

transit authorities can accept bids 25 per cent higher than the lowest tender if the bidder is supplying only United States-made or -assembled equipment with a substantial local content requirement. As of October 1, 1991, ISTEA provisions call for a domestic content requirement of 60 per cent, and final assembly of vehicles must take place in the United States.

Other sectors covered by ISTEA include projects of the Federal Highway Administration (FHA). The Buy American provisions require that only domestically produced iron, steel and manufactured products be used in any FHA project.

The funding programs of ISTEA are not subject to the disciplines of the GATT or the FTA. This is because the funding programs themselves and the agencies receiving the grants are not covered by the procurement obligations under either Agreement.

### **Small Business Act**

Various U.S. set-aside programs (small, disadvantaged, minority, labour surplus and female-owned businesses) under the Small Business Act of 1953 and a number of auxiliary acts of Congress represent a major impediment to Canadian firms in gaining access to the U.S. market.

The Small Business Act established the Small Business Administration in order to promote the interests of small and disadvantaged businesses. It does so in a number of ways. In 1989, 18 per cent of prime contracts and 39 per cent of subcontracts, representing a total value of \$59 billion, were awarded to small businesses. Of these, approximately \$13 billion in contracts were specifically designated by contract officers as being "set aside" and available exclusively to U.S. small business concerns. Such set-asides may be applied to contracts covered by the FTA and the GATT procurement provisions, as well as to contracts outside the authority of these international obligations.

Under the Small Business Administration, a small business is usually defined as one with up to 500 employees and \$3.5 million annually in receipts, though companies may range in size up to 1 500 employees. Small business set-asides are a particular concern for Canadian industry since they occur within the range of contracts of primary interest to Canadian firms.