

generally, the Act demands that only domestic products be acquired for public use in construction, alteration or repair of public buildings or public works. This requirement must be observed unless:

- (a) the product is not available domestically,
- (b) the cost of acquisition exceeds the lowest acceptable foreign offer by more than 6 per cent, or
- (c) the items are destined for use outside the United States.

In addition, businesses or agencies buying goods and services for the federal government may also set aside contracts for small businesses (see Small Business Act below) and for firms in regions of high unemployment, referred to as "labour surplus areas." Foreign bids may be rejected for reasons of national security or national interest.

For a product to qualify as domestic, final manufacture must take place in the United States, and at least 50 per cent of the value of the product must be American. In the case of construction contracts, the Act requires that only domestic construction materials be used unless they are unavailable in the United States or the cost of the domestic product is considered unreasonably high.

The Buy American restriction can have a negative impact on general commercial sales of foreign products, as U.S. wholesalers and distributors may refuse to carry product lines that cannot be used in government contracts.

The impact of the Buy American Act is seen in other legislation, in regulations that use this legislation as the authority and in a range of state and local practices. In some sectors using federal funds, in particular surface transportation and defence, the Buy American requirements are even more restrictive.

Intermodal Surface Transportation Efficiency Act

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), which is guided by the Buy American Act, covers government procurement in a range of areas of interest to Canadian companies: urban mass transit, road and bridge construction, and rail projects. ISTEA, the most recent version in a series of surface transportation acts, provides a six-year funding authorization for highway and mass transit projects.

According to ISTEA, federal, state or local governments that receive federal funds for the purchase of steel, transport and construction equipment must give preference to U.S. suppliers. In the case of mass transit equipment, the local