
Principles of Corporate Governance

KOJIMA Hirotoke

I Introduction

Japanese companies have suffered from a high frequency of corporate scandals and a decline in earning power since the early 1990s. Corporate governance has been actively discussed in order to resolve these problems. It is also an intense topic in other countries, although each has its own management environment and its own view of companies and their purpose. Moreover, it plays a central role in many companies of the 21st century. As discussion of the subject deepened, it became necessary to draw up some standardization. This is the "corporate governance principles" eagerly published by institutions and groups all over the world.

The two characteristics of corporate governance principles are as follows. One is that these principles indicate a conclusion of the problem of corporate governance. The other is that they have an effect on the future management of companies from both the inside and the outside. I recognize from these two characteristics that corporate governance principles are an intensive induction of research and discussion by scholars and businessmen.

Not all principles have been inclusively discussed, although certain typical principles have been investigated. To put it concretely, no examination that traces all the principles or grasps the overall system has

been undertaken. It is important to comprehend the system of corporate governance principles and resolve the issues related to it.

The purpose of this paper is to clarify the system of corporate governance principles. First, I classify the publication dates of these principles and examine their historical details. Second, I reconfirm the purpose, definition, and content of corporate governance principles. Third, I classify these principles according to their foundations and investigate them in detail. Finally, I define corporate governance principles and their system and clarify the essence of such principles.

II History of corporate governance principles

(1) First stage of corporate governance principles: The United Kingdom

I consider that there have been three stages in drawing up corporate governance principles throughout the world. The early 1990s was the first. In this stage, I survey the discussions in the United Kingdom, which took the lead in drawing up these principles.

In the United Kingdom, the establishment of the Cadbury Committee¹ in the 1990s was the first occasion of dealing with corporate scandal. The Committee tried to find the causes of corporate scandal, directing its attention to transparency and disclosure. Nevertheless, after the Cadbury Committee was set up, successive prominent scandals occurred in the UK. In 1992, the Committee published the *Cadbury Report*² to address this serious situation. Since the *Cadbury Report*, two committees have actively discussed the problem of corporate governance. One is the Greenbury Committee, founded in 1995. This committee aimed to examine directors' rewards and of checking whether companies faithfully adhere to the content of the Cadbury Report. As a result, it published the *Greenbury Report*³. The other is the Hampel Committee, also founded in 1995. This committee published the *Hampel Report*⁴.

The *Combined Code*⁵ is the result of long discussions in the above three committees⁶. In a word, it is the compilation of the discussions on corporate

governance during the 1990s and on representative principles in the United Kingdom.

I would like to lay special emphasis on the fact that all three reports have been adopted as listing rules by the London Stock Exchange, which means that official institutions recognized the importance of the reports and made companies comply with the recommendations of each committee as part of their rules. The corporate governance activity in the United Kingdom has influenced trends in corporate governance all over the world, because these reports readily supplied practical principles for other countries to introduce as listing rules⁷.

(2) Second stage of corporate governance principles: The ICGN

The mid 1990s is the second stage of working out corporate governance principles. In this stage, I survey the discussions within the International Corporate Governance Network (ICGN), which is a private international institution set up to deal with the problem of corporate governance.

In 1995, the ICGN began running a discussion within the Council of Institutional Investors (CII)⁸ in which the California Public Employees' Retirement System (CalPERS)⁹ and the Teachers Insurance and Annuity Association College Retirement Equities Fund (TIAA-CREF)¹⁰ took the leading roles. The purpose of the establishment is to stress the importance of dialogue in order to tackle the problem of corporate governance¹¹. The ICGN published the following four reports.

The first is *ICGN Global Share Voting Principles*¹² in 1998. This report focuses on voting rights of stockholders. The second is the *ICGN Statement on Global Corporate Governance Principles*¹³ in 1999. This is a comprehensive report by the ICGN, and states its opinion on corporate governance. The third is the *Statement on Global Implementation of ICGN Share Voting Principles*¹⁴ in 2000. This report clarifies its overall attitude towards and the means to achieve corporate governance¹⁵. The fourth is the *Resolution on the Mandate of the Standing Committee on Share Voting*¹⁶ in 2000. These reports encourage each country and each company to comply with the content of the first

report, based on the second report.

