

Research on the Alignment of China's Government Procurement System with CPTPP High-Standard International Rules

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Abstract: The evolution of international rules on government procurement is essentially a dynamic balance between the "attributes of public funds" and the "demands for trade liberalization." Since the 21st century, high-standard rules represented by the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) have been characterized by the expansion of coverage, refinement of procedural norms, and modernization of value concepts. Chapter 15 of the CPTPP establishes a comprehensive framework of government procurement rules encompassing both substantive obligations and procedural requirements. It demonstrates its high-standard nature by expanding the scope of procuring entities, incorporating new forms of procurement, strengthening the principle of non-discrimination, detailing transparency requirements, improving independent remedy mechanisms, and integrating sustainable development concepts.

While China's current Government Procurement Law aligns with CPTPP rules in terms of public policy goals and the basic principles of transparency and fair competition, disparities remain in areas such as the scope of procuring entities, coverage of procurement methods, refinement of non-discrimination obligations, degree of information disclosure, constraints on technical specifications, efficiency of remedy mechanisms, and the establishment of legal liabilities. In light of the revision process of China's Government Procurement Law and the practical needs for CPTPP accession, China should achieve effective alignment with international high standards by expanding the scope of procuring entities to include public-interest State-Owned Enterprises (SOEs), enhancing the operability of transparency, improving independent supervision and diversified remedy mechanisms, and implementing modern concepts such as green development and support for Small and Medium-sized Enterprises (SMEs). Such alignment will not only safeguard national economic security and public interests but also elevate the level of institutional opening-up in the field of government procurement.

Keywords: Government Procurement; CPTPP; Alignment with High-Standard Economic and Trade Rules; Institutional Opening-up

Introduction

In the era of economic globalization and digital trade, government procurement has evolved into a core institution bridging the dual attributes of national governance and international economic and trade issues. From the initial plurilateral consensus of the Agreement on Government Procurement (GPA) to the high-standard rules of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), international procurement rules have consistently sought a dynamic balance between the "attributes of public funds" and the "demands for trade liberalization." Chapter 15 of the CPTPP, representing these high-standard rules, has reshaped the institutional landscape of international government procurement. It is characterized by high discipline, transparency, and inclusiveness, achieved through expanding procurement coverage, strengthening non-discrimination principles, and refining remedy mechanisms.

As China actively seeks accession to the CPTPP, the alignment of government procurement rules has emerged as a central negotiation issue. However, gaps remain between China's Government Procurement Law and CPTPP requirements regarding procuring entities, transparency, and remedy efficiency. In light of the ongoing revision of the domestic Government Procurement Law and the research into the concept of "public-interest SOEs," exploring alignment paths between China's system and international high-standard rules is of significant importance. This paper aims to analyze the normative characteristics of the CPTPP, identify institutional disparities, and propose systematic alignment strategies, such as expanding entity coverage, enhancing transparency, and improving supervision and remedy mechanisms, to provide a decision-making reference for China's CPTPP accession and the deepening of its government procurement reform.

1. Evolution and Development of International Government Procurement Rules

1.1 Generative Logic and Theoretical Foundations of International Government Procurement Rules

Government procurement refers to the purchasing activities conducted by a government or its agents as consumers for their own use, rather than for commercial resale.^[1] Government procurement not only reduces public expenditure and stimulates the vitality of the market economy but also safeguards the implementation of macro-control policies and fosters the prosperity of domestic industries.^[2] Since government procurement utilizes taxpayers' money characterized by the attribute of "public funds," its policy starting point is the protection, encouragement, and support of the "public interest." Consequently, it functions to nurture and support domestic enterprises in terms of fund utilization.^[3] Therefore, whether in the General Agreement on Tariffs and Trade (GATT 1947/1994) or the General Agreement on Trade in Services (GATS), government procurement has long remained an exception

^[1] Jianming Cao & Xiaoyong He, World Trade Organization, *Law Press* (1994), p. 229.

^[2] Haitao Ma, Government Procurement Management, *Economic Science Press* (2003), p. 56.

^[3] Xiaoyong He, "Legal Recommendations for China's Early Accession to the Agreement on Government Procurement," *Economic and Trade Law Review*, No. 6 (2019), p. 14.

to the National Treatment principle.^[4]

With the advancement of international trade and the deepening awareness of trade liberalization, the international community has placed greater emphasis on the fairness and transparency of government procurement, bringing negotiations on this issue to the forefront. In the early 1960s, GATT initiated negotiations on government procurement; however, due to the difficulty in coordinating the interests of various parties, no substantive results were achieved. Nevertheless, the momentum did not cease. On April 12, 1979, the Agreement on Government Procurement was signed during the Tokyo Round, marking the world's first international agreement on the subject. The 1987 Uruguay Round revised the 1979 agreement, and a new cooperative intent was reached in 1993 based on these revisions, eventually culminating in the 1994 Uruguay Round GPA. In 1994, the United Nations Commission on International Trade Law (UNCITRAL) released the Model Law on Public Procurement, providing a domestic legislative template for developing countries while emphasizing competition, fairness, and anti-corruption. Regional rules also continued to emerge: the European Union harmonized procurement requirements among member states through its Public Procurement Directives, and the North American Free Trade Agreement (NAFTA) established a dedicated chapter on government procurement.

