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TRADE NEGOCIATIONS STUDIES:

DOCUMENTS RELEASED UNDER THE ACCESS TO INFORMATION ACT,

MAY 21, 1986

STUDY NO. 22:

Government procurement background paper. (Dept. of
External Affairs. January 1986)

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Dept. of External Affairs
Min. des Affaires extérieures

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GOVERNMENT PROCUREMENT

BACKGROUND PAPER

ISSUE

1. How to pursue with the United States "national treatment in government procurement and funding programs", in accordance with the Quebec Summit declaration and the Government decision to enter into negotiations for a new trade agreement with the United States.

OBJECTIVE

2. To review the background and some of the approaches which Canada could follow in negotiations with the United States on national treatment in government procurement and funding programs.

BACKGROUND

3. Both Canada and the United States are signatories to the GATT Agreement on Government Procurement which entered into force in 1981. The Agreement is designed to open a portion of signatories procurement of goods to international competition on a non-discriminatory basis. However, the scope of coverage of the Agreement is much narrower than that sought by both Canada and the United States, with purchases of equipment in sectors such as transportation, power generation and transmission, and telecommunications generally excluded.

I USA Practices

a) Federal

4. Total USA federal government purchases of goods and services amount to about \$250 billion. Over \$200 billion consist of military procurement. The amount of USA procurement covered by the GATT Agreement and hence not subject to Buy American preference is over \$30 billion (70 - 80% being purchased by the Department of Defence). Canadian firms have supplied about 1% (\$227 million) of the amount covered by the GATT Agreement. The Canadian penetration of USA non-military government procurement market is less than 0.2%.

5. USA preferential public purchasing policies date from 1933, when the Buy American Act was passed. This Act limits sales opportunities for Canadian exporters by establishing barriers against the purchase of foreign goods by USA federal departments and agencies. Generally, USA Government procurement restrictions take the form of price preferences ranging from 6% to 50%, such as under the Small and Minority Business Set Aside Programme. In the case of certain defence contracts, preference for USA suppliers is absolute.

6. Since "Buy American" restrictions do not apply if the final process of manufacturing has taken place in the United States, and if the cost of the components which have been mined, produced, or manufactured in the USA exceed 50 percent of the cost of all components, Canadian firms seeking access to the USA government procurement market are led by the Act to set up operations in the United States.

7. Canadian firms are also hampered by the Buy American provisions of the Surface Transportation Assistance Act (STAA). Restrictions such as a 25% preference on USA sourcing in mass-transit and highway projects, first imposed in 1978 and strengthened in 1982, have had a powerful negative effect on exports of Canadian steel products to the United States, as well as on investment in this sector. Canadian firms like Bombardier and Flyer have as a result of this legislation had to establish plants in the USA. Under the 1982 STAA legislation, the previous \$500,000 minimum contract provision for application of Buy American preferences was lifted. This has proved particularly damaging to smaller Canadian sub-suppliers.

8. Buy American preferences are also attached to other major funding programs, for example under the Clean Water Act, the Public Works Employment Act and the Rural Electrification Act. This means a standard 6% preference and a higher preference in case of certain departments or agencies (e.g. 10% for Department of Commerce administration of Public Work Employment Act, or 50% for Department of Defence contracts not covered by the Canada - USA Defence Production Sharing Agreement). Canadian companies have been reporting a more stringent application of rules, especially for military construction projects and transportation equipment.

9. When the GATT Agreement was negotiated in 1979, the United States sought a small business derogation, citing the legislative requirements under the Small Business Act of 1953 to protect USA small business. The United States, although including NASA under the Code as payment for the small business derogation, indicated the set-asides exclusion (then valued at about \$300 million) would not materially affect USA government procurement. However, small business set-asides contracts reserved exclusively for USA small businesses or minority businesses are increasing as the Small Business Administration sets annual goals with United States departments on the amount

of business to be set aside. USA set-asides have grown from \$300 million to about \$5 billion. In an effort to meet negotiated goals, some procurement officers have divided or split contracts so that they may be subject to the Small Business Set-Asides Programme. Pressure to do so is intense and, given the boost to small and medium business in the recent Competition in Contracting Act, unlikely to diminish. Furthermore, the rise in acceptable size for a "small" business, from 500 up to 2500 employees (size limits vary by industry) has greatly increased the scope of USA government procurement contracts which can be restricted to "small business".

10. Another exception to the provisions of the GATT Agreement, the "national security interest" exemption, is frequently used by the United States. Under USA National Security/ Confidentiality restrictions, excessive security classifications deny information on projects to potential Canadian bidders. Most significant contracts are discussed early in the R & D planning process. When they reach open bidding, such contracts are effectively limited to those companies involved at the start, i.e. USA firms. Security restrictions and the very long lead time required for visit clearances (and the frequent communications gap between Department of Defence approval agencies and project development agencies) cause time delays and onerous paperwork, discouraging USA contracting personnel from talking to Canadian firms. In some instances, "confidentiality" restrictions are inappropriately used by USA firms to prevent or hamper Canadian competition.

b) State

11. In addition to the federal Buy American preferences, most States have their own Buy American/Buy State procurement policies or statutes. These policies may take the form of a nominal or price preference for USA/State products or a total prohibition on foreign products. Some of these policies are directed at specific products upon which a particular State economy may be dependent (especially steel). Most, however, apply to all products. There are indications that such State restrictive legislation will continue to increase, as several State Legislatures and Governors support local preferences as job-creating measures. A list of State restrictions is contained in Annex A.