This series of principles have had an influence the world over, because many managers, analysts, and scholars as well as the main institutional investors participate in the ICGN of today¹⁷. I believe that the ICGN will put forward the benchmark report that will hold well from now on¹⁸.

(3) Third stage of corporate governance principles: The OECD

The late 1990s is the third stage in the evolution of corporate governance principles. In this stage, I survey the activity of the Organization for Economic Co-operation and Development (OECD).

The OECD recognizes that it is very important for governments and private enterprises to cooperate on the problem of developing corporate governance within each country¹⁹. In 1998, the OECD published the report the *OECD Business Sector Advisory Group on Corporate Governance*²⁰. To deepen the discussion of the report, the OECD published the *OECD Principles of Corporate Governance*²¹ in 1999. This is considered as the standard principles all over the world, because the OECD has tackled these principles within the processes of developing countries as well as developed countries interested in corporate governance²².

After the report was published, two remarkable situations arose. One is the activity of the Group of Seven (G7). Within the G7 in 1999, there was a consensus to use the OECD report as the international standard, with each country in favor of this²³. The other is Asia Pacific Economic Cooperation (APEC). Within the APEC in 1999, there was a consensus to stress that the reform of corporate governance is extremely important²⁴, given that Asian countries are adopting corporate governance principles²⁵.

Therefore, the OECD principles will have a powerful influence on the primary organizations tackling the problem of corporate governance. As Hirata Mitsuhiro acutely pointed out, the principles will penetrate across the entire world as the *de jure* standard²⁶. I can confirm that these principles are the fundamental principles to which each country refers.

III Essence of corporate governance principles

(1) Purpose of corporate governance principles

There is no single obvious standard principle, because each institution has drawn up a set of principles based on its own purposes. The trend towards publishing one standard principle arose because of the following sequence of events: Corporate scandals in advanced nations during the early 1990s, monetary crises in Asian countries during 1997, obstacles to the right to vote, and legal controls. These have had a negative impact on shareholders in market economies.

I believe that, in drafting one standard principle for the 21st century, a sound and effective management structure for shareholders must be considered from the shareholders' point of view. However, there is the possibility that this would cause corporations to confuse their cultures and obstruct their activities. The standard principle must be basic and minimal such that it can be used all over the world. Therefore, I believe that the final objective of this principle is to help corporations build their management structures in order to tackle corporate scandal and strengthen their competitive position.

(2) Definition of corporate governance principles

Among the forms of principles published by each country, region, and institution are the following: Listing rules, suggestions for rules on incorporation, principles on the right to vote for international institutional investors, and principles aiming at standards for international institutions. Their common aim is that they finally provide an objective for corporations to practice the reform of corporate governance.

For the future, it is appropriate that principles of corporate governance also include the "best Practice" and "code." This means that expert or even partial descriptions are useful in corporations establishing the reform of corporate governance.

(3) Content of corporate governance principles

The *Combined Code*, the *OECD Principles*, and the *ICGN Principles* are representative principles throughout the world and have one point in common. Table 1 shows the content of these three sets of principles (see Table 1). All of them are composed of four sections: "Stockholders' Rights," "Board," "Transparency and Disclosure," and "Shareholders." It is important to look deeper into each section.

	<i>Combined Code</i> (UK)	<i>OECD Principles</i> (public international institution)	<i>ICGN Principles</i> (private international institution)
Stockholders' Rights	C. dialogue with stockholders	I. stockholders' rights II. stockholders' impartial dealings	1. corporate purpose 3. the right to vote 6. decision making 8. stockholders' profit
Board	A. board members	V. responsibility of board	4. managing board system
Transparency and Disclosure	B. remuneration of board members D. accountability and audit	IV. transparency and disclosure	2. dialogue and report 5. managers' rewards
Shareholders	E. institutional investors	III. role of shareholders	9. corporate citizenship
Others			7. performance 10. achievement of corporate governance

Table 1 Content of representative corporate governance principles

The section Board involves two functions: "Responsibility of the Board" and "Remuneration of the Management" (see Table 2). Responsibility of the Board further includes three main items: "Strategic leadership," "effective supervision in management," and "accountability to shareholders." Remuneration of the Management also includes three items: "Securing of appropriate remuneration level," "decision on remuneration policy," and "indication of remuneration level and details."

