



**TRADE SUSTAINABILITY IMPACT ASSESSMENT
FOR THE NEGOTIATIONS OF A PARTNERSHIP
AND COOPERATION AGREEMENT BETWEEN
THE EU AND CHINA**

**Horizontal Study 1 of 2:
Government
Procurement**

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Contributions by:

**John Collins
Kalyani Iyer
Bo Wang**

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1. Global Context

Government Procurement is defined by OECD as the purchasing of goods and services by the government for consumption and investment, but not for resale.¹ Effective procurement practices are transparent, reflect on the quality of public finances, and are essential for efficiency in public spending. The result of acquiring optimum quality goods and services for public consumption at competitive prices is improved value for taxpayers' money and allocation of resources.² Government procurement worldwide accounts for a significant share of world merchandise and commercial services imports. Further liberalising the purchasing by governments represents a major opportunity for international trade.

Quantifying the size of government procurement markets and their results is not an easy task due to limited access to data. Even more challenging is the task of measuring contestable government procurement markets, that is, markets that are potentially open to international trade. This is due to differences of policy, strategy and regulatory procedures in each country and differences in their needs for tradable and non-tradable purchases, for example, defence-related expenditure.

Government procurement covers consumption expenditure and investment expenditure. The former refers to transactions involving supplies and a wide variety services³, to support government activities, and may include such purchases by public utilities (publicly or privately owned) in sectors such as water, energy, transport and communications. Investment expenditure entails capital formation through construction of public goods, such as roads, administrative buildings, hospitals and other physical infrastructure. Where previously governments provided and acquired many of these services internally, there is an increasing trend towards outsourcing such activities from the private sector.

Government procurement typically tends to favour domestic operators. Governments may restrict import competition, creating market distortions, inefficiencies and artificial price increases.⁴ Such restrictions would be precluded by the GATT, the multilateral framework on trade and tariffs created at the end of World War II, were it not for an exclusion from it for procurement by Governments for their own use. However, the adoption of a plurilateral Agreement on Government Procurement (the GPA) in 1979 under the Tokyo Round went some way to fill the regulatory void on Government procurement and provided the initial framework and principles for what is now the World Trade Organisation (WTO)'s GPA of 1996.

¹ "The Size of Government Procurement Markets", OECD Journal on Budgeting, Vol 1. No.4

² A Report on the Functioning of Public Procurement Markets in the EU: Benefits from the Application of EU Directives and Challenges for the future, 3 February 2004

³ Such a distinction is made in the UNICTRAL Model Law on Procurement of Goods, Construction and Services, which was drafted based on the practices used in existing national law and has itself been used as the basis for more recent laws. At international level the distinction is used in the GPA (Government Procurement Agreement).

⁴ "The Size of Government Procurement Markets", OECD Journal on Budgeting, Vol 1. No.4

The relative lack of transparency in many developing countries' procurement systems has been a key reason for limited competition and slowing further development of procedures and practices relating to government procurement.

Recent advances in technology have implications for the way government procurement is conducted. Information and communications technology (ICT) has become a vital component of procurement reform in a number of countries. In Korea, for example, an initial investment of \$26 million in an e-procurement system is now estimated to save the country approximately \$2.5 billion annually.⁵ Similarly, in the Philippines, ICT-based procurement systems in the education sector resulted in a 40% drop in classroom construction. More generally, the development of electronic publications, vendor databases, e-tendering systems and electronic payment systems has contributed to improvements in efficiency and reductions in acquisition costs, while the judicious use of e-procurement systems such as electronic auctions has driven prices down significantly. While many developing countries may not be able to afford substantial investments into e-procurement systems, evidence from developed countries suggests both short-term and long-term benefits from the availability of greater access to information on tendering opportunities and contract awards.

Given the broad reach of Government Procurement and its effects on various aspects of society, this study highlights the relatively high importance of GP to the PCA negotiations, paying particular attention to the effects of liberalising the GP system vis-à-vis the economy, society and the environment.

1.1 International Agreements on Government Procurement

While Government procurement is principally governed by national policies and legislation it may also be the subject of free trade agreements, international treaties and the deliberations of international organisations such as OECD and the United Nations Commission on Trade Law (UNCITRAL).

Currently, government procurement is largely addressed on the international stage under the auspices of the World Trade Organisation (see **Table 1**). There are three main aspects of the WTO's work on government procurement:

- The plurilateral **Agreement on Government Procurement (GPA)** — signed by a number of WTO members and administered by a plurilateral Committee;
- Work on **transparency in government procurement** — carried out by a Working Group comprising all WTO members (this work is currently on hold pursuant to a decision of the WTO General Council adopted on 1 August 2004); and

⁵ Development Gateway Foundation, <http://www.dgfoundation.org/issues/procurement-reform.html>

- Government Procurement as an aspect of the **multilateral negotiations on trade in services** pursuant to Article XIII:2 of GATS — handled by the Working Party on GATS Rules.

Table 1: Main areas of work on government procurement in the WTO

	Plurilateral Agreement on Government Procurement (GPA)	General Agreement on Trade in Services (GATS)	Working Group on Transparency in Government Procurement⁶
Type of work	administration of existing WTO agreement	negotiations based on Article XIII:2 of GATS	study and elaboration of elements for inclusion in an appropriate agreement
Main principles	transparency and non-discrimination (national treatment and most favoured nation)	transparency and possibly non-discrimination	only transparency (preferences not affected)
Scope of work	goods and specified services, including construction services	only services	government procurement practices
Participation	plurilateral (not all WTO Members are Parties)	multilateral (all WTO Members involved)	multilateral (all WTO Members involved)

The Government Procurement Agreement (GPA), which was originally negotiated alongside the Tokyo Round in 1979, is to date the only legally binding agreement in the WTO focusing on the subject of government procurement.⁷ In December 2006, a revision of the text was negotiated. Based on the principles of openness, transparency and non-discrimination, the GPA framework provides a multilateral framework of rights and obligations with respect to laws, regulations and procedures and practices regarding GP. The GPA aims to achieve greater liberalisation and expansion of world trade, and improving the international framework for the construct of world trade.⁸ The GPA applies to national level, sub-national level subject to negotiation and, subject to negotiation, public undertakings in specified sectors. Unlike the EU's internal regime, the GPA does not apply to private entities which perform functions similar to those of public entities.

Typically, coverage by the GPA includes:

- procurement by central authorities, regional and local authorities, other public bodies and public undertakings in the energy, water and urban transport sectors;
- the procurement of supplies, other than warlike defence material, and including the hire or lease of equipment;
- the procurement of varying types of services other than research services, financial services and telecommunications services; and
- the procurement of construction services of all types.

⁶ On 1 August 2004, the General Council decided, as part of the "July Package", that no work would be done toward negotiations on this subject as part of the Doha Round.

⁷ See www.wto.org

⁸ See EU-China Trade Project- China's accession to the WTO Government Procurement Agreement and Opportunities for Domestic Reform: A Study in the Light of EU Experience, June 2007, Beijing

Typically, however, there are exclusions for national security, aid and procurement under other international agreements. The GPA also makes provision for transitional arrangements for developing countries.

One benefit of an open government procurement market is increased competition leading to improved prices for public authorities and the increased competitiveness of suppliers. Evidence of such success in the EU single market highlights the increased opportunities in the area of government procurement as a result of eliminating trade barriers. As the EU strengthens its trade relationship with China, increased transparency and adaptation of China's regulatory system to GPA standards will allow both parties to benefit from the exchange of goods and services for the public.

Government procurement has also become a significant opportunity for promoting sustainable development practices, such as environmental protection. As the environment becomes a key national and global concern, a number of countries have incorporated into their government procurement practices efforts to facilitate the market creation for greener products and services. For instance, Japan has developed the Green Purchasing Network (GPN), Norway has established Green in Practice (GRIP), a foundation for sustainable consumption and production, and the UK has set up a sustainable procurement task force. These are amongst the increasing number of examples of government initiatives to promote the concept and practices of Green Public Procurement (GPP).⁹ Internationally, OECD countries have pledged to take into account environmental considerations in the public procurement of goods and services.¹⁰ The Stern Review on the Economics of Climate Change (2006) highlights the need for public investment decisions to fully reflect the costs and avoid future risks of climate change.¹¹ More generally, the international trend towards social corporate responsibility means that the reform and opening up of Government procurement can make a significant contribution to the achievement of social objectives.