II Canadian practices

a) Federal

12. Federal Government procurement of goods and services amount annually to approximately \$7 billion (they reached \$10.5 billion in 1983-84 due to the Canadian Patrol Frigate Programme). Of this, some \$500 million is covered under the

GATT Agreement. The remaining procurement (including all procurement by the Departments of Transport, Communications, and Fisheries and Oceans) is subject to a series of policies and practices covering a range of objectives from regional development, employment and technological development to commodity specific provisions. Following is a brief description of the most effective Canadian procurement policies and practices.

i) Sourcing Policy: Under this policy, sourcing is limited to certain groups, provided there are at least three potential suppliers in the group. The first group consists of Canadian based manufacturers, or agents of Canadian manufacturers, and multinationals who have reached an agreement with the Department of Supply and Services to rationalize their operations in Canada; the second, of Canadian based agents of Canadian or foreign manufacturers which offer after sales service; the third, of other Canadian based agents; and the last, of foreign based manufacturers or service companies, foreign based agents and foreign governments. Under this policy, an absolute preference is provided where possible, i.e. no foreign supplier or agent of a foreign supplier is invited to bid if adequate competition exists among Canadian manufacturers or rationalized multinationals.

ii) Rationalization criteria for MNE's: This policy provides that certain products of Canadian subsidiaries of rationalized foreign-based parents will be treated for sourcing purposes as though they were made in Canada. The policy is based on the notion that the benefits to Canada from having a rationalized operation established in Canada will more than offset the losses occurring from the firm's importation of goods manufactured abroad.

iii) Strategic/preferred sources: These terms describe those sources which have been identified as being needed to maintain an assured source of military requirements. The strategic source concept was first implemented by a Cabinet decision governing the munitions industry. A qualified strategic source might receive special support such as guaranteed minimum annual procurement levels, direct financial assistance and long term exclusivity of supply.

iv) Canadian content premium: A long-standing practice of the Department of Supply and Services has been to apply a premium of up to 10% in favour of Canadian content in the evaluation of bids.

v) Procurement Review Committees (PRC): All requirements over \$2 million or sensitive cases at all dollar levels are subject to pre-award review by a committee chaired by the Department of Supply and Services and comprising the customer department, relevant policy departments and central agencies. The PRC consider such cases from the standpoint of maximizing socio-economic benefits to Canada.

13. In addition to the policies and practices described above, major Crown procurements of over \$100 million are subject to industrial benefit practices. These industrial benefits may take the form of a Canadian participation in the production of the procured product, of offsets or of business activity unrelated to the product. In pursuing such benefits, the government asks potential prime contractors to define the benefits they can provide in their bid packages. Reliance is placed on the competitive nature of the process to ensure attractive industrial benefits proposals.

14. With respect to Federal funding programmes, "Buy Canadian" conditions are frequently attached. As of May 31, 1985, fifty-nine subsidiary agreements under umbrella economic and regional development agreements had been signed. These agreements represent a total commitment by both levels of government of \$2.8 billion, of which the federal share is close to \$1.6 billion. Of these agreements, thirty-six (61%) contain some form of "Buy Canadian" condition and represent a total commitment of more than \$1.9 billion or 68%. Moreover, where the agreement does not contain "Buy Canadian" conditions, procurement is carried out under the normal practices of the awarding agency, generally favouring local or provincial suppliers. A list of the subsidiary agreements is attached at Annex B.

15. Procurement policies and practices of Crown Corporations vary somewhat, but generally tend to favour Canadian sources. There are some 50 Crown Corporations not covered by the GATT Procurement Code. They could be grouped into 7 categories: manufacturers, service providers, financial intermediaries, fisheries related, real estate, regulatory, and other. Those Crown Corporations with significant procurement activity are largely in the services and manufacturing field (CN, VIA, Petro Canada, Teleglobe, Air Canada, Canada Ports and CDIC).

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Secs. 15(1)
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b) Provincial

18 There has been an increasing tendency for Canadian provinces to give some form of preference to local suppliers when effecting government purchases, usually based on the rationale that provincial governments are important agents of economic development within their respective jurisdictions. Preferences maintained by the provinces range from a preference for provincial suppliers where price, quality and service are equal (Alberta) to an absolute preference for provincial suppliers when possible (New Brunswick, Nova Scotia, Quebec, and, in certain circumstances, Ontario). Moreover, provincial Crown Corporations generally follow practices similar to that of the Province. A brief description of known provincial practices is contained in Annex E. (See also paragraph 38 on practices of provincial utilities.)

III. Previous Bilateral Initiatives

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IV. GATT Agreement on Government Procurement

23. The Agreement has been in operation since 1981. Statistics available show that since the Agreement came into force, the performance of Canadian suppliers has improved considerably. In 1981, Canada's balance of trade under the Agreement was in deficit of \$35.4 million, but in 1982 and 1983 Canada showed a surplus of \$29 million and \$205 million respectively. Canada's most important partner, by far, is the United States, in terms of both exports and imports.

24. Negotiations to improve and expand the scope of coverage of the Agreement began in the fall of 1983. The negotiations have been divided into three broad elements: a) improvement of the procedures of the Agreement; b) expanded entity coverage; and c) examination of the possibility of including service contracts under the Agreement.

25. Progress to date has been most evident in the area of improvements aimed at, inter alia, increased discipline on the use of single tendering practices and short bid deadlines as well as expanded statistical reporting requirements. The EC, with support from some other countries, has expressed a preference to move forward on improvement proposals, leaving aside, for the moment, the more complicated and controversial issues of expanded entity coverage and possible inclusion of service contracts. The USA, supported by Canada, has continued to express its preference for moving forward on all three elements of the negotiations.

26. To date the USA, Sweden, and Canada have tabled lists of additional government purchasing entities they would like to see brought within the coverage of the GATT Agreement.

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While the EC has not tabled a request list, it has informally expressed its interest in using the Procurement negotiations to eliminate, or severely limit, both of these USA Government procurement barriers.

27. Service contracts per se are not covered by the present Agreement, although services incidental to the supply of products are, if their value is less than 50% that of the products portion of the contract. While the USA is anxious for work leading to the ultimate negotiation of inclusion of service contracts to proceed, progress in this area has been slow to date. Agreement has been reached to undertake "pilot studies" on architectural and consulting engineering, insurance, management consulting and freight forwarding services. Several signatories have also indicated their willingness to table an additional study on data processing services. These five studies taken together should provide a representative picture of existing government procurement practices in the service sector.

26. While the target deadline of June 1986 set for completion of the negotiations to broaden and improve the Agreement will not likely be met, work is expected to continue. However, the negotiations are unlikely to be completed in isolation from a broader multilateral negotiation which will offer the scope for the trade-offs required to strike a comprehensive deal. Accordingly, recent Canadian statements on a new MTN have noted government procurement as one of the items which Canada would seek to have included in the list of priority issues for the new Round.