<i>Combined Code</i> (UK)	<i>OECD Principles</i> (public international institution)	<i>ICGN Principles</i> (private international institution)
Responsibility of the Board		
① leadership and control ② secure balance of power and authority ③ well-balanced composition ④ timely relevant information indication to management ⑤ election process of formal, transparent management ⑥ term of office less than three years ⑦ positive dialogue with institutional investors ⑧ positive dialogue with the investing public	① strategic leadership ② effective supervision in management ③ accountability to stockholders [Remark 1]	※ support for OECD principles ① clarification of standpoint as trustee by stockholders ② installation of nomination, remuneration, and audit committees including independent directors
Remuneration of the Management		
① introduction of appropriate remuneration and achievement synchronization reward ② formal, transparent construction of remuneration system and prevention of one's own ③ indication of remuneration details	① review of remuneration in management ② decision on remuneration process	※ explained in the section on transparency and disclosure

Table 2 Outline of corporate governance principles regarding "Board"

The section Shareholders involves two functions: Stockholders' Rights and Shareholders Rights.' The section Stockholders' Rights includes three main items concerning rights: "Stockholders' fundamental rights," "fair treatment," and "positive dialogue." Shareholders' Rights demonstrates that on the whole the *OECD Principles* and the *ICGN Principles* demand that a board of directors coordinate interests among shareholders, and the Combined Code lays emphasis on the relationship between institutional investors and boards (see Table 3).

<i>Combined Code</i> (UK)	<i>OECD Principles</i> (public international institution)	<i>ICGN Principles</i> (private international institution)
Stockholders' Rights		
① stockholders' fundamental rights ② positive dialogue with stockholders and corporations	① stockholders' fundamental rights ② protection of stockholders' fundamental rights ③ fair treatment and compensation of stockholders	① to maintain the right to vote ② fair treatment for all stockholders ③ positive cooperation by stockholders and corporations
Shareholders' Rights		
① institutional investors' right to vote ② positive dialogue with institutional investors ③ valuation of the board by institutional investors	① respect for and cooperation with shareholders ② establishment of compensation for shareholders ③ construction of a management structure that improves performance via shareholders' participation	※ explained in the section stockholders' rights The cooperation between stockholders and corporations addresses the problem of the rights of the board of directors, management, and so on

Table 3 Outline of corporate governance principles on the "rights of stockholders and shareholders"

The section Transparency and Disclosure comprises four items: "Establishment of disclosure policy," "sufficient disclosure of financial accounting" "internal control and audit committee," and "independent auditor's role" (see Table 4).

<i>Combined Code</i> (UK)	<i>OECD Principles</i> (public international institution)	<i>ICGN Principles</i> (private international institution)
① disclosure of corporation's valuation to the board ② construction of the internal control system ③ cooperation with accounting auditor concerning the above	① appropriate disclosure of the details of corporations ② disclosure of information on audit ③ audit by independent auditors ④ the most suitable disclosure system	① appropriate disclosure of information concerning corporation ※ support for OECD principles ② disclosure concerning management members ③ disclosure of board of directors' remuneration ④ independent audit by audit committee

Table 4 Outline of corporate governance principles on "transparency and disclosure"

It is clear that corporate governance principles aim to resolve problems concerning management structure and shareholders, and to lay special emphasis on transparency and disclosure as a connection between these and as a means to settle these problems.

IV Type and role of corporate governance principles

(1) International institution's principles

Principles are divided into three types according to establishment (see Figure 1). As the second column from the left indicates, these types are "international institution," "institutional investor," and "domestic institution." I shall discuss each in detail.

