
A special national security clause applies under the GATT Code. Article VIII, paragraph 1, of the code states that "nothing in the GATT Agreement prevents any Party from taking any action or not disclosing any information which it considers necessary for the protection of its essential security interests relating to the procurement of arms, ammunition or war materials; or to procurement indispensable for national security or for national defence purposes."

While the Canada-U.S. Free Trade Agreement has a provision on national security (Article 2003), Article 1308 of the Government Procurement Chapter provides that the specific national security provisions of the GATT Code cited above shall apply for government procurement. In practical terms, this means that the procurement of weapons, ammunition, aircraft, space vehicles, ship and marine equipment, some kinds of communications and electrical/electronic equipment, as well as military clothing and food is not covered by the Government Procurement Chapter. (A detailed list of these items by FSC Code can be found as an explanatory note in Appendix C.)

Thus, for defence procurement, there is little change from the status quo. With the lowering of the GATT Code threshold, a slightly greater amount of procurement within the 57 categories of commercial and industrial products listed by defence departments is opened to competition.

However, there is no effect on the procurement of weapons and major military systems, that are not included in either the GATT Code or the Canada-U.S. Procurement Chapter. Rather, the special procurement arrangements under the Canada-U.S. Defence Development and Defence Production Sharing Arrangements will continue to be the framework for bilateral defence economic co-operation.

Further Negotiations

The Government Procurement Chapter broadens the obligations Canada and the United States have undertaken in the GATT Code. This represents another step towards the further multilateral liberalization of government procurement. Article 1307 sets out the commitment by both countries to negotiate further improvements to this chapter within one year of the conclusion of the multilateral negotiations of the GATT Code.

Should additional federal departments or entities be added to the coverage of the GATT Code, either by the United States or by Canada, these will automatically be covered by the Government Procurement Chapter. Under Articles 1303 and 1304, any modifications to the code, whether general or related to coverage, are automatically incorporated into the chapter on the date that they take effect, unless it is agreed otherwise.