

### **Buy American**

Buy American provisions are applied extensively to U.S. federal government procurement that is not covered by the NAFTA or the WTO. Since these trade agreements only require equal treatment of Canadian offers on direct purchases by the U.S. federal government included in the agreement, a wide range of other federal government procurement contains Buy American provisions.

### **Department of Defence Procurement**

Under the Canada-U.S. Defence Production Arrangement and the Defence Development Sharing Arrangement, Canadian industry has access to this huge market for equipment and R&D. This relationship requires continuous vigilance and maintenance to prevent erosion, whether intentional or inadvertent.

### **Buy American Provisions in Federally-Funded Sub-Federal Procurement**

Buy American provisions are attached by the U.S. federal government to federally-funded sub-federal procurement, i.e. by making such provisions a condition of funding to state and municipal organizations. Canada continues to seek improvements to the limited access available to this important U.S. procurement market, which includes transit, highway and aviation projects.

Almost all large transportation contracts in the United States are federally funded but administered by state and local government or private-sector organizations. The Transportation Equity Act for the 21st Century (known popularly as TEA-21) provides funding for these projects through fiscal year 2003. The Federal Transit Administration and Federal Highway Administration (FHWA) grant TEA-21 funds to state and local governments and transportation authorities for transportation projects on the condition that U.S. material and equipment is used. Projects funded by the Federal Transit Administration require all steel and manufactured products to be 100 percent U.S. content and 100 percent U.S. manufactured. Rolling stock (trains, buses, ferries, trolley cars, etc.) components must be 60 percent U.S. content, with final assembly occurring in the United States. Projects funded by the FHWA require all iron and steel products and their coatings to be 100 percent U.S. manufactured.

Similar conditions prevail for airport projects that receive funds from the Federal Aviation Administration as authorized by the Airport and Airways Facilities Improvement Act. Such projects require that all steel and manufactured products be of 60 percent U.S. content and that final assembly occur in the United States. Canada will continue to press for improved access to procurement markets in these areas.

### **State and Local Government Preferences**

A wide variety of procurement preferences exist at the state and local level. In addition, many U.S. federal government Buy American provisions are included in state and local procurement when federal funding is provided. Canada remains concerned that access for Canadian suppliers is constrained and unpredictable as a result of these preferences.

### **Legislative and Regulatory Changes**

Although the United States has largely completed implementing changes made to its acquisition procedures arising from legislation passed in 1994 and 1995, regulations in civilian and defence procurement, which can effect market access for Canadian suppliers, change constantly. Canada continues to press the United States to clarify and resolve potential inconsistencies between its NAFTA obligations and the new procedures, which appear to limit Canadian participation. These include subcontracting requirements and simplified acquisition procedures for all procurement under \$100,000 and for commercial items to a value of US\$5 million. Canada is also concerned about the propensity for U.S. legislators to incorporate restrictive procurement provisions into unrelated legislation, such as appropriations acts, on an ad-hoc basis. Often relating to specific products, such action appears to be taken without full consideration of the potential for inconsistency with international trade obligations.

### **STANDARDS-RELATED MEASURES**

Canada continues to engage in a constructive dialogue with the United States, principally in the NAFTA Committee for Standards-related Measures, to urge that national regulatory burdens on industry be minimized while allowing industry to self-regulate in the context of an increasingly integrated North American market.