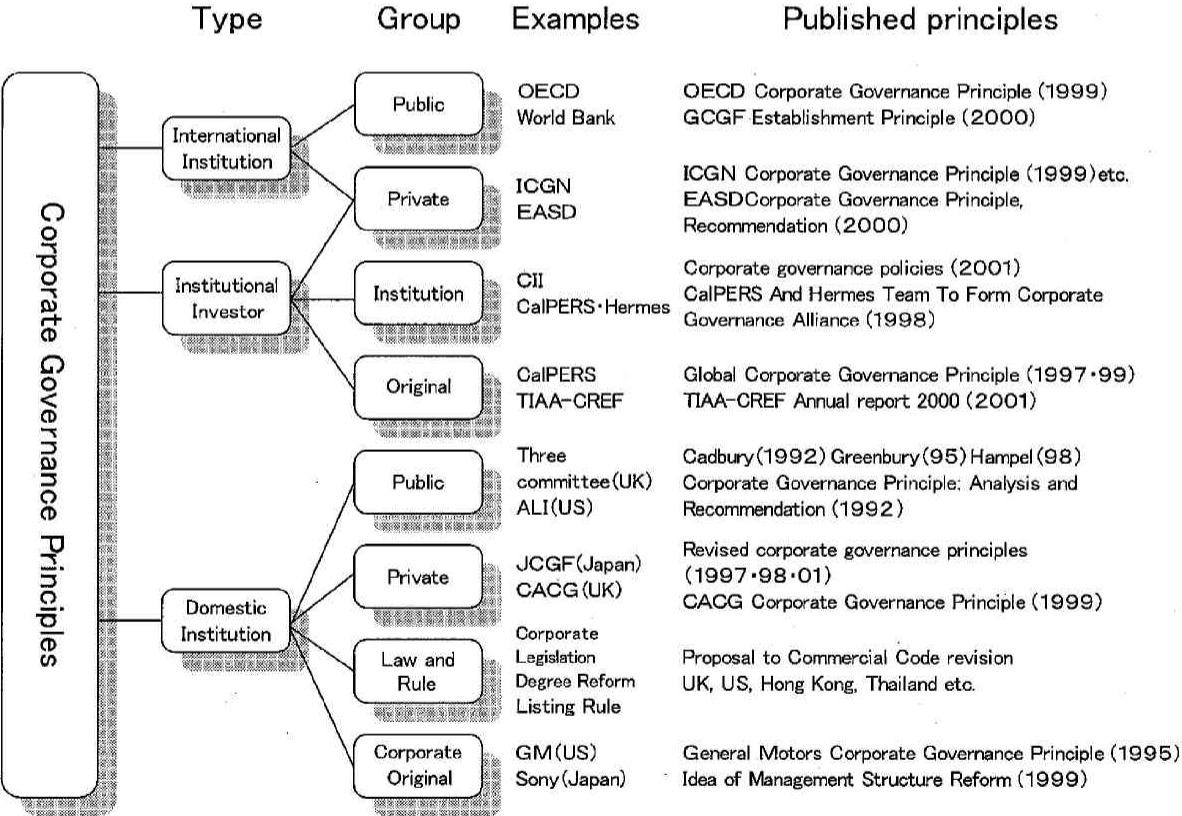


Figure 1 Types of corporate governance principles

The international institution principles, which could become the international standard principles, consist of the "public institution" principles and the "private institution" principles. The public institution principles are generally accepted fundamental and standard principles, since representatives all over the world attend public institutions such as the Global Corporate Governance Forum (GCGF). The private institution principles are guiding principles in action, since private institutions are composed of all kinds of people including representatives from agencies and institutions as well as managers and professors.

In recent years, discussions between the public institution and the private institution have increased. I believe that the international institution has the initiative in publishing principles, and private institutions that have an action agenda character release better principles than public institutions for the reform of corporate governance.

(2) Institutional investors' principles

The institutional investor principles consist of private institution, "agency of investor institution," and "original principles of investor institution." Investor institutions have recently taken positive action on corporate governance and have published many principles since the late 1990s. I shall discuss each type in detail.

Private institution overlaps with "private international institution," one of the classifications of the international institution. It is clear that institutional investors participate in international institutions and publish corporate governance principles.

Agency of investor institution aims to cooperate with investors all over the world, to exchange useful information and to hold conversations with investors. For example, CII, which is a group of many investors, published the *Corporate Governance Policies*²⁷ in 2001. CalPERS and Hermes drew up the *CaLPERS and Hermes Team to Form Corporate Governance Alliance*²⁸ in 1998.