1.2 Government Procurement in the EU and China

As part of the European Single Market, EC Treaty principles provide the basis for secondary legislation (directives) to ensure non-discrimination and the free movement of goods and services. This legislation extends to contracts for the procurement of goods and services by central government, local government bodies and both public and private operators in the water, transport, energy and postal sectors.¹² The present government procurement legislation was first adopted in the EU in 1971 and the internal rules provided the basis for the EU's accession to the GPA.¹³ The directives are supported by a requirement for the availability in each member state of rapid and effective measures to deal with breaches of the rules. These include a requirement for independent

⁹ Government Procurement and Environmental Sustainability, by Commissioner for Environmental Sustainability (CES), 2006

¹⁰ OECD Environment Programme (2004): Environmentally Sustainable Buildings: Challenges and Policies

¹¹ HM Treasury. 2006, 'Stern Review on the Economics of Climate Change', [online] www.sternreview.org.uk and CU(forthcoming).

¹² China's Accession to the Government Procurement Agreement and Opportunities for Domestic Reform: A Study in the light of the EU Experience (EU-China Trade Project), by Cao Fuguo, John Colling and Peter Trepte, June 2007

¹³ Ibid.

review bodies with appropriate powers to suspend award procedures, set aside decisions and award damages.¹⁴ In certain cases, economic operators may also appeal to the European Commission, which will deal with disputes in the European Court of Justice. Compliance with the EU's internal rules pertaining to GP ensures automatic compliance with the GPA.

Government procurement is considered an area of Community competence. Other than in the context of competition policy (Articles 81/EC and 82/EC) and the opening up of research and development contracts (Article 163/EC), the Treaty does not include any specific provisions on public procurement. It does, however, include:

- Prohibition on discrimination on grounds of nationality (Article 12/EC)
- Requirement on Member States to remove barriers to
 - the free movement of goods (Article 28/EC),
 - freedom of establishment to provide services (Article 43/EC),
 - the provision of services (Article 49/EC), and
- Prohibition of measures of equivalent effect, such as buy-national measures.¹⁵

More recently, the EU's approach towards public procurement has moved away from being merely an area for the completion of the single market concept as set up by the EC Treaty. Instead, effective public procurement is now recognised as being vital to sustainable growth in the region.¹⁶ In other words, where equality of treatment, transparency and mutual recognition are part of the basic tenets of the EU single market concept, those principles are also a means to further growth and development within the region where environmental and social issues are also taken into account.¹⁷

In addition to the EC Treaty, other government procurement initiatives within the EU highlight the region's commitment towards the fair and competitive exchange of public services and goods. The Public Procurement Network (PPN), an informal arrangement, which grew out of a pilot project led by Denmark, now comprises all EU Member States, EEA countries and Switzerland. The aim of the PPN is to strengthen European procurement laws and promote problem-solving in cross-border cases relating to government procurement.¹⁸

Despite the EU's commitment to a single market, evidence suggests that competition in the awarding of government contracts is not always completely fair. According to the 2003 Wood Report¹⁹, a report for the UK Chancellor of

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Ibid

¹⁷ See the European Commission's interpretive communications:

COM/2001/0274 final : Official Journal C 333 , 28/11/2001 P. 0012 - 0026

COM/2001/0566 final : Official Journal C 333 , 28/11/2001 P. 0027 - 0041

¹⁸ China's Accession to the Government Procurement Agreement and Opportunities for Domestic Reform: A Study in the light of the EU Experience (EU-China Trade Project), by Cao Fuguo, John Colling and Peter Trepte , June 2007

¹⁹ The Wood Review was announced by the Chancellor of the Exchequer in the 2003 Pre-Budget Report in response to comments from industry. It investigated UK businesses' experiences of competing for public contracts in other EU countries, including their concerns about unfair discrimination and different approaches to the application of single market public procurement rules. It reported to the Chancellor and to the Secretary of State for Trade and Industry. The Terms of Reference of the Review are at: www.woodreview.org

the Exchequer, significant obstacles still exist, deterring UK and other EU businesses from competing in other Member States.

Government Procurement developments in the EU

There are several trends in the development of EU government procurement. First, small and medium enterprises are encouraged and given more support to participate in the government procurement in the EU. Second, the emerging e-procurement systems bring more transparency to procurement procedures and provide more efficient and just-in-time purchasing arrangements.. Third, government procurement in the EU pays increasingly more attention to its environmental effects. Green procurement is increasingly entering the mainstream of government procurement; with the EU expected to take a leading role in the promotion of “green” government procurement. Fourth, the detection and elimination of corruption is a concern for all parties involved in the procedures of government procurement. The OECD has started to focus on incorporating integrity and ethics in the area of government procurement.

Other developments in EU government procurement derive from the deliberations of the European Court of Justice. One issue is the extent to which requirements for transparency can be inferred from the Treaty in areas not subject to the Directives. Another is the introduction and enforcement of a standstill period before contracts are concluded to enable remedies other than damages to be sought.

Possible developments include specific legislation on the award of service concessions, on the establishment of public-private partnerships and on defence procurement within the scope of the EU Treaty.

It remains to be seen whether developments in the EU will influence developments under the GPA.

China has submitted its application for accession to the GPA, and as the EU and China are currently negotiating a Partnership and Cooperation Agreement (PCA), which potentially covers several major issues on government procurement, intensified cooperation between the EU and China could lead to benefits for both parties.

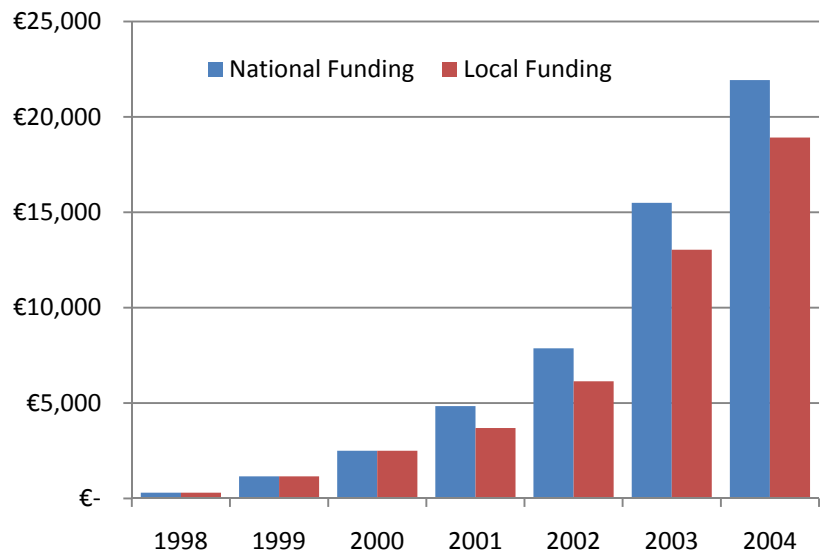
Government Procurement in China

China’s reform of the public procurement system is relatively new compared to that of the EU. In a command economy, there is sometimes little distinction between government and the market. Prior to reform, government procurement in China occurred in arbitrary, unregulated and a self-administered basis, with little or no structured policy or model.²⁰ In 2006, according to the Ministry of Finance (MOF), China’s government procurement market was worth RMB 350 billion, and by 2007 that value had gone up significantly to RMB 381 billion (€36 billion), largely as a result of increased investments in fixed assets, such as construction works as part of Olympic

²⁰ “Procurement Function and Government Procurement”, Cao Fuguo, (Vol. 10, 1999) China Tendering 23

related projects.²¹ Compared with developed countries, Chinese government procurement as proportion of GDP is still low, but has the potential to increase gradually as government reforms are pushed forward. Indeed, between 1998 and 2004 government procurement in China grew at an average rate of 100% per annum (see **Figure 1**). Despite this rapid growth, in 2005 government procurement in China only accounted for 1.6% of GDP, compared to a developed nation average of 15%.²² This may, however, be attributable to differing definitions including the way in which procurement from and by SOEs is counted.