The evolutionary trajectory of international government procurement rules reflects the international community's growing focus on the "public nature" of procurement. Foreign academia explored this topic early on. S. Arrowsmith argued that government procurement represents government participation in market activities; thus, fulfilling public functions is its primary purpose, a view that ultimately defined the scope of the European Union (EU) 's Public Procurement Law.^[5] American scholar Dobler, in the book *Purchasing and Supply Management*, provided a profound analysis of the distinctions between government procurement and private procurement: since government procurement funds originate from taxes and donations, public procurement departments essentially serve as fund managers acting on behalf of taxpayers and donors.^[6] From this perspective, while private procurement aims to satisfy consumption needs using personal assets, government procurement utilizes fiscal funds to better perform governmental functions and meet societal demands. Regarding the role of government procurement, Thai and Grimm suggested that governments fulfill their functions through income distribution and the production or purchase of goods and services.^[7] D. Connell posited that government procurement facilitates the development of SMEs. It not only provides policy support for emerging high-tech enterprises but also promotes international trade activities by increasing overseas investment, thereby laying a solid economic foundation for further narrowing the gap between the rich and the poor.^[8]

^[4] See *General Agreement on Tariffs and Trade* (GATT 1994), Art. III:8; *General Agreement on Trade in Services* (GATS), Art. XIII.

^[5] S. Arrowsmith, *The Entity Coverage of the EC Procurement Directives and UK Regulations*, *Public Procurement Law Review*, 2004, p. 59.

^[6] Donald·W·Donbler., *Purchasing and Supply Management*, *The Mc Graw-Hill Companies*, 1986, p. 63.

^[7] Khi·V·Thai, Rich Grimm, *Government Procurement: Past and Current Developments*, *Journal of Public Budgetin (Accounting & Financial Management)*, 2000, 12(2), PP. 231-247.

^[8] D. Connell, *Using Government Procurement to Help Grow New Science and Technology Companies: Lessons from the US Small Business Innovation Research (SBIR) Programme*, *Innovation Management Policy & Practice*, Vol. 11, No. 1 (2009), pp. 127-134.

1.2 Evolution and High-Standardization Trends of International Government Procurement Rules since the 21st Century

Entering the 21st century, international government procurement rules have increasingly reflected characteristics aligned with contemporary development. Following further negotiations and market access offers, the latest version of the GPA was finalized in 2012. This version expanded coverage, introduced new rules such as e-procurement and SME participation, and incorporated environmental and social policy objectives for the first time. Similarly, the 2011 revision of the UNCITRAL Model Law on Public Procurement integrated mechanisms for electronic reverse auctions and online complaint procedures. The EU's Public Procurement Directives were also revised in 2014 to promote e-procurement, account for environmental and social standards, and establish support policies for SMEs. In 2016, the Trans-Pacific Partnership (TPP) was signed; despite lingering issues such as the definition of SOEs and the risk of abusing national security exception clauses, the agreement demonstrated a commitment to high-standard openness, transparency, and fairness. After the U.S. withdrawal in 2017, the remaining 11 nations resumed negotiations to form the CPTPP, while fully retaining the government procurement chapter. As a representative of high-standard international rules, the CPTPP has become the first high-standard procurement regulatory framework covering major Asia-Pacific economies.

In summary, the generation and evolution of international government procurement rules are essentially a process of seeking a dynamic balance between the "attributes of public funds" and the "demands for trade liberalization." This dual nature allows the government procurement system to serve simultaneously as a "national governance tool" and an "international economic and trade issue." Its theoretical foundation is rooted in the public interest orientation and the fiscal nature of procurement funds, initially safeguarding regulatory autonomy through national treatment exceptions. However, with the further advancement of international trade, the focus of these rules has gradually shifted toward common values such as fair competition and transparency. This has resulted in a diversified development pattern ranging from global agreements to regional rules, and from basic structural frameworks to detailed institutional specifications.