Original principles of investor institution are guiding principles on corporate governance for corporations. These generally have a powerful

influence on corporations by exercising voting powers. For instance, representative principles consist of *Global Corporate Governance Principles*, the *Statement on UK Corporate Governance & Voting Policy*, and the *TIAA-CREF Policy Statement on Corporate Governance*.

(3) Domestic institution's principles

The domestic institution principles, which have the clearly defined role of constructing a framework for management structure within domestic corporations, are composed of public institution, private institution, "law and rule," and "corporate original." I shall discuss each in detail.

The principles of public institution deal mostly with the problem of corporate governance within the host country. Typical institutions are the Cadbury Committee, the Greenbury Committee, and the Hampel Committee in the UK. They generally have legal force since each country adopts them as listing rules.

The principles of private institution have a tendency to powerfully and directly influence corporations, since they are applied by many professors, managers, and organizations. Examples of these include the *Corporate Governance Principles*²⁹ and *Corporate Governance*³⁰.

The principles of law and rule are a minimum rule for when corporations conduct management activity. Each law and rule actively suggests a legislation degree. In recent years, such activities have led to the *Commercial Code Revision*³¹, produced the *Tentative Plan for Commercial Code Revision Corporate Governance of View*³², and published many suggestions³³.

The principles of corporate original are those whereby each corporation finally publishes its own original principles. Examples of this are the *Corporate Governance Guidelines*³⁴ by General Motors and the *Idea of Management Structure Reform* by Sony. The corporate original principles also have an influence on the revision of the Commercial Code, and so on.

V System of corporate governance principles

(1) Cooperation over corporate governance principles

Figure 2 illustrates the flow of relationships concerning representative principles throughout the world (see Figure 2). It is important to note that each principle has been published as a result of dialogues, cooperation, and complementarity.

Figure 2 clearly shows the "Cadbury Committee," which drew up the first principles in the *Cadbury Report* in the UK during 1992; the ICGN, which published principles as a private international institution during 1996; and the OECD, which began publishing principles as a public international institution during 1998.

It is interesting to note that the *OECD Principles* has a close relationship with the *ICGN Principles*. The ICGN recommends the *OECD Principles* to corporations and stockholders, as this appears to be a standard set of principles the world over. It also published its original principles in order to expand on these³⁵. I believe that the ICGN has a role in disseminating the *OECD Principles*.

It may be worth briefly mentioning the reason for the expansion of published corporate governance principles. In the early 1990s, principles were settled within each country. During the mid 1990s, principles were settled by private international institutions that transcended national borders. In the latter half of the 1990s, the trend was for public international institutions to also publish their own principles. It follows from this that in the future one standard principle would seem likely to be published.