Figure 1: Government procurement in China by level of government (millions)



Source: China Government Procurement Yearbook 2004

Government Procurement reform in China began in 1998. However, the liberalisation of procurement markets, beginning with bidding reform, can be traced back to the outset of China's economic reforms. In the 1980s, China began to explore ways of introducing a bid system for public works and issued a series of measures to encourage the use of bidding mechanisms in areas which quickly expanded to cover procurement in areas such as construction projects, equipment and scientific research.

Notable benefits have resulted from the implementation of centralised government procurement - in one instance, a 15% saving of funds was cited. However, all local governments also point to a number of difficulties associated with the implementation of central-level policies.

For instance, there were no common definitions of "domestic" goods in the CPCatalogue. While some definitions, such as those on green procurement regulations, included products produced by foreign-invested enterprises, other regulations were more ambiguous. Interestingly, local government did not follow 'buy national' policies until these emerged from the central government. Many pointed to difficulties in implementing such policies as they

²¹ European Business in China Position Paper 2007/2008, Public Procurement Working Group

²² China's government procurement in 2005 to rise 37 pct, Xinhua, 10 August 2006

were in conflict with other local policies, such as those to encourage foreign investment.

Some local government procurement centres point out that the implementation of socio-economic and environmental policies of the government through the centralized procurement was unrealistic since only a relatively small number of government procurement projects were covered by centralized procurement. For example, in one of the surveyed provinces, the procurement projects incorporated into the CPCatalogue only accounted for 10% of total governmental expenditure.

Government demand has generally been difficult to standardise. For instance, the standards of different government departments for office furniture were not uniform, so it was difficult to achieve the scale benefits in procurement. Some local governments were planning to establish the governmental assets management section in an attempt to do something in this respect.

The importance of procurement also varies between localities. Most notably, the number of staff dedicated to government procurement functions differs substantially. Some provinces do not have independent government procurement sections and placed the procurement management function within the national treasury section, with only two personnel engaging in this task. Larger cities had their own government procurement centres which were well-resourced. In one prefecture-level city, the director of the centre was also the vice-director of the general affairs office of the municipal government. Thus the procurement centre was able to control the procurement demands of all the municipal government's departments so as to achieve unified planning and procurement.

Procedures of Local Government Procurement

The bidding method is the preferred method in the government procurement. Many local governments do not treat the Bidding Law (BL) as applicable to goods or services. With respect to the adoption of methods other than public bidding, some local governments require government users to propose the methods to be adopted in the procurement. The proposed methods are then reported to the finance departments for approval, and the procurement centre subsequently conducts the procurement. However, there is no specific guidance provided for how the finance department examines and approves the methods. One common observation is that the enforcement of the law was rather lax and arbitrary in the adoption of the procurement methods other than public bidding. When competitive negotiation procedures are adopted, transparency is rather low. For example, the bid evaluation criteria are not published in advance and suppliers have limited access to information, though this should not be the case even in negotiated procedures.

Authorities have commenced proceedings for China's accession to the GPA. Finance Minister Xie Xuren signed a written application on behalf of China for joining the Agreement on Government Procurement (GPA) on 29 December 2007. Existing regulations suggest that local and industry related policies have

come into effect, though further negotiations will be necessary to ensure that China's commitments are in line with WTO principles. The Bidding Law and Government Procurement Law are the most significant laws in the field of government procurement in China. The passing of the Bidding Law (BL) in 2000 established market mechanisms as the basis for contract awards and transformed the practice of bidding into a genuinely competitive process. The 2003 Government Procurement Law (GPL) reaffirmed the role of market mechanisms in procurement procedures and provided China with a GP framework guided by the market. The GPL applies to procurement by state organs at all levels, but not by state-owned enterprises and state-controlled enterprises, and only relates to the procurement of specified items and contracts above a threshold level set by the procuring agency.²³ Both laws have been followed by various implementing measures issued by different government agencies.

As part of the procurement laws, China has established Public Procurement Offices (PPO) at the central and local levels, which oversee and conduct centralized procurement. PPOs are formally registered and are staffed with independent legal personnel.²⁴ However, with the current GP framework consisting of two laws with equal effect and their respective implementing rules,²⁵ issues of coordination and compatibility have arisen.

While the passing of the BL was a significant step in procurement legislation by providing a higher-level legal framework for GP, the law has not provided comprehensive solutions due to certain flaws. First, the award criteria does not necessarily encourage a market-based bidding mechanism, as the award is based on the base price set by the sponsoring administration or procuring entity, instead of the most competitive option that considers 'value for money' in a holistic sense. Secondly, the bidding methods and procedures are vague

²³ 'Curbing Corruption in Public Procurement in Asia and the Pacific', Asian Development Bank

²⁴ ADB/OECD Anti-Corruption Initiative for Asia and the Pacific

²⁵ The regulations of The Bidding Law include: the State Council Provision on the Division of Supervision Responsibility among Ministries (2000); Temporary Provision on Thresholds of Compulsory Coverage (2000) by SDPC; Temporary Provision on Publish of Bidding Notice (2000) by SDPC; Temporary Provision on Self Conducting Bidding Business in Construction Works(2000) by SDPC; Important National Construction Projects Examination Measure (2000) by SDPC; Research on the Feasibility of Construction Projects: Temporary Provision on Adding Bidding Contents and Approving Bidding Issues (2001) by SDPC; the Temporary Provision on the Bid Evaluation Committee and Method of Evaluation (2001) jointly issued by seven ministries, which are SDPC, State Economic and Trade Commission, Ministry of Construction, Ministry of Railway, Ministry of Communications, Ministry of Information Industry, Ministry of Water Resource; Temporary Measure of the Supervision on Biddings of Important National Construction Project (2002) by SDPC; Bidding Measure on Reconnaissance and Design of 2003 by NDRC, Ministry of Construction, Ministry of Railway, Ministry of Communications, Ministry of Construction Projects Information Industry, Ministry of Water Resource, General Administration of Civil Aviation, State Administration of Radio Filmand Television; Bidding Measure on Implementation of Construction Projects (2003) by SDPC, Ministry of Construction, Ministry of Railway, Ministry of Communications, Ministry of Water Resource, Ministry of Information Industry, General Administration of Civil Aviation; The Temporary Measure on Management of Bidding Expert and Bidding Expert Pool (2003) by SDPC; Some Opinions on Further Regulating the Bidding Activities by State Council Office (State Council Office 56/2004); The Measure on Handling the Complaints of Construction Projects Bidding (2004) by NDRC, Ministry of Construction, Ministry of Railway, Ministry of Communications, Ministry of Information Industry, Ministry of Water Resource, and General Administration of Civil Aviation; Temporary Measure on Inter-Department Coordination Mechanism for Biddings (2005) by Ministry of Supervision, Ministry of Finance, Ministry of Construction, Ministry of Railway, Ministry of Communications, Ministry of Information Industry, Ministry of Water Resource, Ministry of Commerce, General Administration of Civil Aviation, and Legislative Affairs Office of the State Council; The Measure on management of Certificating Bidding Agencies in Central Government Investment Projects (2005) by NDRC; The Measure on Biddings for Construction Projects Goods (2005) by NDRC, Ministry of Construction, Ministry of Railway, Ministry of Communications, Ministry of Information Industry, Ministry of Water Resource, and General Administration of Civil Aviation; The Measure on Certificating the Qualification of Project Consultation Bodies (2005) by NDRC. The regulations of The Government Procurement Law include: Notice of the State Council Office on Issuing the Implementation Plan to Completely Promote the Government Procurement System across the Central State Organs(2002), the State Council 2004 , MOF; The Office; The Measure on the Administration of the Publication of Government Procurement Information 2004 , MOF; The Measure for Measure on the Administration of Tendering in Government Procurement of Goods and Services Handling the Complaints of Government Procurement Suppliers 2004 , MOF; The Measure on Qualification of Government 2005 , MOF; Notice from the Ministry of Finance and the National Development and Reform Procurement Agent Organization Commission on the Issuance of Implementation of Government Energy Conservation Procurement!-(2004), MF; Notice on the Opinion of Implementing the Government Procurement of Wireless Local Area Networks(WLAN) Products(2006) published jointly by MOF, NDRC and MII; Some Opinions on Promoting Independent Innovation through Government Procurement(2006), MOF.