V. EC Experience

29. The Treaty of Rome, establishing the European Economic Community provides, inter alia, for national treatment in government procurement of goods and services. Because of difficulties in enforcing the application of national treatment, an internal Directive was promulgated in 1976 providing terms and procedures under which procurement contracts would be opened to Community wide competition. The GATT Agreement on Government Procurement which was subsequently negotiated reflects many of the provisions of the EC 1976 Directive.

UNITED STATES CONCERNS

30. The United States Administration attaches a high priority to the removal of discriminatory procurement policies and practices, particularly in the telecommunications, power generation and transmission, and surface transportation sectors. This policy thrust has been reflected in the USA position during and since the original negotiations of the GATT Agreement, whether in bilateral or multilateral discussions. In 1981, an Administration Report to Congress on the exclusion of certain sectors from the coverage of the Agreement concluded that the USA industry would have benefited from coverage of entities purchasing heavy electrical and telecommunications equipment and rail locomotives (but not rail cars).

31. There is substantial pressure on the Administration and on Congress by USA telecommunications and power generation and transmission equipment manufacturers to deal effectively with perceived trade discrimination in, and lack of access to, major foreign markets, notably the EC and Japan, and to a lesser extent, Canada. The Administration's response has been to seek expansion of the coverage of the Agreement to include entities in those sectors. United States GATT officials have taken the lead in Geneva in initiating the negotiations and have identified the following as priority areas: expanded entity coverage, coverage of leasing and service contracts, reduction of the threshold, extension of bid deadlines and increased transparency.

32. USA interest in Canadian procurement practices, whether in a multilateral or bilateral context, is likely to focus on Federal procurement not now covered under the GATT Agreement and Provincial procurement in the telecommunications, power generation and transmission, and transportation sectors (see Annex F). The USA would also be strongly interested in coverage of leasing contracts (largely used in the high technology area), in the reduction of the threshold and in the coverage of service contracts. Finally, the USA would likely seek to establish strong discipline on Canadian offset/industrial benefits practices which, in their view, distort trade and tend to have a demonstration effect in other countries.

CANADIAN CONCERNS

a) Domestic interests

33. The USA Government, notwithstanding the disciplines of the GATT Agreement, continues to maintain severe discriminatory practices against foreign products and suppliers. Of major exports interest to Canada would be the removal of Buy American riders on the use of federal funds under such legislation as the Surface Transportation Assistance Act of 1982. Another area of major interest to Canada would be the elimination of the Small and Minority Business Set Aside Programme which has

grown at an unprecedented rate in recent years. The Programme adversely affects Canadian suppliers of all sizes in all sectors and has been the source of increasing complaints of discrimination against Canadian firms. There is also a considerable amount of procurement being carried out by USA federal agencies not now covered by the GATT Agreement. Access to this market [redacted] would be of considerable benefit to Canadian companies in a number of sectors. Following are specific comments on the sectoral impact of pursuing national treatment with the USA on government procurement.

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However, the beneficial effects for Canada of any liberalization of federal "Buy America" restrictions could be impaired if the bilateral agreement is not designed to remove State procurement practices which could pose a serious problem in the future. Negotiating the removal of these barriers would be of great advantage to the Canadian industry.

35. The removal of the provincial procurement practices, as a result of such negotiation, would encourage the development of an integrated urban mass transit industry in Canada.

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There is also little or no support in this sector for multilateral procurement liberalization given the assessment that the European and Japanese markets could not be penetrated because of different standards and the concerns over increased competition in the Canadian market.

37. With respect to the heavy electrical equipment sector, American restrictions continue to affect all federally-funded power projects including those undertaken by a number of federal purchasing entities such as Tennessee Valley Authority (TVA) and the USA Army Corp of Engineers who are important customers for power equipment in areas of Canadian strength, particularly hydraulic turbines and generators.

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Sec. 15(1)

By and large, Canadian and USA manufacturers presently have reasonable access to each other's markets in those products of principal export interest. In addition, increased north-south rationalization by the major USA based power equipment manufacturers operating in Canada (principally CGE and Westinghouse) has facilitated USA market access for some products.

38. Provincial and municipal departments and agencies and provincial Crown corporations are the major purchasers of heavy electrical equipment in Canada. However, only Hydro Quebec and Ontario Hydro practice a significant degree of discrimination in favour of domestic sources. British Columbia and Manitoba Hydro also place some restrictions in limited product area. Most others purchase without discrimination at the lowest possible price, and often this means purchasing from foreign sources at dumped price levels or with the benefit of concessional financing rates. This practice contrasts sharply with those in other countries (except the USA) where the utilities are national in scope and where there is a total commitment to their domestic manufacturers.

39. In regard to the purchasing preference which are exercised by Canadian utilities, it is important to note that to the degree that discrimination in favour of domestic sources has been practiced, it has usually been for sources within individual provinces.

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In this regard, a number of medium-sized firms which have developed ties to either Hydro Quebec or Ontario Hydro, have

been careful to point out the importance they placed on their "preferential" relationship with these utilities. They tend to regard this relationship, however, as the natural outgrowth of years of satisfactory product performance, close technical collaboration, and their ability to meet the utilities specialized quality control and service needs.

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joint action with the USA to secure access to third country markets closed by the procurement practices of the telecommunications carriers in these countries could be of significant benefit to both countries.

42. Pursuing national treatment with the USA on government procurement would also be of significant benefit to the steel cement and motor vehicle industries. A considerable proportion of STAA funds are used for the modernization of highways and bridges, major uses of cement and steel. As regards motor vehicles, the USA government applies Buy American restrictions to motor vehicles purchased by entities not covered by the GATT Agreement regardless of the Autopact (recently Chrysler Canada was unable to compete for a large USA Postal Service purchase of light trucks).

43. It is not clear what the impact of national treatment would be in respect of other sectors such as aerospace, electronics, marine, machinery and information processing systems and services, some of which, particularly in the advanced technology field, are major beneficiary of government procurement and R & D contracts. The amount of government procurement in the United States in these sectors outweighs by far Canadian procurement in the same areas. However, more detailed analysis would be required to assess whether Canadian firms could sustain USA competition, particularly if tariff protection were to be removed.

b) Government Policies and Practices

An agreement with the USA providing for national treatment in procurement and funding programmes, whether comprehensive or selective, would significantly limit the ability to use procurement as an instrument of economic and regional development. Such an agreement might address, for instance, tied funding programmes such as subsidiary agreements under umbrella Economic and Regional Development Agreements. Currently, these subsidiary agreements provide for a total funding of some \$2.8 billion which is subject to some form of procurement restrictions in favour of local/provincial/Canadian suppliers.