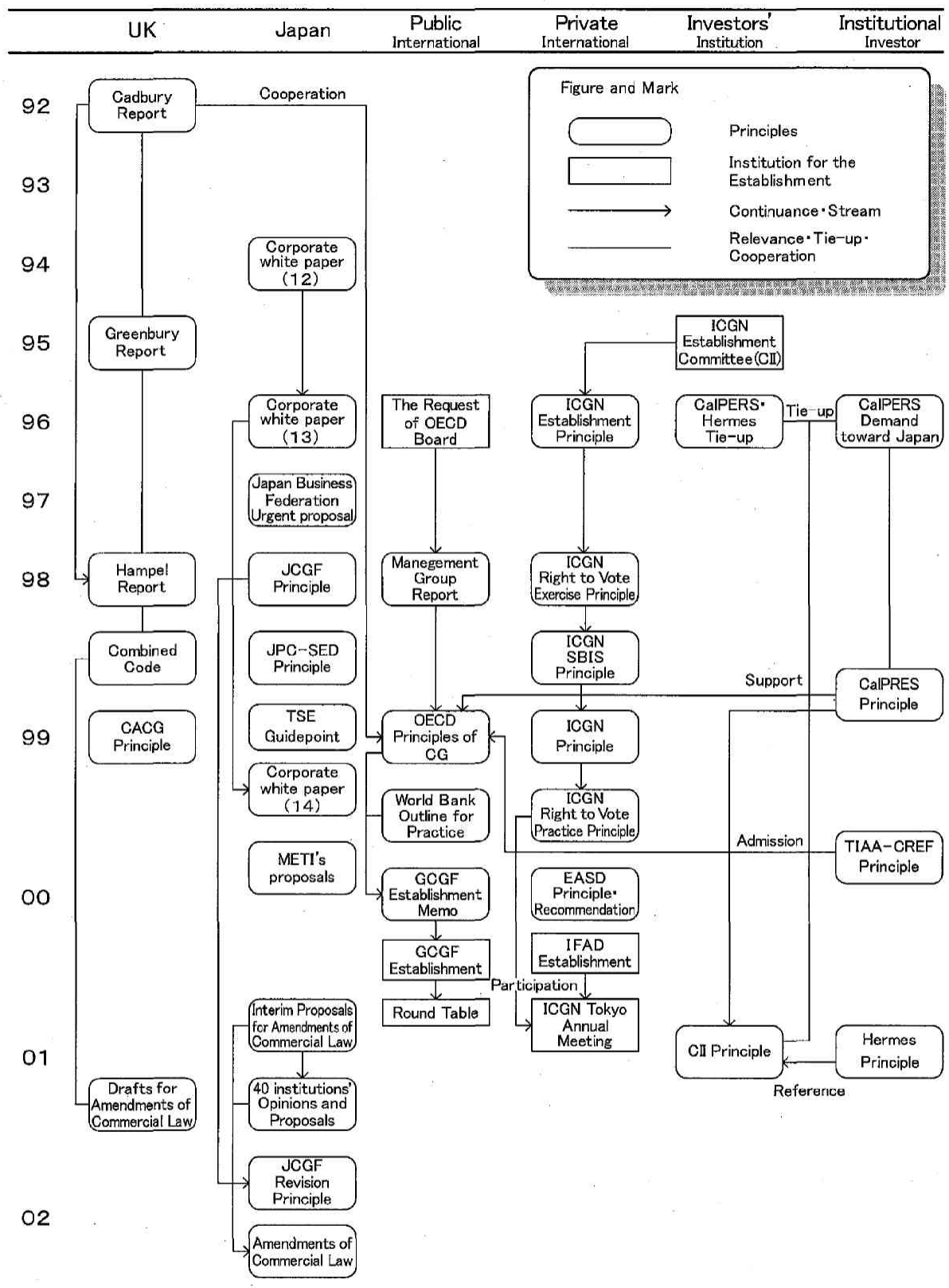


Figure 2 Flow of relationships among corporate governance principles

(2) Correlation on corporate governance principles

As I said earlier, the establishment types are international institution, investor institution, and domestic institution (see Figure 3). Each has its own purpose within corporate governance principles. International institution will have an influence on the laws and rules of each country. Investor institution will require corporations to be active concerning corporate governance for corporations. Domestic institution will encourage corporations to apply laws and rules and will point to the revision of laws.

Each corporation will structure the functions of corporate governance, as corporate governance principles have a strong influence on corporations. Corporate governance principles are minimum principles for corporations managing soundly and efficiently. Each corporation will have to adapt each original activity concerning corporate governance to its own scale, type of industry, and culture and practice.