Currently, the global landscape is undergoing profound transformation and restructuring. Amid the rise of unilateralism and intensifying trade protectionism, the process of economic globalization faces severe stagnation and volatility. China's active application to join the CPTPP presents both the practical challenge of aligning with high-standard procurement rules and a significant opportunity to refine its domestic procurement system and deeply integrate into the global trade governance system. The characteristics of high-standard openness, transparent operation, and integration of diversified values embodied in the CPTPP procurement rules not only represent the development trend of international rules but also provide clear guidance for the reform of China's procurement system. Therefore, systematically reviewing the evolutionary logic of international rules, analyzing the core requirements and institutional innovations of the CPTPP, and exploring alignment paths for China's system are of profound theoretical and practical significance. Such research facilitates China's CPTPP negotiation process, elevates the level of institutional opening-up in procurement, and safeguards national economic security and industrial development interests.

2. Normative Analysis and High-Standard Characteristics of CPTPP Government Procurement Rules

2.1 Normative Structure and Textual Requirements

Chapter 15 of the CPTPP provides a systematic regulatory framework through a comprehensive system of articles. It addresses the definition and scope of government procurement, general obligations, procurement methods and procedures, publication and disclosure of information, conditions for supplier participation, rules for limited tendering and negotiations, time periods, technical specifications, domestic review mechanisms, facilitation of SMEs participation, and cooperation among parties. This forms an integrated framework covering both substantive and procedural norms, with the core philosophy centered on establishing an open, transparent, and competitive government procurement system.^[9]

In the general provisions, the CPTPP stipulates the principles of National Treatment and Non-discrimination. National Treatment requires each party and its procuring entities to immediately and unconditionally accord to the goods, services, and suppliers of any other party treatment no less favorable than that accorded to its own or any other party's goods, services, and suppliers. Non-discrimination encompasses both "equity non-discrimination" and "origin non-discrimination," meaning no differential treatment shall be applied based on a supplier's degree of foreign affiliation or ownership, or the proportion of foreign content in its services or goods. To ensure the substantive efficacy of these obligations, the CPTPP adopts a negative list management model. By explicitly enumerating prohibited measures, such as technical specifications acting as trade barriers, complex registration requirements, or overly stringent qualification criteria, it eliminates discriminatory barriers that could create "unnecessary obstacles" or exclusionary effects.^[10]

Regarding specific content, the CPTPP further expands its coverage: it incorporates Build-Operate-Transfer (BOT) contracts and public works concession contracts into its scope. Procuring entities include not only central and sub-central government agencies but also certain SOEs, public utility enterprises, and other entities controlled by the government. The threshold values for goods and services are lower than those in the GPA; for instance, the threshold for central government goods procurement is 130,000 Special Drawing Rights (SDRs), compared to the GPA's 200,000 SDRs. Simultaneously, the agreement emphasizes the balance and protection of supplier interests, SMEs, and the environment, such as by strengthening supplier rights and remedy mechanisms, allowing suppliers to challenge procurement results and seek redress. Exception clauses are also established for national security, developmental policies, and the protection of public interests.

2.2 High-Standard Characteristics

CPTPP government procurement rules are regarded as the benchmark for international high standards, significantly strengthening disciplines beyond the GPA framework. They not only accelerate the international standardization of procurement procedures but also enhance the depth of market openness and synergy among

^[9] Hongrui Chen & Miaomiao Li, Government Procurement System of CPTPP: Characteristics, Challenges and China's Response, *Intertrade*, No. 12 (2022), pp. 23–31.

^[10] Hongrui Chen & Miaomiao Li, Government Procurement System of CPTPP: Characteristics, Challenges and China's Response, *Intertrade*, No. 12 (2022), pp. 23–31.

members through institutional spillover effects.^[11] These characteristics can be further elaborated through the lens of coverage, transparency, and rights remedies.

2.2.1 Expanding Coverage Beyond Traditional Boundaries

Firstly, regarding the scope of procuring entities, the CPTPP extends coverage from traditional government agencies to "government-controlled SOEs and public utility enterprises" in pivotal sectors such as energy, postal services, and finance. It mandates that the procurement activities of these entities adhere to core principles such as non-discrimination and transparency, thereby dismantling the traditional convention of "SOE procurement exemptions."^[12]

Secondly, regarding contract types, the CPTPP incorporates BOT contracts and public works concession contracts into its scope. This ensures that procurement rules encompass not only direct purchasing but also adapt to the transformative demands of modern public service delivery models.

Lastly, regarding threshold values, the threshold for central government goods and services is set at 130,000 SDRs, substantially lower than the GPA's 200,000 SDRs standard. Thresholds for sub-central and other entities have been lowered accordingly, markedly expanding the range of projects subject to international rules.

