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The Impact of the "Competitive Neutrality" Rule in Regional Trade Agreements on China's State-Owned Enterprise Reform

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Abstract. As a benchmark of high-standard international economic and trade rules, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) establishes a "competitive neutrality" framework governing state-owned enterprises through non-commercial assistance, transparency, and antitrust provisions. China has formally applied to join the CPTPP, yet its current State-owned enterprise (SOE) governance still lags the agreement's standards. This paper interprets the core provisions of competitive neutrality--including SOE definition, commercial considerations, non-commercial assistance, and transparency--through legal hermeneutics, combining textual and systematic interpretation. It then compares these international norms with domestic texts including but not limited to the Anti-Monopoly Law (2022 amendment) and the Fair Competition Review Regulations, to clarify the alignment benchmark. Through comparative and literature analysis, the paper assesses gaps between CPTPP requirements and China's SOE system and proposes tailored responses, such as building a unified information-disclosure platform, deepening competition-policy-based enforcement, and institutionalizing subsidy transparency. The conclusion holds that joining the CPTPP is not merely a rule game but an opportunity to push SOEs toward law-based, market-oriented transformation.

Keywords: CPTPP, Competitive Neutrality, State-Owned Enterprises, Non-Commercial Assistance

1. Introduction

With the profound reshaping of the global economic and trade landscape, the CPTPP has officially come into effect at the end of 2018, becoming a model for current high-standard regional trade agreements. The Chapter 17， state-owned enterprises and designated monopolies, centers on "competitive neutrality", setting strict regulatory standards in areas such as the definition of state-owned enterprises, non-discriminatory treatment and commercial considerations, non-commercial aid, transparency, and jurisdictional and regulatory fairness. From the perspective of external practice, this regulatory logic does not remain mere textual but has already substantively driven domestic institutional reform for latecomer members. Taking Vietnam as an example, as the developing member with the greatest economic and social system differences from other members

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of CPTPP, it has always taken a proactive stance in negotiations, aligning with agreement requirements through expanding opening-up, strengthening legal systems, and promoting the reform of state-owned enterprise shareholding systems, attempting to break through the bottleneck of SOE reform through external rule pressure. From Vietnam's reform practice, it can be seen that the new treaty language of CPTPP regarding state-owned enterprises, in terms of market openness commitments, restrictions on state influence over business decisions, and transparency, constitutes an important external driving force for SOE reform [1].

In 2021, China officially applied to join the CPTPP, meaning that Chinese state-owned enterprises must face new high-standard international economic and trade rules based on "competitive neutrality." However, Chinese state-owned enterprises have long undertaken multiple functions such as macro-control, public services, and industrial policy. Although their reform direction aligns with the goal of "competitive neutrality", there is still room for discussion in the details of institutional alignment. How to achieve a positive interaction between international rule alignment and deepening reforms of domestic enterprises has become a major issue that urgently needs to be addressed.

2. Interpretation of core obligations in the CPTPP state-owned enterprise rules

CPTPP inherits and strengthens the approach of the Trans-Pacific Partnership Agreement, which treats state-owned enterprise issues as separate chapters, using Chapter 17 "State-Owned Enterprises and Designated Monopolies" as a carrier to build a general disciplinary system centered on competitive neutrality as its core value and clearly stricter than regulation of private enterprises [2]. Compared with existing international trade rules, this chapter does not stop at traditional trade remedy tools such as countervailing or anti-dumping, but imposes systematic constraints on state-owned enterprises' participation in international market competition from four dimensions: subject definition, behavioral constraints, financial support, and information disclosure [3]. Some scholars point out that Chapter 17 is currently the most extensive and in-depth treaty practice regulating state-owned enterprises, with its normative logic being to prevent potential competitive distortions arising from state ownership itself through formal rule equality [4].

2.1. Scope of application and definitional standards of the SOE rules

According to Chapter 17 of the CPTPP, the agreement does not adopt the long-standing concept of "public body" used in the World Trade Organization (WTO) countervailing law, but instead establishes a set of composite criteria based on "government ownership or control" and limited to "engaging in commercial activities". Accordingly, state-owned enterprises in the meaning of the agreement must simultaneously meet two requirements: first, primarily engaged in commercial activities; second, the government has ownership or control over the enterprise in one of three situations--directly or indirectly holding more than 50% of the subscribed capital, controlling more than 50% of voting rights, or having the power to appoint a majority of board members [5]. These three criteria are independent and apply one of the above, and the latter two extend the judgment of "control" from formal equity to substantive voting rights and personnel appointment and removal rights, thereby significantly expanding the scope of regulation.