and poorly designed, despite requirements and guidelines that regulate the procedures through nominally open, selective and negotiated bidding.²⁶

Furthermore, China has yet to develop an effective private enforcement and remedy system. So far, regulators have depended on administrative sanctions for enforcement. A conflict of interest, as a result of economic operators being subordinate to administrative agencies, has prevented a fair system. Given that China is still in the process of developing its GP system, initial challenges exist in the implementation stages. China's laws, which lack coherence and consistency in this area, may not address the demands of a GP framework that is aligned to WTO standards and requirements. The current lack of procurement skills and facilities is yet another teething problem, suggesting that the development of a local and central GP system may not happen immediately. Strong leadership to steer the GP system in China, while also integrating changes in this specific area into the broader reform efforts by the country, is necessary for coordination and for clearly separating regulators and government agencies.

Corruption has also been highlighted as a significant barrier to allowing a fair and competitive procurement system. Within China, state-owned enterprises (SOEs) are favoured as contractors for the provision of services and goods. Such preferential treatment is evidenced by the fact that SOEs are exempt from the procurement rules under the GPL. Furthermore, the contract coverage of the Centralised Procurement Catalogue is limited to office supplies and equipment.²⁷ In procurement environments closed to competition and dominated by the vested interests of the state, a market-launch base is absent. The lack of such economic incentives hampers the growth of SMEs vital to the economy. Thus, without exposure to fair competition between the public and private sectors within China, the full success of a GP system in China is doubtful. This concept of fair competition also applies to foreign imports, where protection of local industries should not override the competitive cost and quality priorities necessary for delivering 'value for money'.

Despite being at the early stages of establishing a GP system according to international best practice standards, significant steps towards reforming its GP framework are evident.²⁸

- An extensive procurement law review and a new secondary State Council Regulation for the GPL is currently being undertaken by the Ministry of Finance (MOF);
- A proposed secondary State Council Regulation for the Bidding Law (BL) is now being contemplated by the National Development and Reform Commission (NDRC);
- Procurement has been assigned a crucial role in a number of recently initiated national policies and strategies, including sustainable development, innovation, e-government, the pursuit of greater equity, rural development, labour policies, reform of health sector, etc;

²⁶ China's Accession to the Government Procurement Agreement and Opportunities for Domestic Reform: A Study in the light of the EU Experience (EU-China Trade Project), by Cao Fuguo, John Colling and Peter Trepte, June 2007

²⁷ Ibid

²⁸ Ibid

- A recently-launched anti-corruption campaign with public procurement as an area of high priority;
- The introduction of draft local regulations governing private investment in infrastructure and utilities, though no comprehensive framework for Public-Private Partnerships exists yet at the national level.

As part of the Chinese government's plans to promote fair government procurement practices, it has also taken steps towards eradicating corruption in the process. In-built in the BL, GPL and other standard documents are anti-corruption provisions. For instance, prequalification is possible through lists of suppliers maintained by intermediaries of the central government who may be removed from the list if the entity violates government regulations on qualifications of suppliers.²⁹ Another measure adopted to reduce corrupt practices is to require information on specific procurement projects that do not contain commercial secrets to be published in designated media outlets, such as the *China Financial and Economic News*, the *China Government Procurement Net*, and the *China Government Procurement Journal*.³⁰

With rapid advances in technology, various local governments in China have already established e-procurement. Some local governments already have extensive experience, with Guangdong province and the city of Shenzhen leading the way nationwide. Local governments have been an important impetus in popularising e-procurement. An added advantage of online procurement is that the limited number of procurement experts in China can be pooled on an online basis for bid evaluation. In many places where e-procurement is widely practised, local governments have already formulated laws and regulations to regulate e-procurement.

Market Access

Since China implemented the Government Procurement Law in 2003, its government procurement turnover doubled to more than MB 350 billion in 2006, according to statistics from the Ministry of Finance (MOF). The annual savings rate of the funds for government procurement exceeds 10 percent. Currently, the GP market is open mainly to domestic businesses. According to the data estimated by the Financial Department, presently the openness of China's government procurement market is only 15 percent. Though, nominally, many foreign products are given equal access to China's government procurement market, the reality is different. Small and medium enterprises (SMEs) that are part of the private sector also cite the lack of transparency in the GP market as a barrier.

In terms of domestic vs. foreign competition, China's "Buy Chinese" policy in government procurement has led to the current imbalance in terms of respective procurement market access. Concerns exist in the EU as its companies face unequal treatment in bidding for procurement contracts in China. It is believed that China's accession to the Government Procurement Agreement will help ease the country's trade imbalance.

²⁹ ADB/OECD Anti-Corruption Initiative for Asia and the Pacific

³⁰ Ibid.

China's accession to the GPA, the most significant international agreement on government procurement, will open up China's GP market to foreign companies by requiring transparency and the removal of national preference. China's GP market amounts to approximately RMB 400 billion, and is of increasing appeal to foreign suppliers and services providers. For all parties to compete on a level-playing field, China will have to commit itself to free trade in the global market by expediting its accession to the GPA.

China could reap the benefits of free trade and increased competition by simply removing any barriers to foreign bidders. Under the GPA, however, market access will only have to be guaranteed to foreign bidders to the extent that their home countries guarantee similar access to their GP markets for Chinese suppliers and contractors.

Future Developments

As China prepares to join the GPA, there are a variety of processes in which it can improve the existing system.

Firstly, to promote and establish a GP regime that fits international standards, China needs clear and comprehensive policies on the purpose of Government procurement, on the way in which procurement is to be structured at various levels of Government and on the coverage of the legislation that gives effect to those policies.

Secondly, China needs to develop the institutions and strategies necessary for delivering its policy objectives. At the same time China needs to bring its policies and practices progressively in line with the GPA and to develop the human resources needed to gain maximum advantage from the resultant regime,

Existing reforms go some way towards achieving such a regime and further regulations are in the pipeline. Furthermore, the development of electronic communication systems and the creation of a network of Public Procurement Offices should facilitate the promulgation of market information and enable account to be taken of economies of scale where appropriate..

The procurement model might be further improved, however, by enhancing the professionalism of the personnel involved, by putting enterprises the emphasis on efficiency and effectiveness, by coordinating procedures under a more unified system, by studying developments in best practice elsewhere and by developing enforcement mechanisms to rectify matters when things go wrong.

Such changes to the current system will better enable China to engage with the GPA.

2. Baseline Scenario

2.1 Economic Impact

An effective GP system has the potential to contribute to economic development. In a competitive system, vendors have the incentive to produce and provide high quality goods and services. In the long term, an open and competitive system raises the standards of goods and services, contributing directly to the country's economic growth.

As China's economy expands, there is a wider market for foreign goods and services. At the same time, a larger Chinese market also offers a greater variety of competitive goods to foreign governments and companies. However, such optimistic situations are dependant on the government's willingness to allow market access and the willingness of suppliers and contractors to compete. Key issues of reciprocity between the two regions and the degree of transparency in the bidding process will determine future outcomes. The success of present negotiations will be crucial to the scope of future developments in this area.