2.2.2 Safeguarding and Refining Core Principles

The CPTPP imposes more rigorous obligations for non-discrimination and national treatment than mere principled advocacy, ensuring substantive enforcement through explicit prohibitory clauses and exception review mechanisms. Beyond "origin-based non-discrimination," it introduces "equity-based non-discrimination," which prohibits differential treatment predicated on a supplier's degree of foreign ownership or affiliation. Simultaneously, it employs a "negative list" to enumerate eight categories of prohibited obstacles, such as unreasonable technical specifications or excessive experience requirements, to prevent de facto discrimination behind a facade of de jure compliance.

To prevent the abuse of exception clauses, the CPTPP denies parties the "self-judging authority" over national security and public policy exceptions. Instead, it requires that any exception measures satisfy the principles of necessity and proportionality, supported by objective evidence demonstrating the absence of less trade-restrictive alternatives. Such measures are also subject to scrutiny by dispute settlement bodies.^[13]

2.2.3 Standardizing and Implementing Transparency Obligations

Transparency is a hallmark of the CPTPP. Procuring entities are required to disclose information via unified electronic platforms. The procurement process must be transparent, with strict timeframes for tender notices and contract awards. For instance, Article 15.17 requires that tender documents, evaluation criteria, and award results be publicized; upon request, entities must "promptly provide" information regarding the relative advantages of the winning supplier. Furthermore, it strictly defines the boundaries of confidential information to balance transparency with the protection of business secrets. The use of non-competitive methods, such as limited

^[11] Chenglong Guo, Synergistic Effects of FTA and GPA on International Government Procurement Market Opening: A Case Study of CPTPP and RCEP, *Asia-Pacific Studies*, No. 2 (2022), pp. 57–62.

^[12] Zhongmei Wang, "Challenges and Responses of CPTPP Government Procurement Rules to China," *International Economics and Trade Research*, No. 7 (2023), pp. 89–105.

^[13] Hui Zhang, "Regulation of Exception Clauses in High-Standard Economic and Trade Agreements on Government Procurement: A Perspective of CPTPP," *Studies in Law and Business*, No. 4 (2023), pp. 176–188.

tendering or negotiations, is rigorously restricted, requiring written justification to prevent the circumvention of competition.

2.2.4 Substantiating Rights Remedies and Supervision

The CPTPP establishes comprehensive requirements for remedy and supervision. Article 15.19 mandates that parties establish a "neutral administrative or judicial review authority independent of the procuring entity," thereby precluding "self-judgment" by procurement bodies. The framework provides flexible remedy channels, such as "rapid interim measures" that allow review authorities to suspend procurement activities pending a final ruling to preserve supplier opportunities. It also clarifies compensation for violations, including reasonable costs for bid preparation and protests, reducing the financial barrier to rights assertion.^[14] Additionally, Article 15.18 requires criminal or administrative measures to combat corruption, including the potential debarment of fraudulent suppliers and mandatory conflict-of-interest management (e.g., recusal and asset disclosure).

2.2.5 Integrating Sustainable Development and Fair Competition

The CPTPP incorporates modern governance concepts, such as environmental protection, labor welfare, and SME participation, into its regulatory framework. For example, entities are permitted to include requirements for "environmental protection and human/animal health" within technical specifications and may mandate labor protection compliance as a prerequisite for participation.^[15] Furthermore, SME facilitation is a distinctive feature. Article 15.21 stipulates specific measures, including the centralized electronic publication of SMEs-specific procurement information, free provision of tender documents, and the allowance for subcontracting. This transforms "SME support" from a principled slogan into an operational institutional framework, safeguarding the fairness of market competition.^[16]

3. Comparative Analysis of CPTPP Rules and China's Government Procurement System

3.1 Convergences in Core Concepts

China's Government Procurement Law is currently undergoing a revision process. Although the existing law was enacted during an earlier period, some of its underlying philosophies demonstrate significant convergences with CPTPP rules.

Firstly, from the perspective of macro-policy objectives, both systems share a consistent understanding of the public attributes and public policy functions of government procurement. Under Article 15.3, paragraph 1 ("Exceptions") of the CPTPP, it is stipulated that the procurement provisions shall not prevent a procuring entity from implementing measures necessary to protect public morals, order, or safety; human, animal, or plant life or health; and intellectual property. It also allows for measures relating to the goods and services of persons with disabilities, philanthropic or non-profit institutions, or prison labor. These constitute "legal exceptions" to procurement rules, meaning that entities may adopt measures inconsistent with mandatory obligations to uphold these values. Correspondingly,

^[14] Zhongmei Wang, "Challenges and Responses of CPTPP Government Procurement Rules to China," *International Economics and Trade Research*, No. 7 (2023), pp. 89–105.

^[15] Hui Zhang, Regulation of Exception Clauses in High-Standard Economic and Trade Agreements on Government Procurement: A Perspective of CPTPP, *Studies in Law and Business*, No. 4 (2023), pp. 176–188.