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c) Defence sector

Considerable concerns has been expressed by a number of Canadian firms over difficulties in penetrating the USA defence procurement markets. The focus of Canada's efforts in this area has been to continue to press the USA for the meaningful improvement necessary if we are to address the large and increasing defence trade imbalance with the USA (current level of about \$500 million/year). We have been successful in building the foundation for such improvement and have established structural mechanisms that will facilitate and institutionalize the increased defence economic cooperation and the necessary associated improvements in technology safeguards. Significant progress has been made in three important areas:

- (i) A memorandum of understanding concerning the exchange of sophisticated technical information has been negotiated. This memorandum will facilitate access for qualified contractors of each country on an equally favourable basis to unclassified strategic technical data of both countries. Moreover, the memorandum provides for a common, jointly staffed system for certifying participating contractors in

each nation. This procedural framework will stimulate further cooperation between our respective defence industries and our military acquisition establishments. It should also ensure, to the fullest extent possible, the common utilization of unclassified strategic technical data in furtherance of the mutual defence interests of the two countries.

(ii) We have also taken steps to facilitate the freer exchange of technical knowledge and skills between both countries, by eliminating administrative impediments such as visit request formalities for unclassified defence-related visits between contractors of the two countries, and by simplifying and streamlining procedures for classified visit requests through the use of a single visit request form which will facilitate automated and timely processing of all requests (reducing the administrative workload previously associated with visit requests). Efforts are underway to effect the necessary changes in regulations in both countries for the implementation of these measures. When completed, these steps will help stimulate technical cooperation between the USA and Canada.

(iii) To promote joint participation in major defence programs, we have agreed on a number of actions to provide for an early identification and careful review of potential collaborative projects. Canada has agreed to foster competitive selection of Canadian prime contractors for defence sharing projects. Canadian contractors are being actively encouraged to present competitive bids on specific defence projects and to further participate in USA competitive procurements. The USA also agreed in principle to amend the Defence Acquisition Supplement to the Federal Acquisition Regulations to provide for a review of defence procurement where interest has been expressed in order to establish at the earliest time Canadian eligibility to participate.

47. There is a need to move toward further bilateral co-operation between Canada and the United States in respect to defence production. While real and important progress has been achieved in establishing structural mechanisms, further efforts are required to identify specific major programmes for joint developmental participation and to eliminate barriers to the USA defence procurement market.

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d) Federal-Provincial Considerations

48. It is highly unlikely that Canadian objectives in the USA procurement market would be achievable without participation by several provincial governments which are major purchasers.

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A federal - provincial arrangement in this area could also contribute significantly to the reduction or elimination of procurement barriers within Canada.

49. Given that, from the perspective of international law

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Secs. 15(1)
21(1)(c)
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52. Provincial governments have been consulted regularly in respect of the negotiations to expand the GATT Agreement and of bilateral discussions with the United States. The Provinces are aware that provincial participation is essential to obtaining greater access to the USA procurement market. No Province, however, has indicated a willingness to participate by accepting discipline on procurement practices. The Provinces have also shown interest in the concept of a federal-provincial procurement agreement which would also deal with interprovincial barriers.

PARAMETERS OF AN AGREEMENT

53. In order to refine the coverage or application of national treatment in procurement and tied funding programmes, the parameters need to be defined as they would have significant influence on the value of procurement actually opened to competition. These parameters could include the following: threshold level, coverage of leasing, coverage of some or all service contracts, qualification and tendering procedures, transparency provisions, dispute settlement, exceptions and derogations.

a)

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c) Threshold

56. The USA would likely press for no threshold or a very low value threshold in any bilateral agreement. However, a threshold value below which contracts would not be subject to national treatment might be a desirable feature of an agreement. For instance, establishing a threshold at about \$200,000 (which is the level of the threshold under the GATT Agreement) would result in a greater proportion of procurement subject to national treatment in the USA than in Canada, since in Canada generally less than 50% of the value of all Federal procurement is for contracts valued at \$200,000 or more while in the USA some 75% of procurement is for contracts valued above that amount. A further consideration is the procedure which should apply to ensure compliance with such a provision. It may be that it would not be worth the effort for small contracts.

d) Leasing

57. The United States has already proposed that leasing be included in the GATT Agreement and therefore they would also likely press for the inclusion of leasing in a bilateral agreement. Leasing is used extensively, both in Canada and the USA, mainly for the acquisition of office, electronic data processing (EDP), and telecommunications equipment. In 1981, the USA government awarded some US \$900 million worth of leasing contracts, primarily EDP and communications equipment. In FY 1982-83, the Federal Government awarded some \$225 million worth of leasing contracts of which the largest part was for photo-copiers and EDP equipment.

e) Services

58. In the context of the GATT Agreement negotiations the USA pressed hard for the establishment of "pilot studies" to examine the feasibility of applying the Agreement to service contract. Five studies have been undertaken (architectural and consulting engineering, insurance, management consulting, freight forwarding, and data processing services) and are expected to yield useful information. Canadian industry in some sectors has expressed interest in access to the USA government market, including State and local procurement.