The main benefit of liberalising the government procurement system, where national preferences are removed, is to provide 'value for money', which according to the UK Treasury is defined as the "optimum combination of whole life cost and quality (fitness for purpose) to meet the user's requirement".³¹ This not only leads to cost-savings for the government, but ensures that procured goods and services are of high quality as the competitive and transparent process allows the purchasing authorities to make informed decisions based on a wider variety of choices to best meet the country's requirements. Competitive suppliers who have previously been unable to bid will also benefit from the removal of barrier in the market. In short, the aim is the optimum combination of cost and quality to meet an affordable and justifiable requirement, having due regard to accountability for public expenditure and in compliance with any prevailing legal requirements. Furthermore, value for money is most likely to be achieved through selective competition (a restricted procedure, a competitive negotiated procedure or competitive dialogue in EU terms, a selective procedure with or without negotiation under the GPA, in each case open to all suitable candidates and conducted on the basis of objective selection and award criteria). Save for the simplest of goods and services, an open procedure carries the risk of unnecessary acquisition costs and unnecessary bidding costs to the detriment of both sides. Furthermore, simple tendering also carries the risk of supply-side cartels as foreseen some years ago by OECD and as recently found in the UK construction industry.

In the UK, the principal legislative requirements, other than anti-corruption provisions, derive from the EU's domestic and international obligations. The emphasis, however, is very much on applying professional skills to monitor markets, specify requirements, conduct appropriate forms of competition,

³¹ HM Treasury. 2000. 'Government Accounting 2000'. [online]. <http://www.Government-accounting.gov.uk>

award and conclude viable contracts and manage their performance. It is considered important, therefore, that the regulation of GP should be effective without imposing unnecessary burdens or constraints on purchasers or providers. Depending on their national circumstances, however, states with a less developed procurement function may place a greater emphasis on the regulation of GP as an administrative activity. Fortunately, EU regulation provides scope for Member States to define the depth and scope of their national regulation, provided it conforms with the Single Market Treaty and gives effect to EU secondary legislation made under it. The EU rules have been amended to ensure that they are no less favourable to suppliers and contractors than the GPA. It avoids the unnecessary complication of having to comply with two sets of rules that, as a result, compliance with the EU's internal legislation also meets the EU's obligations under the GPA where it applies. As a further result the potential economic benefits of removing institutional barriers to cross-border or international trade in the field of GP can be achieved. This cannot apply in China, however, unless and until China's domestic regulation is brought into line with the basic requirements of the GPA and other Signatories to it are willing to enter into reciprocal agreements.

Through fair and competitive public procurement systems, governments purchase services and goods from their own domestic markets and foreign suppliers. In this regard, government procurement is of considerable economic significance at both the domestic and international levels. As public procurement of goods and services represents a major part of a country's market for foreign suppliers, government procurement is also of great importance to international trade flows and government procurement markets are of interest to foreign suppliers as well as domestic suppliers. The positive aspect of GP's contribution to GDP rests on the conventional wisdom that transparency enables foreign suppliers and contractors to decide whether to bid into markets, build alliances or to create a local presence

A government's procurement system, which comprises of the over-arching financial, trade and industrial policies, the legislation which gives effect to those policies including any international obligations, the strategies for achieving the policy objectives and the procurement practices adopted in pursuit of the strategic aims, can impact the economy and society on various levels. The efficiency of the use of public funds and maximising the value of public finance can be significantly affected by the set up of a country's GP system. Depending on the level of openness and fairness of the system, governments can ensure a competitive and efficient system which is beneficial and profitable for both providers and consumers of the public service and goods procured by authorities. To fully realise the economic benefits of government procurement the public should have access to information as a way of creating fair opportunities for all. However, given that a country's GP system concerns more than just an efficient use of public funds, effective Government Procurement is also about ensuring the system is profitable for suppliers, save to the extent of securing future supplies. Worth noting is that EU suppliers and contractors have not been put out of business by increasing liberalization under the GPA. They do, however, enjoy opportunities in other GPA Signatories that would not otherwise be available. On the other hand

research for the Commission showed that, although the regulation of GP appears to have brought significant benefits in the form of lower prices, the number of cross-border transactions and the extent of import penetration both remain relatively low.

On a broader systemic level, procurement systems can promote the reform system of the financial system. However, GP should not be seen as the tool of other policies. While public expenditure control can be used to create macroeconomic effects, it is not the GP system itself, but the use to which it is put that can precipitate such positive changes. Especially in countries such as China undergoing reform processes, government procurement serves as a fiscal instrument that can impact macroeconomic adjustment. Governments can cut taxes and simultaneously boost aggregate demand through public procurement. By adjusting the amount it spends on procuring public goods and services, governments can help stabilise and improve the economy during times of downturn. In other words, procurement systems can create stability through government's competitive power. Since the quantity of government procurement and the size of its markets are substantial, governments can adjust the scale of procurement to stabilise demand and supply as and when appropriate.

Governments can also adjust and optimise product structures by developing and equalizing coordination of industries through its procurement system. Governments can promote industrial equalisation by reducing procurement from established firms or industries and shifting opportunities to emerging industrials or technical projects. Through such procurement strategies, governments can balance the flow and direction of investments to optimise industrial structure, with the overall aim of improving economic efficiency.

2.2 Social Impact

Increasing fair opportunities for suppliers of public services and goods has the effect of enhancing competition. However, the effect of an open and transparent GP policy on employment is not straightforward. For instance, in China, it may appear that previous procurement practices have tended to favour SOEs over the private sector. However, more accurately, it is Chinese government policy rather than GP practice which has tended to favour indigenous suppliers in general and SOEs in particular. Two factors apply – the operation of a national preference and the organization of the state to keep certain economic activities in the public sector. The former would be unacceptable under the GPA save, perhaps, for a short transitional period. The latter is very much a matter of national choice.

By allowing SMEs equal opportunities to bid for and provide public goods and services, there is an increase in options for the government but employment levels may remain constant as the demand is merely shifted from one sector to another. Whether SMEs are favoured may reflect local preferences as practised by some GPA Signatories and as sought by some EU Member States. As with any preference or exclusion from the coverage of the GPA, however,

the result might be that access to Chinese GP would be of less interest to others.

A balance of rights and obligations will be sought which is unlikely to have a net effect on employment except, perhaps, as a function of the competitiveness of national suppliers and that, in turn, might be a function of GP reform whether for the purposes of domestic or trade policy or both. It is undoubtedly the case, however, that effective GP can contribute to the achievement of social objectives and that accession to the GPA would not have any negative impact. Furthermore an element of international competition might in itself contribute to China's anti-corruption agenda.

If liberalised government procurement leads to higher employment levels, it could be the indirect result of a more efficient procurement system. As the procurement process becomes transparent and fair, firms behave more competitively, leading to higher levels of employment.

A liberalised government procurement sector has broad social implications. The more transparent and fair the procurement processes are, the less the chances of corruption and rent-seeking on the part of domestic governments and suppliers. As a result of potential benefits of an open government procurement system, proponents of a multilateral GP framework consider the GPA to be part of a 'good governance' agenda, which will be of particular benefit to developing countries.³²

If 'governance' is defined as the process of decision-making and the process by which decisions are implemented (or not implemented), fair and transparent decision-making processes are not only necessary for establishing international best practices, but by addressing problems such as corruption, greater levels of trust is generated between the citizens and their government.³³

2.3 Environmental Impact

Environmental concerns are among the many considerations which Government purchasers need to take into account in meeting the needs of the organisations they serve. Such concerns may be expressed as a matter of law, national or local policy or simply as an aspect of best practice. In the UK, for example, Government Departments and local government organisations are required to establish sustainability agenda and it has long been the practice to consider whole-life costs rather than purchase price when assessing value for money. Furthermore government purchasers are encouraged to base their technical specifications on environmentally favourable goods and services to the extent that it is affordable and cost-effective to do so. The scope for this under the EU's Procurement Directives was confirmed when the Directives were consolidated in 2000. As a result, Governments are well placed to

³² See, for example, WTO, "Moore welcomes Oxfam Report but cites Omissions and Errors," Geneva: World Trade Organization, 11 April 2002, [online: web] URL: http://www.wto.org/english/news_e/pres02_e/pr285_e.htm

³³ See United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) <http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp>

influence procurement methods that meet the concerns and interests of society.

