

5. USA preferential public purchasing policies date from 1933, when the Buy American Act was passed. This Act limits sales opportunities for Canadian exporters by establishing barriers against the purchase of foreign goods by USA federal departments and agencies. Generally, USA Government procurement restrictions take the form of price preferences ranging from 6% to 50%, such as under the Small and Minority Business Set Aside Programme. In the case of certain defence contracts, preference for USA suppliers is absolute.

6. Since "Buy American" restrictions do not apply if the final process of manufacturing has taken place in the United States, and if the cost of the components which have been mined, produced, or manufactured in the USA exceed 50 percent of the cost of all components, Canadian firms seeking access to the USA government procurement market are led by the Act to set up operations in the United States.

7. Canadian firms are also hampered by the Buy American provisions of the Surface Transportation Assistance Act (STAA). Restrictions such as a 25% preference on USA sourcing in mass-transit and highway projects, first imposed in 1978 and strengthened in 1982, have had a powerful negative effect on exports of Canadian steel products to the United States, as well as on investment in this sector. Canadian firms like Bombardier and Flyer have as a result of this legislation had to establish plants in the USA. Under the 1982 STAA legislation, the previous \$500,000 minimum contract provision for application of Buy American preferences was lifted. This has proved particularly damaging to smaller Canadian sub-suppliers.

8. Buy American preferences are also attached to other major funding programs, for example under the Clean Water Act, the Public Works Employment Act and the Rural Electrification Act. This means a standard 6% preference and a higher preference in case of certain departments or agencies (e.g. 10% for Department of Commerce administration of Public Work Employment Act, or 50% for Department of Defence contracts not covered by the Canada - USA Defence Production Sharing Agreement). Canadian companies have been reporting a more stringent application of rules, especially for military construction projects and transportation equipment.

9. When the GATT Agreement was negotiated in 1979, the United States sought a small business derogation, citing the legislative requirements under the Small Business Act of 1953 to protect USA small business. The United States, although including NASA under the Code as payment for the small business derogation, indicated the set-asides exclusion (then valued at about \$300 million) would not materially affect USA government procurement. However, small business set-asides contracts reserved exclusively for USA small businesses or minority businesses are increasing as the Small Business Administration sets annual goals with United States departments on the amount