^[16] Sun Liu & Mengya Li, Comparison of Government Procurement Rules Between CPTPP and GPA and China's Accession Path, *Legal Forum*, No. 2 (2024), pp. 112–124.

Article 9 of China's Government Procurement Law posits that "government procurement should facilitate the achievement of national economic and social development policy goals, including environmental protection, supporting underdeveloped and ethnic minority areas, and promoting the development of SMEs." Both frameworks recognize that government procurement is not a mere "market transaction" but a national governance tool designed to safeguard public interests and implement public policies. They share a conceptual consensus on core values such as protecting public safety, the ecological environment, and the rights of specific vulnerable groups.

Secondly, both systems establish "Openness, Transparency, and Fair Competition" as fundamental principles, emphasizing the prevention of power abuse and the protection of equal participation rights for market subjects through standardized procedures. The opening sections of Chapter 15 of the CPTPP establish the principles of transparency and non-discrimination, requiring the disclosure of procurement information throughout the entire process and strict standardization of procedures. It safeguards suppliers' right to know and participate through mechanisms such as electronic platforms and mandatory time limits. Similarly, Article 3 of China's Government Procurement Law explicitly lists "openness, transparency, fair competition, justice, and good faith" as its basic principles. It requires information on procurement projects, standards, and results to be disclosed in designated media, using public bidding as the primary method to construct a competitive market environment.

Furthermore, regarding specific rules, the two systems exhibit similarities in certain detailed requirements. For instance, both frameworks support electronic procurement methods and include requirements aimed at facilitating participation by SMEs. Regarding communication, both systems impose an obligation on procuring entities to respond to inquiries from suppliers. Although the specific technical details have not yet achieved full identity, the convergence in these institutional directions indicates that China's government procurement rules and international high-standard rules share a compatible foundation at the core operational level, rather than being two entirely disconnected systems.

3.2 Divergences in Specific Provisions

3.2.1 Scope of Procuring Entities

Article 2 of China's Government Procurement Law defines procuring entities as "government organs, institutions, and public organizations at all levels," which notably excludes two major categories: SOEs and the military. In contrast, the CPTPP only excludes "international assistance" and "special procedures or conditions under international agreements related to the stationing of troops or joint execution by project signatory countries." Comparatively, the CPTPP provides a much broader coverage of procuring entities. The CPTPP allows members to list specific entities via annexes, categorized into central entities, sub-central entities, and "other entities." In the "other entities" section, many countries have included public-interest SOEs, such as Australia's Export Finance and Insurance Corporation, the Grains Research and Development Corporation, Canada Post, and Atlantic Pilotage Authority. Furthermore, the CPTPP imposes additional constraints by requiring procuring entities to comply with Article 19.3 regarding "Labor Rights" as a condition for supplier participation.

3.2.2 Procurement Methods and Coverage

Currently, China's Government Procurement Law stipulates six procurement methods, with public bidding as the default. Invited bidding is used for specialized or high-cost

projects; competitive negotiation for technically complex or urgent needs; single-source procurement for sole suppliers or emergencies; inquiry for standardized goods; and other methods recognized by the State Council. Although public bidding is primary, non-bidding methods are frequently applied. Conversely, the "covered procurement" in CPTPP encompasses goods, services, or combinations thereof, involving purchases, leases, rentals, BOT contracts, and public works concession contracts. In contrast, China defines procurement as the acquisition of goods, works, and services for consideration through contracts, including purchase, lease, entrustment, and employment. A key disparity is that China has not yet explicitly incorporated BOT and public works concession contracts into its statutory procurement framework.

3.2.3 Divergence in Non-discrimination Obligations

Section 4, Chapter 15 of the CPTPP explicitly establishes the principles of "Equity Non-discrimination" and "Origin Non-discrimination." From the outset, the "General Principles" mandate that parties comply with National Treatment in committed areas: each party and its procuring entities must immediately and unconditionally accord to the goods and services of any other party treatment no less favorable than that accorded to domestic or other parties' goods and services. Article 15.4(2) further clarifies that this treatment prohibits discrimination based on the degree of foreign affiliation/ownership or the source of products/services. While Article 22(2) of China's law prohibits "unreasonable conditions" and "discriminatory treatment," and various regulatory documents list specific discriminatory means, the systematic classification and scope in China remain distinct from the CPTPP's rigorous framework.^[17]

3.2.4 Guarantees for Information Disclosure

China's government procurement transparency currently faces challenges of fragmented legislation and low systemic integration. Compared to the CPTPP, while China's "Openness and Transparency" principle echoes the international requirement, gaps remain in specific rules. Current laws and regulations, such as the Government Procurement Information Publication Measures, focus on procedural management and platform norms but lack detailed standards for post-award disclosure of documents and results. In practice, local units often rely on scattered normative documents like the 2020 Format Specifications issued by the Ministry of Finance. This lack of centralized alignment leads to procedural redundancy and administrative burdens.^[18] In contrast, the CPTPP provides granular rules on the scope, content, timing, and platforms for disclosure, exceeding China's current operational standards for high-level transparency.