59. More specifically, the USA government spent \$2.7 billion on procurement of automatic data processing services in 1982 and access to this through direct contracting or through sub-contracting could bring major benefits to the Canadian industry, including enhanced technology transfer. In the construction field over 80% of government procurement is undertaken at the State or local level. Thus access to all three levels would be important. With respect to consulting engineers, large opportunities exist in areas where conventional technologies are required. In engineering areas requiring high technical skills, the USA has used defence contracts to build up the competence of its engineering consulting firms, giving these companies an edge when experience is considered a prerequisite for future contract

work. A deliberate effort should be made to channel such developmental work to Canadian engineering companies to build up their competence as well. Other service industries such as caterers, trading houses and freight-forwarders would also be interested in better access to USA government procurement.

f) Dispute Settlement

60. The need for a consultation, conciliation and dispute settlement mechanism would have to be addressed.

POSSIBLE APPROACHES TO NATIONAL TREATMENT

61. There are several possible approaches that could be pursued to seek a reciprocal exchange of national treatment in government procurement and funding programmes. These approaches can be defined essentially as a function of the desired scope of national treatment. The following approaches are outlined in order of decreasing scope but the list of possibilities is not exhaustive.

a) Comprehensive

62. Under this approach, products and supplies from the other country would be treated no less favourably than domestic products or supplies in respect of all laws, regulations, policies and practices regulating procurement. In effect, this would be a removal on a bilateral basis, of the GATT Article III procurement exemption from the general National Treatment obligations. Moreover, in order to deal with funding practices, the approach would require state and provincial governments to accept a binding commitment to apply national treatment in their own procurement and funding programmes. The effect of a comprehensive approach would therefore be felt down to the local/municipal level as well as in crown corporation procurement. The potential coverage of such an approval would be enormous. However, while the major obligations might be relatively easy to define, there would be a need for the development of procedures to ensure its effectiveness.

b) Comprehensive Civilian

63. This approach is the same as that described in a) above, but excluding weapons systems procurement by Defence Departments. Canadian interests in improved access to the USA Defence market would be pursued separately in the context of the Defence Production and Defence Development Sharing Agreements.

c) Federal and Selected State/Provincial Entities

64. This approach would involve coverage of procurement by federal departments and agencies not now covered by the GATT Agreement, removal of federal tied funding practices and coverage of selected state/provincial entities. This approach

would lead to slightly broader coverage than what is currently envisaged in the GATT Agreement negotiations and would more easily lend itself to possible third country participation. Defence procurement could be included or pursued separately in the context of the current DPSA and DDSA discussions with the United States.

d) Federal Only

65. This approach, which is the narrowest, is probably not sufficiently broad or balanced to offer a good chance of success. It would involve only federal procurement (with or without defence) and would be unlikely to achieve access to projects using tied funds.

"Buy American" STATE LEGISLATION**

Page 1

STATE	LEGISLATION	REGULATIONS OR PRACTICES	COMMENTS
Alabama*	Alabama Law of 1961; U.S. materials, supplies and products only, in public works projects. General Buy American legislation.	3% "Buy local" favoring in-state bidders. U.S. steel products only on highways or bridges 10% small business set-aside.	Exception: if not available at "reasonable" prices. Exceptions: requirement may be waived if it is impractical for energy needs, if a strike is on, or where lack of supply is a factor.
Alaska	5% preference for in-state suppliers of commodities; does not apply to public works (may rise to 10% in 1986).	Favor in-state bidders.	Preference does not relate to state or country of origin of the product.
Arizona	5% preference for in-state.	Favor in-state bidders & products.	
Arkansas	Ark Stat Ann (1981)	5% preference for in-state bidders.	
California	Cal. Govt Code 4330-4334	5% preference for bidders and goods. (to a maximum of \$50,000).	to qualify as an in-state bidder, necessary only to pre-register in Sacramento.
Colorado	Preference for U.S. meat and dairy products; Preference for in-state, Other Things Being Equal (OTE) (1973 Statute)		

* State with set-aside policies favouring certain categories of businesses, such as small or minority businesses.

STATE	LEGISLATION	REGULATIONS OR PRACTICES	COMMENTS
Connecticut*	Steel and cement "Buy American" provisions (1968 rule).	Preference for in-state suppliers, OTE: U.S. standard steel only, in highway project.	Bidders must indicate on tender documents when goods are of foreign origin. Restriction extended to steel piles, sheet piling, and steel overhead sign support.
Delaware	NIL	NIL	Earlier laws repealed as non-beneficial.
District of Columbia (Washington)	Federal Buy American Act applies.		Only U.S. construction material to be used on all highway and bridge projects.
Florida	Florida Statutes 287.082 (1975)	Preference to commodities from Florida, OTE.	Any non-Fla. manufacturing firm with factory in Fla. and over 200 employees, to receive preference over non-Fla. co., OTE
Georgia*	Georgia forest products must be used in state funded construction (1982 statute)	Preference for in-state materials, OTE (1975 statute)	In practice, clause has never been utilized in any way.

* State with set-aside policies.

STATE	LEGISLATION	REGULATIONS OR PRACTICES	COMMENTS
Hawaii	General "Buy American" legislation 3%, 5%, 10% preference for in-state materials in public works projects (1976 Statute)	Favour in-state goods.	Where Hawaiian value input constitutes between 25-50% of value, 3% preference; between 50-75%, 5% preference; above 75%, 10% preference. An additional 5% preference to purchases of products manufactured by non-profit corporations or public agencies operating sheltered workshops.
Idaho	Idaho Code 67-5718 (1979)	Preference for in-state materials, OTE; 10% preference for in-state printing.	Reciprocity: In public work contracts, preference is accorded to Idaho bidders to same extent as non-Idaho bidder receives in our home state.
Illinois* **	Steel "Buy American" provisions (SB 133, Nov/83)	10% preference for U.S. steel products	In practice, difficult for foreign firms to do business with Illinois unless it has a U.S. based distributor or is very familiar with sales to government.
Indiana	House Enrolled Act No. 1088: 15% preference for U.S. steel in public works projects.	Buy local, OTE.	State policy to buy only U.S. manufactured autos and clothing.
Iowa	"Buy American" provisions for structural steel products used in state highways and bridges.	Preference for in state, OTE.	In practice, translates to minor (undefined) preference for local products.

** In 1984 Chicago, Illinois also passed "Buy Chicago" legislation directing municipal agencies to give a preference to Chicago-based manufacturers.

* State with set-aside policies.

STATE	LEGISLATION	REGULATIONS OR PRACTICES	COMMENTS
Kansas*	General "Buy American" legislation. Steel "Buy American" provisions.	For public works purchases, preference for Kansas bidder, OTE	Reciprocity: preference accorded to Kansas bidder to same extent as that enjoyed by non-Kansas bidder in home states.
Kentucky*	Steel and Aluminum "Buy American" provisions (1976 rule)		
Louisiana*	5% preference for in-state products.	Favour in-state bidders and goods.	All bids submitted to the state must list any proposed products that are non-US. When aggregate cost of the products exceeds \$50,000 and 5% of total bid.
Maine*	2% preference for in-state; Steel "Buy American" provisions.	Preference for U.S. autos.	Executive order, lease and purchase of U.S. autos, whenever possible. Canadian steel can be used in cross-border bridges.
Maryland*	Public Works - under Buy American Steel Act, 20% to 30% preference for U.S. steel in public works projects (1970)		30% when sourced from high unemployment area in U.S. Legislation also covers publicly purchased machinery or equipment containing more than 10,000 lbs. of steel.
Massachusetts	up to 5% preference for in-state materials, then U.S. materials, OTE. Steel "Buy American" provisions.	Favour in-state goods.	