However, according to the State-owned Assets Supervision and Administration Commission of China, state-owned enterprises refer to wholly state-owned enterprises, wholly state-owned companies, and state-owned capital holding companies where the State Council and local people's governments respectively perform investor duties on behalf of the state, including enterprises

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supervised by central and local state-owned assets supervision authorities and other departments, and enterprises formed by their respective levels and their level-by-step investments [6]. There is a noteworthy tension between the two sets of standards: CPTPP uses "commercial activities" as the threshold element, excluding public entities that are not profit-oriented and only pursue cost recovery from the scope of "state-owned enterprises." In contrast, the State-owned Assets Supervision and Administration Commission's definition centers on "investor duties" and "state-owned capital holding," without prerequisites for whether the enterprise engages in commercial activities. This means that a group of state-owned entities undertaking public service functions and not primarily profit-oriented are still state-owned enterprises under Chinese law, but may fall outside the scope of the CPTPP rules because they do not meet the requirement of "mainly engaging in commercial activities". Conversely, situations of "actual control" not included in China's definition (such as controlling enterprises through agreement-based arrangements) may be regulated under the CPTPP "control voting rights" standard. Therefore, the dispute over defining standards is not purely a technical issue, but rather a strategic issue concerning the initiative in domestic institutional space and rule competition.

2.2. Prohibition rules on non-commercial assistance

The non-commercial assistance rule constitutes the most substantial and also the most difficult part of this chapter to be digested by domestic institutions. Non-commercial assistance refers to the transfer of benefits provided by a contracting party's government or state-owned enterprise through ownership or control of the state-owned enterprise, which is inconsistent with commercial considerations, including grants, loans, loan guarantees, equity investments under preferential terms, and provision or purchase of goods and services under preferential conditions [7]. Compared with the WTO Agreement on Subsidies and Countervailing Measures, there are two key breakthroughs: first, aid can be regulated without needing to prove that the state-owned enterprise is a "public institution"; Second, state-owned enterprises are constrained as both providers and recipients of subsidies, thereby extending the traditional subsidy discipline attributed to government actions to include the exchange of funds and resources between state-owned enterprises [8].

At the level of behavioral consequences, the agreement uses "adverse effects" as a prohibitive element for non-commercial aid, including substitution or price impact on goods trade, suppression of trade in services, harm to the domestic industries of another contracting party, and offsetting or reduction of benefits under the agreement [9]. Although the agreement reserves exceptions for specific purposes such as industrial research and development and regional development, the conditions are strict and the threshold is high, making it difficult to cover China's usual practices such as industrial subsidies, preferential financing, and preferential government procurement [10]. As a result, a large number of financial support measures through state-owned enterprises in China may be directly presumed as non-commercial aid under CPTPP rules and face litigation risks due to adverse effects.

2.3. Transparency and information disclosure obligations

The obligation of transparency is the institutional guarantee for the operation of this chapter. Without sufficient information disclosure, the aforementioned defining standards and non-commercial assistance rules will become mere formalities due to lack of verifiability. To this end, Chapter 17 establishes a mechanism combining "proactive notification" and "disclosure upon request": at the proactive notification level, contracting parties must notify and update their SOE

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directories, specifying the official names of enterprises and basic information such as government shareholding ratios; At the request disclosure level, more detailed information about covered state-owned enterprises must be provided, including equity ratios and special voting arrangements, government officials' positions in management or board of directors, income and asset status over the past three years, exemptions and exemptions under domestic law, and non-commercial assistance received [10]. The scope and granularity of this information list far exceed the general notification requirements for subsidies in traditional trade agreements.

Transparency obligations are linked to dispute resolution mechanisms; the adequacy of information disclosure determines whether the claimant can complete preliminary evidence and whether the respondent can effectively defend based on commercial considerations or exception clauses. In this regard, the transparency rules grant contracting parties not only information rights but also institutional supervisory capabilities. For economies where state-owned enterprises' information disclosure systems are not yet fully developed, this means ongoing compliance costs and evidence burdens.