3.2.5 Guarantees for Technical Specifications

China's law lacks robust prohibitive rules against the misuse of technical specifications, making it difficult to balance specific agency needs with fair competition in non-standardized projects, thereby creating "hidden technical barriers." The CPTPP requires parties to adopt international standards where possible and employs a "negative list" to explicitly prohibit requirements for specific trademarks, models, or origins in tender documents. This detailed institutional arrangement mitigates the lack of constraints on discretionary power in domestic legislation and enhances the predictability of rules.

^[17] Zeming Zhang, Alignment Paths Between CPTPP Procurement Rules and China's Practices, *China Bidding*, No. 12 (2025), pp. 32–37.

^[18] Hongrui Chen & Miaomiao Li, Government Procurement System of CPTPP: Characteristics, Challenges and China's Response, *Intertrade*, No. 12 (2022), pp. 23–31.

3.2.6 Objection and Remedy Mechanisms

Regarding rights remedies, CPTPP Article 15.19 establishes a system emphasizing promptness, transparency, and non-discrimination, aimed at safeguarding suppliers' right to action through administrative or judicial paths. While parties can choose the path based on national conditions, they must uphold judicial independence and due process, ensuring even non-judicial rulings remain impartial. The CPTPP encourages prior consultation to resolve disputes but breakthroughly grants suppliers standing for procedural litigation even in the absence of a domestic law basis. It provides diverse remedies, including "rapid interim measures" to suspend procurement and substantive correction mechanisms to compensate for bidding and protest costs. Conversely, China's remedy system is highly administrative, following a hierarchical path from challenges and complaints to administrative reconsideration or litigation, thereby increasing the threshold and opportunity costs for market subjects.

3.2.7 Legal Consequences and Liabilities

China's law imposes clear fines (20,000 to 200,000 RMB) and administrative sanctions (e.g., debarment for 1–3 years) for violations by procuring entities, agencies, or officials. CPTPP Chapter 26 (Transparency and Anti-Corruption) and Article 15.18 focus on combating corruption through criminal and administrative means, encouraging international cooperation and civil society participation. While the CPTPP delegates the power to define specific penalties to each party, it mandates that such measures must effectively ensure integrity and combat fraud in procurement practices.

4. Recommendations for Aligning Domestic Rules with Government Procurement under the CPTPP Framework

4.1 Expanding the Scope of Procuring Entities

The inclusion of SOEs remains a primary point of contention. The CPTPP adopts a flexible approach, allowing members to list entities in annexes. Under Annex 15-A, many nations include public-interest SOEs (e.g., Australia's Export Finance and Insurance Corporation). For China, the legal status of SOEs in procurement law has long been a focal point of debate, balancing the "source of funds" argument (public funds necessitate regulation) against "market subject independence."

The 2022 Draft Revision of China's Government Procurement Law introduced "other procuring entities," defining them as public-interest SOEs engaged in public utilities or infrastructure for public purposes. This marks the first legislative inclusion of SOEs. To achieve alignment, China must first recognize the necessity of this inclusion: currently, many SOEs follow the Tendering and Bidding Law or localized management measures, leading to inconsistent legal application and potential "regulatory voids" prone to corruption or bid-rigging. Internationally, as seen in the GPA and CPTPP, public-interest SOEs are de facto regulated entities.^[19]

In practice, China should not rely solely on shareholding structures but should adopt a comprehensive criteria model involving the purpose of procurement, fund usage, and industry distribution. In the initial stage, it is advisable to limit the scope to wholly state-owned enterprises in key public sectors, with a dynamic adjustment mechanism

^[19] Aihua Jiang & Mian Wei, Reflections on Including Public-interest SOEs into the Scope of Government Procurement Entities, *China Bidding*, No. 11 (2023), pp. 44–46.

to reflect the progress of mixed-ownership reforms.^[20] Finally, the inclusion must balance international alignment with national security and industrial interests.

4.2 Enhancing Transparency Levels

The principle of transparency in the CPTPP Government Procurement Chapter is manifested as a set of highly standardized disclosure procedures. Parties are not only obligated to publish macro-level legal systems and policy procedures but are also required to conduct prompt and timely information disclosure throughout the entire lifecycle of specific procurement projects, particularly in key stages such as tendering, bid evaluation, and contract award.^[21] Article 3 of China's Government Procurement Law stipulates that government procurement shall adhere to the principles of openness and transparency, fair competition, justice, and good faith, which is consistent with the transparency requirements of the CPTPP. Regarding specific rules, it only prescribes that information be promptly disclosed to the public via media designated by the supervisory and administrative departments, with an exception for trade secrets.^[22] While procurement standards and methods must be made public,^[23] the Government Procurement Law lacks explicit provisions concerning the specific content and timeframes for such disclosures. Furthermore, there is a deficiency in clear standards for technical specifications in procurement. This not only potentially increases the bidding costs for enterprises but also creates loopholes for "power rent-seeking," which fails to meet the requirements of the principle of fair competition.