* State with set-aside policies.

STATE	LEGISLATION	REGULATIONS OR PRACTICES	COMMENTS
Michigan **	Steel and Cement "Buy American" provisions.	U.S. structural steel only, in highway and bridge construction.	Structural steel for Department of Highway must be fabricated in U.S; unless otherwise shown on the plans or in the proposal. Michigan is 2nd largest U.S. state market for cement.
		preference for in-state, OTE.	Preference to in-state to same extent that state or country of residence of foreign bidder gives preference to its domestic suppliers.
Minnesota*	<p>1) 5% preference for U.S. materials.</p> <p>2) House Bill 916-10% for Minnesota residents in public contracts.</p> <p>Steel and cement "Buy American" provisions.</p>		<p>1) Exceptions: if not manufactured in U.S. in sufficient quantities; if the quality is "substantially" less; if purchase is otherwise not in the public interest.</p> <p>2) The Act provides a 10% preference for Minnesota residents in awarding competitive public contracts. It involves all state agencies, University of Minnesota, State and college, university boards. In non-competitive bidding awards must go to Minnesota residents. In addition a successful Minnesota resident who is a prime contractor may only sub-contract up to 20% of contract to non-Minnesota residents.</p> <p>'Reciprocity' preference clause.</p>
Mississippi	<p>Preference for U.S. materials, OTE.</p> <p>Steel and Paint "Buy American" provisions.</p>	In-state	A non-Mississippi manufacturing company with a factory and at least 50 employees in the state is accorded preference over non-Miss. co. when price and quality same.

** Restrictive legislation proposing a 7% tax on new auto registrations is still pending (SU 823)

* State with set-aside policies.

STATE	LEGISLATION	REGULATIONS OR PRACTICES	COMMENTS
Missouri	Preference for In-state, OTE.		In practice, procedures reinforce in-state preference. While State maintains an approved bidders list, requests for tenders are not sent to companies located outside the state unless fewer than three state-based companies are in position to bid. Unsolicited bids are acceptable but notification of the requirement for tender is limited to newspapers published in St. Louis and Kansas City.
Montana	Steel, cement and paint "Buy American" provisions. Preference for U.S. and in-state, OTE.	3% preference for in-state bidders.	
Nebraska	Steel and cement "Buy American" provisions.	Preference for U.S. meat. Preference for U.S. steel, autos.	Informal decree issued by the Governor. 'Reciprocity' preference clause. Steel, autos usually purchased from local dealers who must be on suppliers list. But out-of-state firms are accepted for bidders list.
Nevada	State Purchasing Act: Preference for In-state	U.S. suppliers only.	"To the extent practicable, service, price and quality being considered", in-state suppliers only. However, Canadian firms wishing to bid on Nevada state tenders could bid through a U.S. agent or U.S. address as they will then be treated as U.S. firm. As matter of state policy only US made automobiles are purchased.

* State with set-aside policies.

STATE	LEGISLATION	REGULATIONS OR PRACTICES	COMMENTS
New Hampshire	Steel "Buy American" provisions (1977 Statute)		
New Jersey*	U.S. materials only in public works projects. U.S. assembled autos only. General "Buy American" legislation.		Exceptions: if inconsistent with public interest, if cost is un-reasonable, if not of satisfactory quality. In effect, not so restrictive because Governor has used public interest waiver clause to make interpretative policy directive that is in the public interest to have the state accept bids on vehicles manufactured in Canada under the Auto Pact.
New Mexico*	Steel "Buy American" provisions. 5% preference for in-state. North America assembled autos only.	Favour in-state bidders and goods.	
New York*	1) New York State Buy American Steel Bill: U.S. non-cons- truction steel products only. 2) S1228/A1616: U.S. construction steel products. 3) S2847/A3599: extends B/A to steel legislation (S1228/A1616) indefinitely.		Autos and auto parts assembled in Canada under Auto Pact are excluded. Applies to contracts for certain listed commodities. Contains "public interest" and "unreasonable cost" exemption clauses which are unspecified and have been used to grant waivers. NY Transit Authority and Metropolitan Transit Authority required in purchasing rapid transit cars or components, to include as a negotiable requirement that the performance of all or a portion of the contract take place in N.Y. state.

* State with set-aside policies.

STATE	LEGISLATION	REGULATIONS OR PRACTICES	COMMENTS
New York* (cont'd)	4) S1368/A1589: U.S.. Steel products and construction steel only; became law July '83.		Law applies to state and public authorities (i.e., MTA). In any contract over \$50,000 which contains any steel, that steel must be of U.S. origin. Auto Pact products are exempt. Any construction repairs, etc. contract above \$100,000 must use U.S. steel only. There is a provision of unreasonable cost but this has never been defined. In 1983 the New York State Legislature saw 14,000 bills raised. Of these 14 had Buy American clauses and of these, 2 passed.
North Carolina	NC Gen. Stat 143-59 (Supp 1977)	In-State preference, OTE	
North Dakota	General Steel and cement "Buy American" legislation.	Preference for In-state.	Preference to In-state to same extent that state or country of residence of foreign bidder gives preference to its domestic suppliers.
Ohio*	1) 6% preference for U.S. steel products. 2) HB271 preference for U.S. or state products.	General 10% preference across the board - informal administration practice for domestic firms.	A preference (based on the federal Buy America Act) accorded to Ohio state products or products from any firm which has a significant Ohio presence. Should there not be competitive Ohio bids, the preference is then given to U.S. products. It is possible that foreign bids will only be competitive if there is no Ohio bids or U.S. products bids. Meat and poultry products can only be sourced from vendors registered with Director of Administrative Services.
Oklahoma	General Steel and meat or dairy "Buy American" legislation.	Favour In-state goods.	'Reciprocity' preference clause.