3. Realistic challenges and obstacles for China's SOEs in aligning with the CPTPP

This section shifts from interpreting treaty texts to evaluating domestic institutional realities, identifying the main gaps that Chinese state-owned enterprises will face during the accession process. The analysis focuses on two interrelated dimensions: first, the transparency gap, which not only concerns the supply of verifiable information but fundamentally concerns the functional positioning of information disclosure in the governance of Chinese state-owned enterprises and the tension between it and the market-oriented logic of CPTPP; second, the compliance pressure generated by non-commercial aid rules, whose broad coverage and results-oriented standards have caused many existing support measures such as preferential credit, land and tax treatment, and resource transfers between enterprises to potentially be questioned. These gaps indicate that alignment with CPTPP is not only textual compliance but also institutional adjustment, which is precisely what will be explained below.

3.1. The transparency gap

The transparency gap is not only due to technical shortcomings in information supply but also reflects differences in the institutional positioning of SOE information disclosure functions. Since China began promoting information disclosure in central enterprises in 2016, institutional development has achieved certain results, but in practice, document subjects are dispersed, information carriers are diverse, and standards are not entirely unified. Most enterprises publish information separately through self-built websites, public accounts, and other channels, and a unified national-level comprehensive platform has not yet been formed, making information retrieval and centralized queries inconvenient [1]. This fragmented pattern is not simply an issue of execution; its root cause lies in China positioning information disclosure as an internal issue of state-owned enterprise governance and public supervision, with regulation mainly based on State-owned Assets Supervision and Administration Commission of the State Council (SASAC)'s administrative documents, driven by administrative deployment rather than international treaty obligations.

In contrast, Chapter 17 of the CPTPP shapes state-owned enterprise transparency as a regulatory obligation oriented toward international markets. The disclosure requirements for shareholding structure, special voting rights, government officials' appointments, three-year financial data, legal exemptions, and non-commercial assistance are not only broader in scope but also backed by treaty

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dispute settlement mechanisms. Both the strength of constraints and the target audience differ fundamentally from China's current practice. In comparison, China's public practice still lags significantly behind the requirements of CPTPP in terms of regulatory level, constraint strength, and disclosure scope.

3.2. The realistic pressure of non-commercial assistance

The institutional pressure brought by the non-commercial aid prohibition rule is first reflected in the diversity of support channels for China's state-owned sectors. Preferential credit for state-owned banks, land allocation, tax treatment, and government procurement correspond to forms of aid such as fund transfers and provision of goods or services with conditions superior to the market as defined in Article 17.1 of the CPTPP, all of which may fall within the scope of regulation. CPTPP does not require the elimination of all support, but rather sets adverse effects or harm as the triggering condition, which constitutes the core difficulty in compliance judgment: whether a measure crosses the threshold requires case-by-case assessment based on market structure, competitive conditions, and industrial damage, rather than a formal judgment based on "whether or not there is support." The resulting compliance risks are difficult to manage through domestic reforms alone [11]. Systematically reviewing, transparent, and evaluating their competitive effects of existing support measures is therefore a necessary first step.

More noteworthy is that Article 17.6 lists state-owned enterprises as both providers and recipients of assistance, meaning the review targets extend from the vertical relationship of "government-state-owned enterprises" to horizontal financial and resource exchanges between "state-owned enterprises." Internal arrangements originally within the scope of domestic resource allocation may also be claimed by external parties as non-commercial assistance that can be disputed, shifting compliance pressure from one-way control to a network of coverage.

4. Institutional evolution of China's SOE reform and its alignment with the CPTPP SOE provisions

The above analysis shows that the CPTPP chapter on state-owned enterprises is built on the pillars of defined scope, prohibition of non-commercial assistance, and enhanced transparency. Its requirements far exceed the traditional WTO framework and touch on the core of China's SOE governance model. However, alignment with these provisions does not need to be framed as an external mandatory constraint requiring the state to withdraw from commercial activities.

This reform trajectory has evolved from corporatization and marketization to a rule-based system anchored by competitive neutrality. Based on this premise, this section first reviews the institutional evolution of China's state-owned enterprise reform, identifying its intersections and differences with CPTPP requirements; then examines how competition policy can serve as the domestic institutional foundation for such integration, and subsequently proposes specific reform paths—from standardizing non-commercial assistance, institutionalizing information disclosure, to strengthening the competition legal framework

4.1. Regulating non-commercial assistance to alleviate realistic competitive pressure

Article 17.6 of the CPTPP places the core focus of non-commercial assistance on assistance that "adversely affects the production, sale, or supply of goods and services within the territory of the Party". Its regulatory logic does not deny any state support for state-owned enterprises, but rather

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requires clarification of the nature and boundaries of such support. Therefore, the key to addressing this is not to abstractly reduce subsidy scales, but to promote explicit, standardized, and verifiable support.