Currently, due to the fragmented nature of legislation, the disclosure of procurement information in China lacks systematicity and rigor, making it difficult to provide clear guidance to participants in procurement activities.^[24] Therefore, to meet international standards, government procurement information disclosure requires further refinement of its content and clarification of relevant technical standards, providing a guarantee for the information disclosure system through systematic regulations. Furthermore, Chinese law provides "exception space" for information disclosure, namely trade secrets. In practice, many procurement participants circumvent disclosure requirements by citing reasons such as "trade secrets," "procedural information," or "internal information." Consequently, in the process of rule-making, special attention should be paid to the balance between the protection of trade secrets and the requirements for information disclosure.

4.3 Improving Supervision and Dispute Resolution Mechanisms

Effective supervision of government procurement is vital to its impartiality. In China, the current supervisory body is the Ministry of Finance, which is primarily responsible for inspecting procurement activities and evaluating centralized procurement agencies on matters such as procurement prices, fund-saving effects, service quality, reputation, and compliance, with regular public disclosure of these results.^[25] However, under the existing system, the Ministry of Finance assumes multiple roles, integrating functions of budgeting, approval, and regulation. This role

^[20] Haijing Yang & Zihui Ma, Expansion of Government Procurement Entities from the Perspective of the Evolution of 'Public-interest SOEs': A Commentary on Article 12 of the Government Procurement Law (Draft for Comments), *China Bidding*, No. 9 (2023), pp. 49–51.

^[21] Hongrui Chen & Miaomiao Li, Government Procurement System of CPTPP: Characteristics, Challenges and China's Response, *Intertrade*, No. 12 (2022), pp. 23–31.

^[22] *Government Procurement Law of the People's Republic of China*, Art. 11.

^[23] *Government Procurement Law of the People's Republic of China*, Art. 63.

^[24] Hongrui Chen & Miaomiao Li, Government Procurement System of CPTPP: Characteristics, Challenges and China's Response, *Intertrade*, No. 12 (2022), pp. 23–31.

^[25] *Government Procurement Law of the People's Republic of China*, Arts. 65 & 66.

overlap is highly prone to causing power imbalances. Especially at the local level, supervisory bodies are often deeply intertwined with procuring entities or specific projects, creating unavoidable conflicts of interest or institutional entanglements.^[26] Consequently, greater emphasis should be placed on whether supervisory departments maintain an objective and impartial stance and whether the effectiveness of such supervision is fully realized. Currently, China has established a supervisory framework encompassing audit supervision by auditing organs, supervision by supervisory authorities, and oversight by organizations and individuals. In the future, China could explore more paths to leverage social forces, such as integrating supervision from industry associations and ensuring the timely publication of supervisory information, thereby perfecting the oversight of government procurement.

The provision of remedies for suppliers is also a crucial component of the government procurement system. The smoothness and timeliness of dispute resolution mechanisms directly affect procurement efficiency. Chinese law provides the following protections for suppliers: suppliers may file inquiries with the procuring entity regarding procurement matters;^[27] if they believe their rights have been infringed, they may submit a written challenge to the procuring entity within seven working days from the date they knew or should have known of the infringement.^[28] If the procuring entity fails to respond or the supplier is dissatisfied with the response, a complaint may be filed with the supervisory department at the same level.^[29] If dissatisfied with the complaint ruling or if the department fails to act, the supplier may apply for administrative reconsideration or initiate administrative litigation in a people's court.^[30]

It can be observed that China's remedy path for suppliers adopts a hierarchical model, progressing from inquiries and challenges to complaints, and ultimately to administrative reconsideration or litigation. This differs significantly from the diverse, optional remedy paths offered by the CPTPP. Under the CPTPP, internal administrative protest procedures are not mandatory; the agreement supports dispute resolution through consultation. Parties may independently decide whether to pursue consultation, litigation, or apply for an initial review by an administrative organ, with the right to litigate if dissatisfied with the initial review.^[31] Evidently, CPTPP rules are more multi-dimensional and pluralistic, which helps reduce the costs of rights assertion for suppliers, saves time in the protest process, and resolves disputes efficiently and timely. Furthermore, the CPTPP stipulates rapid interim measures to suspend procurement activities and corrective measures to compensate for complaint costs, ensuring that the protection of supplier interests is more timely, effective, and substantive. Therefore, constructing a dispute resolution mechanism that meets the actual needs of procurement activities is critical; likewise, perfecting supervisory and remedy mechanisms that align with both international requirements and China's procurement practice is essential for supplier confidence and overall fairness. Continuous exploration and improvement of these systems remain vital.

