest and faithful and accept the supervision of the government and the general public. Article 68. Companies with more than 300 employees are required to include employee representatives on the board of directors, promoting democratic management and protecting employee interests. Article 69. Limited liability companies (LLCs) and joint-stock companies can now establish an audit committee within the board of directors, which may replace the traditional board of supervisors. This committee exercises supervisory powers and is composed mainly of independent directors to ensure objectivity and accountability. The audit committee's deliberation and voting procedures are regulated by the company's articles of association and the Company Law

⁵⁶ *Ibid*, Article 4. Overseas offering and listing by domestic companies shall be supervised and regulated in accordance with the lines, principles, policies, decisions and plans of the Party and the state, ensuring both development and security.

The decisive policy and legal turning point emerged in the early 1990s with the 1993 CCP Decision on establishing a socialist market economy. The Company Law (1993) and Securities Law (1998) formalized modern corporate structures, enabling SOEs to become corporatized entities with legal person status and clearer governance mechanisms such as shareholder meetings, boards of directors, and supervisory boards. Corporatization created a structural separation between ownership and management: the state transformed into a shareholder while executives and boards assumed operational responsibility. However, this separation did not eliminate state influence; rather, it reconfigured state control into corporate and legal forms.

In the late 1990s and early 2000s, reforms intensified through consolidation, mergers, layoffs, and bankruptcy mechanisms. Bankruptcy law reforms provided legal tools to liquidate or reorganize insolvent SOEs and supported the policy of “letting go the small while holding onto the large.” At the institutional level, the creation of SASAC in 2003 marked a major reorganization of state ownership governance, converting state supervision into an investor-based model. This transformation was consolidated through the Enterprise State-owned Assets Law (2008), which clearly defined the state’s rights and responsibilities as investor, strengthened asset protection obligations, and formalized the principle of non-interference with independent enterprise operations.

Despite corporatization and mixed ownership reforms, the governance of SOEs continues to depend heavily on Party leadership. The dual-entry principle (双向进入, 交叉任职) ensures that Party committees retain decisive influence over strategic decisions and executive appointments, operating parallel to formal corporate governance mechanisms. This integration of Party authority with legal corporate structures has shaped an SOE regime in which political governance and corporate governance coexist. Under Xi Jinping’s reform agenda, SOEs have been directed toward strategic modernization goals, including innovation leadership, digital transformation, risk control, and compliance strengthening. The 2023 revision of the Company Law further reflects the evolution of China’s corporate legal regime, particularly by strengthening director duties, improving corporate group governance, and reinforcing the institutional framework for state-invested enterprises.

Overall, China’s legal development of state ownership is best understood not as a linear shift from state control to market freedom, but as a restructuring of state power through legal and corporate mechanisms. Market-oriented reforms have enhanced efficiency and enterprise modernization, yet state ownership remains strategically dominant, especially in

key sectors. The Chinese model therefore reflects a legally institutionalized form of state capitalism in which corporatization, investor-state management, and Party governance jointly define the structure and practice of state ownership. This hybrid governance framework will continue to shape the future direction of Chinese economic modernization and the legal regulation of state assets.

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