

arises, call either the Canadian Embassy in Washington at (202) 682-7746 or the Canadian Commercial Corporation at (613) 995-8046.

### **REMAINING RESTRICTIONS ON CANADIAN CONSTRUCTION MATERIALS**

The BAA effectively prohibits Canadian products or supplies from being used in any U.S. federal public works or construction projects when the prime contract is valued at under US\$6.5 million. However, FAR 25.202(a) states that exceptions may be made when:

- the head of the concerned agency determines that use of a particular domestic construction material would unreasonably increase the project cost, or would be impractical; or
- the required materials are unavailable in sufficient quality or quantity in the United States.

Thus for public works or construction contracts under US\$6.5 million, the agency may waive permitting the use of Canadian or other foreign-made products or supplies. Waivers pertaining to a single contract must be granted:

- before the product is used,
- to the prime contractor,
- from the procuring department or agency—even if the Canadian product is sold through U.S. distributors who are part of a chain of subcontractors.

Each agency acts independently in determining whether to issue a waiver. If a waiver permits the use of Canadian materials, the excepted materials are listed in the contract, and the justification for using those materials becomes public information. This means that the Canadian firms' American competitors have ready access to that information. FAR 25.203(b) states that:

When proposed awards are submitted to the agency head for approval, each submission shall include a description of the materials, including unit and quantity, estimated costs, location of the construction project, name and