^[26] Hongrui Chen & Miaomiao Li, Government Procurement System of CPTPP: Characteristics, Challenges and China's Response, *Intertrade*, No. 12 (2022), pp. 23–31.

^[27] *Government Procurement Law of the People's Republic of China*, Art. 51.

^[28] *Government Procurement Law of the People's Republic of China*, Art. 52.

^[29] *Government Procurement Law of the People's Republic of China*, Art. 55.

^[30] *Government Procurement Law of the People's Republic of China*, Art. 55.

^[31] *CPTPP*, Art. 15.9.

4.4 Integrating Modern Value Concepts

Beyond specific rules, the CPTPP reflects institutional pursuits encompassing higher value-based concepts, such as environmental protection, labor interest safeguards, SMEs participation, and the promotion of electronic means. Specifically, the CPTPP encourages procuring entities to implement measures necessary for the protection of human, animal, or plant life or health.^[32] It does not prevent a procuring entity from preparing, adopting, or applying technical specifications to promote the conservation of natural resources or the protection of the environment.^[33] Subject to the requirements of Chapter 26 (Transparency and Anti-corruption), it does not preclude Parties from adopting measures related to labor protection. Parties are also required to facilitate SME participation and cooperate in this regard.^[34] Furthermore, Parties shall seek to provide opportunities for covered procurement to be conducted through electronic means, including the publication of procurement information, notices, and tender documents, as well as the receipt of bids.^[35]

These rules reflect the CPTPP's focus on environment, social benefits, and new technological requirements; moreover, the support for SMEs further fosters a fair competition environment. China's Government Procurement Law also embodies policy goals for economic and social development, including environmental protection, support for underdeveloped and minority ethnic regions, and the promotion of SME development.^[36] However, these provisions remain principled declarations and lack specific implementing rules. Therefore, in perfecting China's procurement rules, emphasis should be placed on operationalizing the aforementioned concepts. In the tendering stage, factors such as environmental protection, labor rights, and the use of electronic means could be integrated as reference standards for suppliers, with subsequent inclusion in the scope of supervision. For SMEs, when formulating procurement plans and schemes ex-ante, purchaser conditions and reasonable thresholds should be set in light of SME circumstances to facilitate their access to documents and policy information. During the tendering process, a fair competition review mechanism could be established, incorporating systematic management systems such as supervisory warnings, price monitoring, and integrity evaluations as a "second line of defense" to safeguard SME participation.^[37] Ex-post, supervisory departments should timely evaluate and oversee whether procuring entities have provided necessary support to SMEs during the process. Additionally, cross-departmental and cross-regional cooperation mechanisms could be explored regarding technological innovation, financing, and information integration for SMEs.

5. Conclusion

The transition of government procurement toward a high-standard international regime is irreversible. As a benchmark, the CPTPP provides a critical reference for China's institutional reform. While China possesses a solid foundation for alignment, substantive gaps remain in entity coverage, transparency, and remedy efficiency.

^[32] CPTPP, Art. 15.3.

^[33] CPTPP, Art. 15.12.

^[34] CPTPP, Art. 15.21&15.22.

^[35] CPTPP, Art. 15.4.

^[36] *Government Procurement Law of the People's Republic of China*, Art. 9.

^[37] Shan Huang, Smart Cloud Platform for Government Procurement Enhances the Convenience for SMEs to Participate in Government Procurement, *China Government Procurement*, No. 10 (2021), pp. 62–63.

Facing the strategic opportunity of CPTPP accession, China should leverage the revision of the Government Procurement Law to achieve a high-level alignment.

First, China must scientifically define the inclusion criteria for public-interest SOEs and establish dynamic adjustment mechanisms to bridge the gap in procuring entities. Second, a systematic disclosure regime should be built, explicitly defining the content and timeframes of disclosure to balance transparency with trade secret protection. Third, the establishment of independent oversight bodies and diversified remedy paths is essential to simplify procedures and strengthen supplier protection. Fourth, modern governance concepts, such as green procurement, labor rights, and SME support, should be transformed from principled declarations into operational norms.

Through these paths, China can align with international trends while safeguarding national economic security. This evolution will not only fulfill the obligations of high-standard agreements like the CPTPP but also provide solid institutional support for China's deep integration into global trade governance and the advancement of its institutional opening-up. Future research should focus on the practical experiences of CPTPP contracting parties to provide further operational insights for China's regulatory alignment.