Governments can strongly influence the development of environmentally-conscious initiatives by supporting greener technologies and factoring other environmental considerations into their public procurement decisions. Governments 'can provide a reliable market and encourage new investment, product development and competition'.³⁴ The concept of 'best value', which characterise public procurement, can extend to value for money, not only in terms of best price and quality, but also best environmental value. As the market for green technologies become part of the mainstream market, governments can easily promote this growing industry, as they factor environmental concerns into their procurement decisions. Especially in the context of Europe, where public authorities have the purchasing power equivalent to 16% of the EU's GDP, EU countries can use their market leverage to opt for goods and services that are environmentally conscious.³⁵

In recent years, European consumers have also become increasingly aware of environmental and health-related issues. Their demands for 'greener' products has contributed to high environmental standards, giving the EU a competitive edge in developing and applying green technologies that not only cater to society's preferences, but also serve as a positive example to other regions.³⁶

Environmentally sustainable products and services are already established as an important sector of the EU's economy. EU eco-industries accounted for approximately €183 billion of goods and services in 2002.³⁷ More specifically, in the UK, environmental industries sector has grown to approximately € 37 billion and employs around 400, 000 people.³⁸ As a way of incorporating its support for green technologies while attracting private and public investment, the EU established the Environmental Technologies Action Plan (ETAP). ETAP, by promoting innovation of green technologies and sustainable practices amongst stakeholders and the public, compliments the Lisbon Agenda, which aims to make Europe a competitive and dynamic knowledge-driven economy by 2010.

Procurement practices are indicative of a government's commitment to environmentally sustainable practices. Evidence from European countries indicates increasing awareness and application of sustainable practices. Not only do public procurement decisions directly support environmentally-friendly goods and services, but the government's procurement practices also send a message to the community, especially, manufacturers, economic operators and service providers, about its commitments and expectations. This in turn translates into incentives for businesses to align their operations in line with high environmental standards so as to promote sustainable practices and mitigate adverse environmental impacts.

³⁴ Sustainable Procurement Group (2003), Report Recommendations of the Sustainable Procurement Group

³⁵ European Commission, Green Public Procurement, http://ec.europa.eu/environment/gpp/background_en.htm

³⁶ See 'Trading Up', by David Vogel, 1995

³⁷ 'Analysis of the EU eco-industries, their Employment and Export Potential, Final Report to DG Environment, 2002

³⁸ See 'UK Department of Trade and Industry's Environmental Industries Unit' for details

Governments can set performance-based specifications, where public procurers formulate technical specifications that challenge companies to go beyond minimum requirements. For instance, environmental considerations also become part of the criteria, pushing suppliers towards eco-innovation. As an extension of such incentives, businesses and industries factor into their new product solutions, Life Cycle Cost (LCC)³⁹, which considers cost competitiveness alongside high quality solutions?

In 2003, the EU also initiated the 'Integrated Product Policy', which factors environmental considerations as part of the whole life-cycle of a product. The IPP focus beyond the production processes makes use of a vertically-integrated approach to analyzing products from the stage of production to consumption. Certain EU Member States are paying greater attention to product policies and product management strategies in their procurement decisions. This approach is not uniformed across the Member States, and could lead to both positive and negative outcomes. In the first case, those countries with higher environmental standards and priorities may be able to combine their experiences and efforts to build a consistent European policy, which fits well into a Community-wide context. Furthermore, product policies can enhance Europe's international competitiveness by promoting environmentally superior products, which in turn could stimulate competitiveness in other regions, especially the EU's trading partners, such as China.⁴⁰

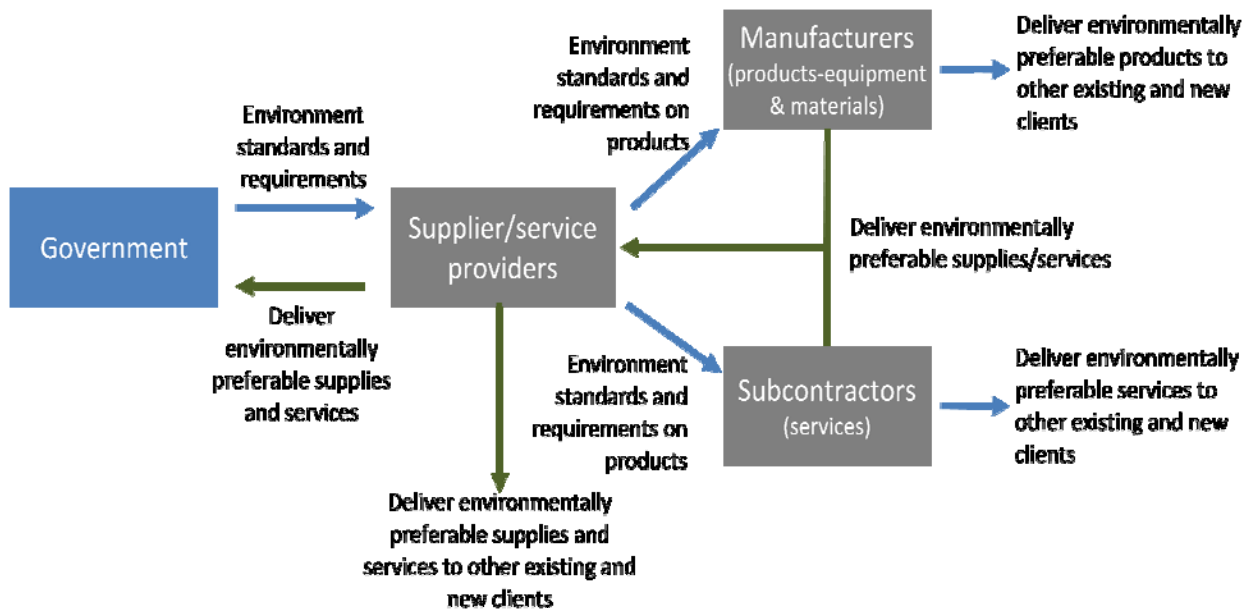
However, on the downside, differentiated policies within the EU could exacerbate gaps and disparities across Member States. Such negative impacts on the internal market would run counter to the concept of the EU single market by distorting patterns of trade, production and consumption. As a result, industries will be affected by a lack of a level-playing field, unless a coherent framework is established amongst the member states.

It is important to fundamental EU Treaty concepts, the EU Directives and the express requirements of the GPA that government purchasers take care not to discriminate either directly or indirectly. Subject to that constraint, Government's influence on suppliers can cascade down to their suppliers and sub-contractors and beyond.

³⁹ LCC is calculated as Capital Cost + Present worth of Maintenance and Energy Cost - Present worth of Salvage value, where The capital cost of a project includes the initial capital expense for equipment, the system design, engineering, and installation. This cost is always considered as a single payment occurring in the initial year of the project, regardless of how the project is financed. Maintenance is the sum of all yearly operation and maintenance costs. Fuel or equipment replacement costs are not included. Costs include such items as an operator's salary, inspections, insurance, property tax, and all scheduled maintenance. The energy cost of a system is the sum of the yearly fuel cost. The salvage value (S) of a system is its net worth in the final year of the life-cycle period. It is common practice to assign a salvage value of 20 percent of original cost for mechanical equipment that can be moved.

⁴⁰ European Commission: DGXI Integrated Product Policy, March 1998

Figure 2: Influence of government purchasing



3. PCA Scenarios

In 2004, the EU and China expressed a commitment towards strengthening their bilateral relations. The Partnership and Cooperation Agreement (PCA) has been under negotiation since January 2007, with the intention of upgrading the 1985 Trade and Economic Agreement (TECA). By expanding the scope and complexity of their cooperation, the EU and China are working towards a more strategic partnership framework which has the potential to impact a variety of key industries and business areas for both regions.