* State with set-aside policies.

STATE	LEGISLATION	REGULATIONS OR PRACTICES	COMMENTS
Oregon*		General in-state preference, OTE. 10% preference for in-state printing.	
Pennsylvania	Steel Products Procurement Act/Bill 1068: U.S. steel and steel products only in Public works. Motor vehicle Act (HB437) and Extension of Steel Products Act		'Reciprocity' preference clause restricts all Penn public agencies from purchasing, leasing or renting any motor vehicles other than those manufactured or assembled in the US. Amendment passed in 1985 permits procurement of motor vehicles manufactured or assembled in Canada (in recognition of Auto Pact).
Puerto Rico	Federal Buy America Act applies.		
Rhode Island	Steel Products Procurement Act: 15% preference for U.S. steel and steel products. Preference for in-state foodstuffs, OTE.	Preference for in-state products OTE (non-mandatory)	
South Carolina	1976 Statute	Favour in-state bidders, OTE	
South Dakota	Meat or Dairy "Buy American" policy.	Favour in-state bidders, OTE	'Reciprocity' preference clause.
Tennessee*	In-State meat preference	OTE	

* State with set-aside policies.

STATE	LEGISLATION	REGULATIONS OR PRACTICES	COMMENTS
Texas	1982 Statute	In state preference, OTE	
Utah	NIL	NIL	
Vermont	Steel "Buy American" legislation Preference for in-state, OTE	10% preference	'Reciprocity' preference clause
Virginia	Virginia Steel Preference Bill/SB021: 10% preference for U.S. steel in public works projects.		Applies to contracts and sub-contracts over \$50,000.
Washington	NIL		
West Virginia	Buy American Steel Act: 20%-30% preference for U.S. aluminum, glass and steel products in public works projects, including machinery or equipment used in projects.	Favor in-state bidders.	30% when sourced from high unemployment areas in U.S. Applies to contracts over \$50,000. In case of steel only, applies to contracts requiring more than 10,000 lbs of steel products.
Wisconsin	Preference for American Made Materials Act: Preference for U.S. materials, OTE.	In-state, U.S. in that order, OTE.	Purchase materials which are manufactured to greatest extent in U.S. Exception: does not apply to purchase of stationery and printing materials.

* State with set-aside policies.

STATE	LEGISLATION	REGULATIONS OR PRACTICES	COMMENTS
Wyoming	U.S. meat only. 10% preference for in-state printing. 5% preference for in-state materials in public works projects.	Favor in-state bidders.	Preference does not include materials of inferior quality.

OTE: Other Things Being Equal ("ceteris paribus"), preference given to U.S.A. or state products as indicated.

IN-STATE: Preference given to products of the state and/or acquired from companies in the state.

STAA As of 1978, all states must apply the Buy American preferences of the Federal Surface Transportation Assistance Act (STAA) for highway, bridge and mass transportation projects funded by the STAA; 10% for rolling stock, 25% for other products.

* 18 states have set asides, policies favoring certain categories of businesses such as small or minority businesses.

Bibliography Reference:

Mario Brossi and Jean-Pierre Swennen, The Manual on Foreign Investment in the U.S. (Ch. 9: State Restrictions on Public Procurement, pp. 194-221), McGraw Hill, 1984.

ECONOMIC AND REGIONAL DEVELOPMENT AGREEMENTS (ERDAs)

Agreements and Memoranda of Understanding
Signed as of May 31, 1985

<u>Province/Initiative</u>	<u>Signed</u>	<u>Terminates</u>	<u>Federal Share</u> (\$ million)	<u>Total</u> (\$ million)	<u>Value of federal contribution in Shared Programs</u> (\$ million) ⁽¹⁾
<u>Newfoundland</u>					
- ERDA (DRIE/ORD)	05/04/84	31/03/94	-	-	
- Planning (DRIE/ORD)	05/04/84	31/03/94	2.0	4.0	2.0
- Mineral Development (EMR)	05/04/84	31/03/94	15.35	21.95	3.3
- Burin Peninsula (DRIE)	06/11/84	31/03/89	19.60	28.0	19.6
- Rural Development (DRIE)	07/19/84	31/03/88	9.1	18.2	-
- Ocean Industries (DRIE)	08/16/84	31/03/89	19.0	28.0	9.0
- Tourism (DRIE)	08/16/84	31/03/89	12.8	21.3	12.5
- Pulp & Paper (DRIE)	12/20/84	31/12/89	38.5	46.3	46.33
Provincial Total			116.35	167.75	92.73
<u>Prince Edward Island</u>					
- ERDA (DRIE/ORD)	13/06/84	31/03/94	-	-	
- Planning (DRIE/ORD)	13/06/84	31/03/89	0.5	1.0	0.5
- Transportation (DOT)	13/06/84		25.0	41.9	16.9
- Agri-Food (DOA)	13/06/84	31/03/89	26.0	41.0	10.0
- Energy Alternatives (EMR)	13/06/84	31/03/89	8.0	10.0	0.4
- Forestry (DOA)			12.5	17.8	
- Fisheries Development (DFO)	13/06/84	31/03/89	7.5	10.0	-
- Tourism (DRIE)	26/10/84	31/03/89	5.8	8.9	2.765
- Marketing (DRIE)	03/29/85	31/03/89	5.0	7.5	5.0
- Industrial Commissions (DRIE)	23/05/85		0.65	1.0	
- Meat Processing Facility (DRIE)	23/05/85		4.5	9.5	
- Science & Technology (MOU - MOSST)	29/06/84		-	-	-
Provincial Total			95.45	148.60	35.565
<u>Nova Scotia</u>					
- ERDA (DRIE/ORD)	11/06/84	31/03/89	-	-	
- Planning (DRIE/ORD)	11/06/84	31/03/89	2.0	4.0	2.0
- Strait of Canso (DRIE)	11/06/84	31/03/89	19.6	28.0	28.0
- Mineral Development (EMR)	11/06/84	31/03/89	16.1	26.9	0.0
- Forestry Development (DOA)	27/06/84	31/03/87	12.0	17.5	-
- Fisheries (DFO)	26/10/84	31/03/89	35.0	50.0	35.0
- Tourism (DRIE)	09/11/84	31/03/89	9.8	14.0	14.0
Provincial Total			94.50	140.40	79.0

