

Requirements for China to Join the CPTPP

JEF Secretariat

1. Current Status of Accession and New Entry

As of the end of December 2024, the 12 countries that have joined the Comprehensive and Progressive Agreement on Trans-Pacific Partnership (CPTPP) are Mexico, Japan, Singapore, New Zealand, Canada, Australia, Vietnam, Peru, Malaysia, Chile, Brunei, and the United Kingdom. On the other hand, at the same point in time, the countries and economies that have already requested to join number seven: China, Taiwan, Ecuador, Costa Rica, Ukraine, Indonesia, and Uruguay.

The CPTPP is an extremely high-level economic partnership agreement that forms 21st century-style rules in a wide range of areas, including intellectual property, financial services, e-commerce, and the discipline of state-owned enterprises, in addition to liberalization of services and investment as well as tariffs on goods. For new members to join the CPTPP, the three principles (the Auckland Principles) are commonly accepted by the participating countries as follows: (1) to maintain the Agreement's high standards, (2) to take into account each economy's compliance with its trade commitments, and (3) to respond by consensus among the signatory countries.

In this context, the new potential membership of China is attracting attention here. China's entry into the CPTPP is subject to various measures and practices, and whether they are in conformity with the CPTPP disciplines.

2 Consistency with the Principal Regulations

Let us look at consistency with the main disciplines.

a. State-Owned Enterprises Clause

The question is whether subsidies and loans are provided indiscriminately, regardless of whether the enterprise is domestic or foreign. For example, China has been repeatedly pointed out as a problem by the G7 countries and Australia at the WTO Subsidies Committee. In response, China has repeatedly asserted that subsidies are reported in a timely and appropriate manner and that it has not reported the Government Guidance Fund. The fund has been used for the production

of semiconductors and other products. The fund is one that provides support for strategic products such as semiconductors, medical devices, EVs, and other products. China has been a major investor in private equity funds in Europe and the United States, which provide funds for strategic products such as semiconductors, medical devices, and EVs. China argues that these funds are the same as private equity funds in the US and Europe. However, the government-guided fund is funded by the Ministry of Finance and local governments, etc., and is not a purely private enterprise. The percentage of funds provided by pure private companies is said to be about 3%. In reality, there are a wide variety of programs and, like government-owned banks, they are funded in line with government policies. The fact that contributions are made in line with government policies raises serious doubts.

As for procurement by the state-owned sector, it is said that preferential treatment is given to domestically produced products and foreign products and companies are excluded with respect to medical equipment and other items.

b. Government Procurement

In the CPTPP, national treatment, non-discriminatory treatment between parties and others are required under this provision. However, in China, its Government Procurement Law stipulates that preference should be given to procurement of domestically produced products and services. The draft revision of the law (released in July 2022) includes: i) Expansion of the scope of application of the Government Procurement Law (to include public enterprises and institutions operating public infrastructure and public service nets), and (ii) New conditions will be added for government procurement, such as preferential treatment for products with a high ratio of value-added within China.

Furthermore, (iii) there is also an undisclosed, but reported, “document requiring a procurement rate of domestically produced goods and a list of foreign investment exclusions in the public procurement process”. Thus, it is apparent that China’s government procurement process is not free from some doubts.

3. E-Commerce

In e-commerce, it is important to ensure privacy, security, and intellectual property rights. E-commerce is the free flow of data that is useful for solving business and social problems, while ensuring trust in privacy, security, and intellectual property rights. This concept is called the “data free flow principle”. While this principle has been adopted in the CPTPP, data protectionist moves have been intensified in China. For example, the Data Security Law (enacted in June 2021) and the Personal Information Protection Law (enacted in August 2021) require data storage in China and regulate cross-border transfers. The fact that there are many opaque provisions, such as the

scope of regulations and requirements, is also considered problematic.

4. Labor

The CPTPP provides for the elimination of forced labor, freedom of association, and effective recognition of the right to collective bargaining. However, in China, there are concerns that trade unions are effectively under the leadership of the Communist Party due to allegations of forced labor of Uyghurs and the close relationship between the Communist Party and trade unions. The Chinese Trade Union Law clearly states that “the industrial federation shall adhere to the leadership of the Communist Party of China,” etc. Some have pointed out that this is a human rights issue, and many questions have been raised.

As mentioned, consistency with the provisions of the CPTPP has been questioned in at least four areas. Therefore, China is expected to make further efforts when it joins the CPTPP.