The Partnership and Cooperation Agreement (PCA) currently under negotiation seeks to open areas in trade and investments which go beyond the WTO obligations of the parties. Government Procurement is a significant area of economic activity which has social and environmental impacts and the potential to increase international trade. It sits outside the WTO but is the focus of a specific plurilateral agreement, the Government Procurement Agreement (GPA). The EU is a signatory to the Agreement and China has made an initial offer of the aspects of Chinese Government Procurement it is prepared to open up to suppliers and contractors from other signatories if reciprocal arrangements can be agreed.

The process for accession to the GPA is conducted in bilateral discussions between signatories and is facilitated by the WTO Secretariat in Geneva. China's offer specifies the purchasing authorities that would comply, the types of goods and services that could be covered above proposed financial thresholds and various exemptions that would apply. As the opening proposal is a request and offer process, China's initial offer falls short of existing coverage under the GPA, particularly in the EU, and seeks to take advantage of various derogations for developing countries. It seems likely, therefore, that discussions on China's accession to the GPA will take some time.

EU-China dialogue on the reform and opening up of Chinese GP will, however, take place in the context of the PCA as well as that of the GPA. In context, the EU is well-placed to share experience to assist China to take forward the reforms already underway and to provide technical assistance for the development of human and institutional resources. In exchange, China should offer greater transparency as to existing opportunities for EU suppliers and contractors even though market access might not yet be guaranteed.

It is in any case in the EU's interest that procurement practice in its trading partners is predictable, equitable and professional so that EU suppliers and contractors know where they stand, do not incur bidding costs in vain and can reasonably expect to be treated fairly.

Liberalising China's government procurement system will have economic, social and environmental impacts (see **Table 2**). While the outcome is generally expected to be positive, in the short-term and as both parties adjust to new arrangements, some negative effects can be expected. These teething problems should not deter the two regions from achieving the mutual benefits of a more liberalised government procurement market.

Furthermore, EU experience has shown that, even in liberalised markets, local suppliers and contractors enjoy a competitive advantage. Local labour may well be employed with a consequent transfer of knowledge and skills; whereas foreign suppliers and contractors are more likely to form local alliances than to bid from abroad. Import penetration is unlikely to rise dramatically.

Economic Impact

As a developing country, the main concern for Chinese officials of opening up China's government procurement market to foreign competition is the detrimental effect on state-owned enterprises and, consequently, employment. While the GPA provides certain 'transitional' privileges to vulnerable sectors in developing countries, the fear is that the EU as a developed country will gain more than China would as a developing country. The fact is, however, that China and the EU cannot be expected to sign up to anything less than a balanced package of rights and obligations.

Fair competition and transparent procurement ensure that corruption and preferential treatment are exposed and that second-rate materials and inadequate designs are not used for government funded projects. This serves to raise the quality and standard of goods and services procured, with both short and long term implications for both regions.

From an EU perspective, a liberalised public procurement system in China is beneficial to EU exporters, who can tap into a market that is just starting to open up. Given that government procurement represents at least 15% of world GDP, and governments and their various agencies are the major purchasers of goods and services, ranging from basic commodities to high technology equipment, a transparent and open procurement system offers substantial business opportunities for European service providers and manufacturers. However, European businesses must not get too optimistic as there are no proposals at present to open procurement by sub-central bodies or utilities, or in construction other than of residential and office buildings. China's initial offer also excludes infrastructure and related supplies.

China also stands to gain from liberalised government procurement as it will benefit from the EU's capital goods, technology and innovations. Currently, the EU represents more than 19% of China's external trade, and by opening up its imports to high-value services and products, not only will EU companies enjoy greater global competitiveness, but Chinese businesses will also benefit from this move which will open doors to other markets. Evidence from China's recent economic trends suggests that opening the economy to foreign goods and investment has brought tangible benefits in the form of unprecedented growth. Further liberalising the government procurement market has the potential to take China's growth to the next stage through the development of its native enterprises and export of local goods and services.

An added benefit will be a general increase in the quality of public goods and services. A transparent, liberalised bidding process will encourage government officials to choose bids of the highest value and most competitive price. This

will encourage greater efficiency without sacrificing environmental considerations.

An agreement on GP under the PCA will help improve the competition in China's national GP market. The competition will take place not only among domestic suppliers, but also between the domestic and foreign suppliers. By making high value and quality purchases, the Chinese government will be the biggest beneficiary. Moreover, a competitive GP market can encourage domestic suppliers to improve the quality of their products and technology, so as to become increasingly competitive in a fast and dynamic economic environment.

Social Impact

The main social impact of a liberalised GP system is in the area of employment. China's excess supply of labour in rural areas poses a challenge to a country with China's industrial strength, especially given its current rapid economic growth. The government is under significant pressure to create employment as rural workers move to urban areas in pursuit of employment and better wages. If the GP market were to be opened, competition between foreign and Chinese suppliers would cause further challenges to employment in China. However, it is also possible that unemployment, as a result of a liberalised GP system may be a short-term problem as China's domestic service and goods providers are able to compete with foreigners on a level-playing field.

Employment in state enterprises may be affected as private sector firms and foreign suppliers are able to bid for procurement projects in an open system. Unemployment can lead to a series of severe social problems, such as a wider income divide and increasing crime rates, due to social instability.

While opening up the economy may pose some socio-economic challenges, the long-term benefits will outweigh the initial challenges, as a mutual opening up of the GP market between the two regions will increase employment opportunities. In the meantime, dialogue in the context of the PCA should contribute to the continuing reform of Government procurement and enhance its capacity to deliver social objectives.

Environmental Impact

The environmental impact of broader GP liberalisation has the potential to be more positive than negative. Given that EU Member States are increasingly environmentally conscious, and have already proven to factor social and environmental considerations into their procurement policies and practices, it can be expected that with enhanced engagement between the EU and China, the EU will be able to influence similar standards in China's procurement processes and decision-making. Compared to the EU, China's environmental standards are relatively low. In fact, China's environmental protection regulatory regime is incomplete, and through its 11th Five-Year Plan, China has set the target of achieving sustainable growth through increasing energy efficiency, investments in renewable energy and improving overall

environmental protection.⁴¹ The PCA will provide a platform for the EU and China to engage on these issues and assist China in improving its commitments to environmental protection based on international standards and the example set by the EU.

If the EU is successful in influencing China’s use of Green procurement as a method to environmentally friendly and sustainable growth, China has the market size to shape production methods and consumption behaviour through its procurement practices. Green procurement, which promotes energy efficiency, has the potential to change China’s purchasing orientation by providing incentives to enterprises such that they produce environmentally conscious products. If green technology and low-pollution and resource-saving products and services become part of the norm of government procurement practices, the long-term effects on the environment in China are positive.

While opening up China’s GP system will reduce market access barriers for foreign competitors, it is important to note that environmental standards should not end up serving as non-tariff barriers (NTBs). Such an outcome would negate the positive effects of liberalising the sector. Environmental standards in China may need to be gradually improved, as sudden regulatory changes may result in domestic firms losing business opportunities to foreign enterprises as they adapt to changes in environmental standards requirements.