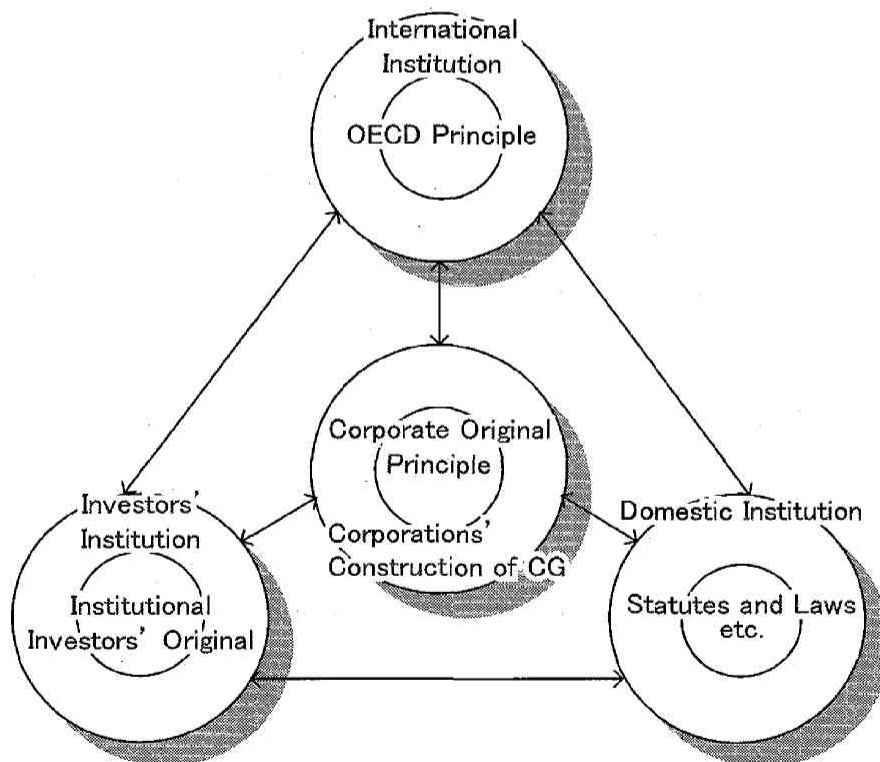


Figure 3 Relationships among corporate governance principles

(3) System of corporate governance principles

As shown by the representative principles (the *Combined Code*, the *ICGN Principles*, and the *OECD Principles*), corporate governance principles are mainly composed of three sections: "Management structure," "shareholder," and transparency and disclosure. Based on these categories, I can illustrate the system of corporate governance principles (see Figure 4).

The left-hand side of this figure illustrates the section management structure. This focuses on the board, which has three roles. The first is that board directors supervise and ask accountability of management. The second is that a board has to establish three committees: Nomination, audit, and remuneration. Within these committees, independent directors are appointed³⁵. The third is that a board has to make sufficient provision for management audit, having independent auditors cooperate with the board.

The right-hand of this figure illustrates shareholder. This focuses on stockholders, which consist of institutional investors. Stockholders have the right of dialogue with corporations as well as the right to vote. Shareholders who do not have direct influence on corporations have to forego many such rights.

The centre of this figure illustrates transparency and disclosure. This has the role of providing a connection between management structure and shareholders. To carry out this function, a board has to have a good relationship with the independent auditors, ensuring the information system that discloses corporate information. It is also important that corporations converse positively with shareholders.

It can be concluded from the above that the principles of corporate governance should assume transparency and disclosure to be the medium through which to advance the relationship between top management and its shareholders.

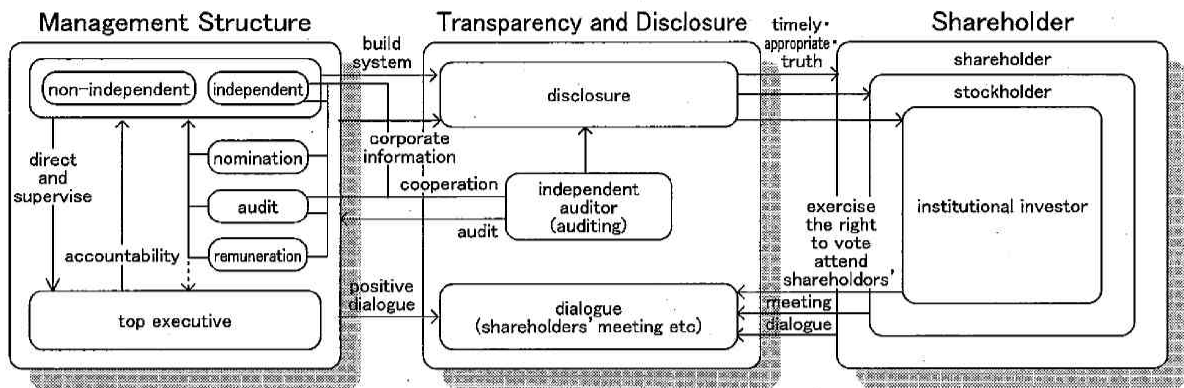


Figure 4 Basic system of corporate governance

VI Conclusion

Recently, a large number of institutions, institutional investors, and corporations have published material on the principles of corporate governance. Although many studies have been conducted into each principle, little is known about the systematization of corporate governance principles. This paper is intended as an investigation into clarifying the overall content of corporate governance principles.