Specifically, three paths can be promoted. First, separate accounting to separate commercial business from policy burdens. For public policy functions undertaken by state-owned enterprises such as universal services, emergency support, and regional coordinated development, separate cost accounts and budgets should be prepared, and compensation for public service obligations should be provided according to public and measurable standards, separating policy support from commercial operations at both accounting and governance levels, thereby clarifying the boundary between "commercial considerations" and "policy objectives".

Second, establish a compliance evaluation mechanism for support measures. Led by competition authorities, systematically inventory current fiscal subsidies, tax incentives, low-cost financing, and supply measures such as land and energy, classifying them by "whether they are specific" and "whether they cause cross-market competition distortions," evaluating their competitive effects item by item and disclosing conclusions to the public, forming a closed loop of "inventory--evaluation--disclosure--adjustment".

Lastly, implement hierarchical compliance management for measures. Strictly clean up measures that clearly cross the red line of non-commercial assistance; Retain and regulate measures with public policy legitimacy that do not cause cross-border distortion effects, thereby preserving necessary institutional features while minimizing the avoidance of prohibitive red lines.

4.2. Strengthening information disclosure of SOEs to bridge the transparency gap

Articles 17.6 and 17.10 of the CPTPP set high requirements for information transparency in state-owned enterprises, whereas China's current SOE information disclosure is scattered across different channels such as state-owned asset supervision, fiscal regulation, and market regulation, with inconsistent standards, lagging updates, and difficult retrieval, creating a clear institutional gap. To bridge this gap, the institutionalization of information disclosure should be the starting point

First, promote the establishment of a unified, searchable, and regularly updated comprehensive platform for information disclosure of state-owned enterprises, clarifying the scope of disclosure entities (covering central and local state-owned and state-controlled enterprises) and disclosure cycle (updated at least annually).

Second, standardize disclosure content, covering at least the equity structure, government shareholding ratio, special voting or veto arrangements, concurrent positions of government officials, audited financial data, and acceptance of non-commercial assistance.

Third, by linking information disclosure with corporate governance reform, disclosure is not merely a passive requirement to fulfill international obligations, but has become a tool for strengthening state-owned asset supervision, improving governance standards, and enhancing public oversight, achieving the dual benefits of external compliance and internal governance.

Finally, attention should be paid to aligning disclosure standards with international rules, gradually adopting comparable accounting standards and statistical methods to reduce compliance disputes and evidence costs caused by information asymmetry.

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4.3. Improving the legal system at the national level to reinforce the fundamental status of competition policy

The alignment between China's existing institutional construction and CPTPP rules is inherently consistent. On the basis of laws and regulations such as the Anti-Monopoly Law and the Fair Competition Review Regulations, further efforts should be made to ensure that competition review and anti-monopoly enforcement are treated equally in the field of state-owned enterprises, including price, investment, procurement, and subsidy behaviors of state-owned enterprises in unified review standards, with a focus on cleaning up hidden advantages formed through designated transactions, targeted subsidies, and differentiated supply of factors. Second, strengthen the rigid constraints of fair competition review, clarify corrective procedures and responsibility mechanisms for violations of review standards, and avoid reviews becoming mere formalities. By restricting various ownership entities through unified competition rules, it not only aligns with the substantive requirements of competitive neutrality but also provides legal and market-oriented institutional support for SOE reform, ensuring that reform progresses steadily within a predictable regulatory framework.

5. Conclusion

In sum, the CPTPP's SOE chapter institutionalises competitive neutrality through a definitional threshold, prohibitions on non-commercial assistance, and binding transparency obligations. These disciplines undoubtedly intensify the competitive pressure on China's SOEs, but they do not require the state to renounce public ownership. What they demand, rather, is that state support be transparent, targeted, and commercially disciplined. This paper has argued that China's SOE reform and competitive neutrality converge at the level of objectives but diverge in institutional detail. The central challenge, therefore, is not wholesale retreat but regulatory alignment: separating commercial from policy functions, institutionalising information disclosure, and consolidating competition policy as the foundational rule of the market. Vietnam's experience shows that external commitments can serve as a catalyst for incremental domestic reform.

For China, joining the CPTPP should thus be viewed not merely as an exercise in rule-taking, but as an opportunity to advance law-based, market-oriented SOE reform. If China can align its regulatory institutions while preserving necessary policy space, it may reconcile international rule-taking with the deepening of its own SOE reform, opening a pragmatic and sustainable path for reform.

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