Table 2: PCA Summary Impacts Table – Government Procurement (China)

Indicator	Existing Conditions	Scenario Impacts		Policy Options	
		Overall Direction Magnitude	Equity	Reversibility	Capacity to change
Economic					
Economic Structure	-	↑	⊙	N	M
Transfer of technology	0	↑	⊙	N	H
Trade	0	↑↓	⊙	N	L?
Social					
Quality of GP (infrastructure, building standards, services)	--	↑↑	⊙	N	H
Labour	++	↓↓	⊙	Y	H
Environmental					
Environmental Standards & Efficiency	--	↑↑	⊙	N	H

Table 3: PCA Summary Impacts Table – Government Procurement (EU)

Indicator	Existing Conditions	Scenario Impacts		Policy Options	
		Overall Direction Magnitude	Equity	Reversibility	Capacity to change
Economic					
Trade	-	↑↑	⊙	N	L?
Social					
Labour	0	↑	⊕⊕	Y	L

⁴¹ China’s 11th Five-Year Plan www.gov.cn

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Annex 1

Table 4: Comparative Overview of Public Procurement Structures in EU Member States

Member State	Key Institutions	Staff	Sub-ordination	Main Functions
Austria (Semi- centralised structure)	Section for Procurement Law	4	Federal Chancellor's Office	Drafting primary and secondary legislation; International co-ordination; Advisory functions; Monitoring and control; Information.
	Federal Procurement Ltd.	58	Ministry of Finance	Business development and co-ordination; Central purchasing.
Bulgaria (Centralised structure)	Public Procurement Agency	38	Ministry of Economy and Energy	Drafting primary and secondary legislation; Advisory and operations' support; International co-ordination; Monitoring and control; Publication and information; Professionalisation and capacity-strengthening.
Cyprus (Centralised structure)	Public Procurement Directorate	14	Treasury	Drafting primary and secondary legislation; Advisory and operations' support; International co-ordination; Monitoring and control; Professionalisation and capacity-strengthening.
Czech Republic (Centralised structure)	Public Investment Department	17	Ministry for Regional Development	Drafting primary and secondary legislation; Advisory functions; International co-ordination; Monitoring and control; Publication and information (partially).
Estonia (Centralised structure)	Public Procurement Office	19	Ministry of Finance	Advisory and operations' support; International co-ordination; Monitoring and control; Publication and information; Professionalisation and capacity-strengthening.
	State Aid and Public Procurement Unit, Public Governance Department	4	Ministry of Finance	Drafting primary and secondary legislation.
Finland (Decentralised structure)	Trade Department	4	Ministry of Trade and Industry	Drafting primary and secondary legislation; International co-ordination (shared); Advisory functions (shared). Monitoring and control; Information; Professionalisation and capacity-strengthening (shared).
	Budget Department	2	Ministry of Finance	Overall policy.
	Haus Ltd	2	Ministry of Finance	Professionalisation and capacity-strengthening (shared).
	Hansel Ltd	50	Ministry of Finance	Business development and co-ordination; Central purchasing.
France (Semi- centralised structure)	Public Procurement Department, Directorate for Legal Affairs	40	Ministry of Economy, Finance and Industry	Drafting primary and secondary legislation; Advisory and operations' support; International co-ordination; Monitoring and control; Information.
Germany (Semi-centralised structure)	BMWi	10	Federal Ministry of Economy and Technology	Drafting primary legislation; Drafting secondary legislation (shared); International co-ordination; Advisory functions; Monitoring and control; Information.
	Bundesverwaltungsamt (Federal office for administration)	9	Federal Ministry of Interior	Publication.
	Ministry of Transport, Building and			Professionalisation and capacity-strengthening (shared with many).

	Urban Affairs			
Hungary (Centralised structure)	Public Procurement Council	35	Parliament	Advisory and operations' support; International co-ordination; Monitoring and control; Publication and information; Professionalisation and capacity-strengthening.
	Department of Civil Law, Codification and International Private Law	4	Ministry of Justice and Law Enforcement	Drafting primary and secondary (shared) legislation; International co-ordination.
Ireland (Semi-centralised structure)	National Public Procurement Policy Unit	12	Department of Finance	Drafting primary legislation; Advisory and operations' support; International co-ordination; Monitoring and control; Professionalisation and capacity-strengthening.
Italy (Semi-centralised structure)	Public Works Authority	237	Parliament	Monitoring and control.
	CONSP (limited public company)	500	Ministry of Economy and Finance (owner)	Advisory and operations' support; Professionalisation and capacity-strengthening; Business development and co-ordination; Central purchasing.
	Council of Ministers			Drafting primary legislation.
Latvia (Centralised structure)	Procurement Monitoring Bureau	32	Ministry of Finance	Advisory and operations' support; International co-ordination; Monitoring and control; Publication and information; Professionalisation and capacity-strengthening; Complaints review and remedies.
	Ministry of Finance	3		Drafting primary and secondary legislation; International co-ordination.
Lithuania (Centralised structure)	Public Procurement Office	60	Office of the Prime Minister	Drafting secondary legislation; Advisory and operations' support; International co-ordination; Monitoring and control Publication and information'; Professionalisation and capacity-strengthening.
	Ministry of Economy	3		Drafting primary legislation; International co-ordination.
Luxembourg (Semi-centralised structure)	Ministry of Public Works	1		Drafting primary legislation; Advisory functions; International co-ordination; Monitoring; Information.
Malta (Centralised structure)	Department of Contracts	40	Ministry of Finance	Drafting primary and secondary legislation; Advisory and operations' support; International co-ordination; Monitoring and control; Publication and information; Professionalisation and capacity-strengthening; Business development and co-ordination; Central purchasing; Complaints review and remedies (Appeals Board).
Poland (Centralised structure)	Public Procurement Office	116	Office of the Prime Minister	Drafting primary and secondary legislation; Advisory and operations' support; International co-ordination; Monitoring and control; Publication and information. Professionalisation and capacity-strengthening; Complaints review and remedies (Bureau of Appeals) – PPO administers the system.
Portugal (Decentralised structure)	Directorate General for State Property; Directorate for European Affairs; Department for Public Procurement; Institute for Public Works	9	Council of Ministers	Policy functions and drafting primary legislation (government); International co-ordination; Business co-ordination; Central purchasing; Monitoring and control; Capacity-strengthening.
Romania (Centralised)	National	70	Office of the	Drafting primary and secondary legislation; Advisory and

structure)	Authority for Regulating and Monitoring Public Procurement		Prime Minister	operations' support; International co-ordination; Monitoring and control; Information; Professionalisation and capacity-strengthening.
Slovak Republic (Centralised structure)	Office for Public Procurement	110	Council of Ministers	Drafting primary and secondary legislation; Advisory and operations' support; International co-ordination; Monitoring and control Publication and information'; Professionalisation and capacity- strengthening; Complaints review and remedies.
Slovenia (Semi-centralised structure)	Department for Public Procurement, Public Utilities and Concessions	8	Ministry of Finance	Drafting primary and secondary legislation; Advisory functions; International co-ordination; Monitoring and control; Information.
Sweden (Semi- centralised structure)	Board for Public Procurement	10	Ministry of Finance	Advisory functions; International co-ordination (shared); Monitoring; Information; Professionalisation and capacity-strengthening.
	Ministry of Finance	3		Drafting primary and secondary legislation; International co-ordination.
United Kingdom (Semi-centralised structure)	Office of Government Commerce	25 (500)	HM Treasury (Ministry of Finance)	Drafting secondary legislation; Advisory and operations' support; International co-ordination; Monitoring; Information; Professionalisation and capacity-strengthening (shared); Business development and co-ordination (shared)

Source: Integrity in Public Procurement: Good Practice from A to Z. OECD 2007

Annex 2

Success factors for UK firms carrying out European public procurement ⁴²

- Good products and services with reliable delivery and customer support services
- Clear commitment to public procurement markets and the resource investment required
- Structural readiness for export
- Relevant export support services have been investigated and used
- Market research has been carried out; issues such as country-specific regulation, customer preferences, standards have been explored
- Niche or best-in-class product or service is offered
- Internationally recognised brand
- Clear and robust country-entry strategy in place
- A strategy of starting small has been considered, to avoid head-on competition with firms already well established in the market
- Familiarity with relevant EU public procurement rules
- Familiarity with informal problem-solving mechanisms in case problems occur
- Some form of local presence is in place (distribution agreement, joint-venture, local subsidiary, sub-contracting arrangement)
- Linguistic skills and cultural understanding of the target country
- Sales representatives are natives of the country, or at least fluent in the language, and well integrated within the local culture and business environment
- Good relationships and dialogue are in place with potential and actual clients
- Competitive bid
- Good fit with client requirements
- Pragmatic approach to difficulties and cultural differences, and adaptability to customer requirements

⁴² Office of Government Commerce, Press Release - http://www.ogc.gov.uk/7023_4245.asp