As a result of examining the evolution of corporate governance principles, it is found that there are three stages in drawing up such principles, and that the OECD principles have been adopted as a standard set of principles. In investigating the essence, definition, and content of corporate governance principles, it is understood that these are intended for corporations to manage themselves safely and efficiently, and are mainly composed of four sections: Stockholders' Rights, Board, Transparency and Disclosure, and Shareholders. In examining the types and groups of corporate governance principles, it is found that there are three different establishments: International institution, institutional investor, and corporate original. In examining the system of corporate governance principles, it is considered that transparency and disclosure is important for corporations to implement the function of corporate governance for every shareholder.

This paper clearly shows that it is very important for corporations to finally establish original principles, referring to and adopting the articles of published principles. This paper proposes that a better understanding of how principles have actually influenced corporations needs to be gained in future studies in order to elucidate the development of corporate governance principles.

Notes

- ¹ Strictly speaking, the first corporate governance principle was the *Principle of Corporate Governance: Analysis and Recommendations* by the American Law Institute. However, there is fairly general agreement that the *Cadbury Report* was the first set of principles in the world in the sense that it took the initiative in corporate governance principles
- ² Cadbury Report (1992)
- ³ Greenbury Report (1995)
- ⁴ Hampel Report (1997)
- ⁵ GCGF (2001) pp.411-427
- ⁶ The Combined Code is composed of 17 principles and 47 models.
- ⁷ Belgium has adopted the principles of the UK and made the best use of them as listing rules and a legislation degree for enterprise.
- ⁸ CII is an institution founded in the United States in 1985. Its aim is to exchange information on pension funds. The discussion accelerated the necessity for establishing a world institution to look closely at the globalization of corporate management activity.
- ⁹ CalPERS is a pension fund that is composed of more than 1.1 million members, has property of US \$175 billion or more, and aims at investing 20% of this property overseas.
- ¹⁰ TIAA-CREF (2001)
- ¹¹ ICGN (1996). According to a trial calculation in August 2000, the stock holding property of institutional investors participating in the ICGN exceeded US \$10 trillion.
- ¹² ICGN (1998)
- ¹³ ICGN (1999)
- ¹⁴ ICGN (2000a)
- ¹⁵ This is composed of 11 original principles and 16 concrete actions that expand the OECD principles.
- ¹⁶ ICGN(2000b)
- ¹⁷ Dated Nihon Keizai Shinbun January 12, 2001.
- ¹⁸ The ICGN had a big influence on CalPERS and Hermes etc as an international institutional investor.
- ¹⁹ Hirata (2001a) p.278
- ²⁰ Ibid., pp.278-287. Professor Hirata shows the content in full detail.
- ²¹ OECD (1999). <http://www.mofa.go.jp/mofaj/gaiko/OECD/hoshin.html>

- ²² The OECD principles are composed of five principles and 23 recommendations that support them.
<http://www.oecdtkyo.org/inpaku/04corpor/04-01t.html>
- ²³ <http://www.mofa.go.jp/daijin/1e075.htm#bb>
- ²⁴ http://www.mofa.go.jp/mofaj/gaiko/apec/99/kyodo_2.html
- ²⁵ http://www.mofa.go.jp/mofaj/gaiko/apec/99/s_sengen.html
- ²⁶ Hirata (2001a) p.291.
- ²⁷ CII (2001)
- ²⁸ CalPERS (1998a)
- ²⁹ Corporate Governance Principle Committee (1998), *Corporate Governance Principle: Thinking about Japanese New Corporate Governance*, Japan Corporate Governance Forum.
- ³⁰ Japan Corporate Governance Committee (2001)
- ³¹ For further details of the revision of the Commercial Code from the point of view of corporate governance, see Hirata (2000) pp.83-91.
- ³² The Ministry of Justice (2001)
- ³³ Japan Business Federation (2001a) (2001b)
- ³⁴ GM (1995)
- ³⁵ ICGN (1999)
- ³⁶ In China, the appointment of independent directors was obligated by the corporate legislation degree reform in 2001. The legislation was strengthened in 2002. I can be fairly certain that this situation was introduced by corporate governance principles in China.

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