<u>Province/Initiative</u>	<u>Signed</u>	<u>Terminates</u>	<u>Federal Share</u> (\$ million)	<u>Total</u> (\$ million)	<u>Value of federal contribution on Shared Programs</u> (\$ million) ⁽¹⁾
<u>New Brunswick</u>					
- ERDA (DRIE/ORD)	13/04/84	31/03/94			
- Planning (DRIE/ORD)	13/04/84	31/03/89	2.0	4.0	2.0
- Agri-Food (DOA)	25/06/84	31/03/89	25.0	32.0	2.9
- Forestry (DOA)	25/06/84	31/03/89	42.3	77.4	1.9
- Mineral Development (EMR)	25/06/84	31/03/89	15.0	22.3	-
- Transportation Development (DOT)	14/08/84	31/03/89	63.42	90.5	90.5
- Fisheries Development (DFO)	27/08/84	31/03/89	25.0	45.0	-
- Tourism (DRIE)	30/11/84	31/03/89	22.0	32.0	32.0
- Science and Technology (MOU - MOSST)	13/04/84	(2)	-	-	-
Provincial Total			<u>194.72</u>	<u>303.20</u>	<u>129.3</u>
<u>Quebec</u>					
- ERDA (DRIE/ORD)	14/12/84	14/12/94	-	-	
- Industrial Development (DRIE)	23/01/85	31/03/90	175.0	350.0	173.0
- Tourism (DRIE)	16/01/85	31/03/90	50.0	100.0	50.0
- Communications	01/02/85	31/03/90	20.0	40.0	20.0
- Cultural Infrastructures	29/03/85	31/03/90	20.0	40.0	20.0
- Forestry	30/04/85	31/03/90	150.0	300.0	140.0 ⁽³⁾
Provincial Total			<u>415.0</u>	<u>830.0</u>	<u>403.0</u>
<u>Ontario</u>					
- ERDA (DRIE/ORD)	02/11/84	31/03/94	-	-	
- Planning (DRIE/ORD)	02/11/84	31/03/89	1.0	2.0	1.0
- Forestry (AGR-CPS)	14/11/84	31/03/89	75.0	150.0	61.0
- Tourism (DRIE)	20/11/84	31/10/89	22.0	44.0	21.5
Provincial Total			<u>98.00</u>	<u>196.00</u>	<u>83.5</u>
<u>Manitoba</u>					
- ERDA (DRIE/ORD)	04/01/84	31/03/94	-	-	
- Planning (DRIE/ORD)	04/01/84	31/03/89	1.5	3.0	1.50
- Forest Renewal (DOA)	15/03/84	31/03/89	13.58	27.16	1.64
- Mineral Development (EMR)	13/04/84	31/03/89	14.8	24.7	2.09
- Transportation Development (DOT)	13/04/84	31/03/89	111.61	136.4	7.30
- Churchill (DOT)	04/04/84	31/03/89	38.06	93.96	0.78
- Urban Bus (DRIE)	04/06/84	31/03/89	25.0	50.0	25.00
- Agricultural Development (DOA)	30/05/84	31/03/89	23.0	38.3	0.00
- Communications and Cultural Industries (DOC)	11/06/84	31/03/89	13.0	21.0	1.075
- Tourism (DRIE)	31/05/85	31/03/90	15.0	30.0	-
- Aluminum Processing (MOU - DRIE)			-	-	-
- S&T Coordination (MOU - MOSST)	10/05/85	(2)	-	-	-
Provincial Total			<u>255.55</u>	<u>424.52</u>	<u>39.385</u>

<u>Province/Initiative</u>	<u>Signed</u>	<u>Terminates</u>	<u>Federal Share</u> (\$ million)	<u>Total</u> (\$ million)	<u>Value of federal contribution on Shared Programs</u> (\$ million) ⁽¹⁾
<u>Saskatchewan</u>					
- ERDA (DRIE/ORD)	30/01/84	31/03/94	-	-	
- Planning (DRIE/ORD)	30/01/84	31/03/89	1.0	2.0	2.0
- Regina-Moose Jaw Water Supply (DOE)	30/01/84	31/03/86	5.0	15.0	5.0
- Forestry (DOA)	21/06/84	31/03/89	14.0	28.0	2.5
- Mineral Development (EMR)	16/05/84	31/03/89	3.19	6.38	0.19
- Agricultural Development (DQA)	07/08/84	31/03/89	30.0	60.0	0.0
- Agricultural Community Water Supply (DOA)	07/08/84	31/03/89	16.0	32.0 ⁽⁴⁾	0.0
- Advanced Technology (DRIE)	31/08/84	31/03/89	15.5	31.2	4.0
- Northern Development (DRIE)	31/08/84	31/03/89	18.0	36.0	1.35
- Tourism (DRIE)	23/11/84	31/03/89	15.0	30.0	6.00
- Science and Technology (MOU-MOSST)	30/01/84	(2)	-	-	-
Provincial Total			<u>118.79</u>	<u>242.58</u>	<u>25.04</u>
<u>Alberta</u>					
- ERDA (DRIE/ORD)	08/06/84	31/03/94	-	-	
- Forestry Development (AC)	26/10/84	31/03/89	11.5	23.0	8.0
- Tourism (DRIE)	13/05/85	31/03/93	28.15	56.3	28.15
- Tourism (MOU-DRIE)	08/06/84	(2)	1.2	1.2	-
- Agriculture (MOU-DOA)	08/06/84	(2)	-	-	-
Provincial Total			<u>40.85</u>	<u>80.50</u>	<u>36.15</u>
<u>British Columbia</u>					
- ERDA (DRIE/ORD)	23/11/84	31/03/94	-	-	
- Forestry (DOA)	25/05/85	31/03/90	150.00	300.00	120.0
- Science and Technology (MOU-MOSST)	01/03/85	(2)	-	-	120.0
Provincial Total			<u>150.00</u>	<u>300.00</u>	<u>120.00</u>
<u>Canada</u>					
Total			<u>1,579.24</u>	<u>2,833.55</u>	<u>683.67</u>

(1) Includes all programs and projects where the federal government contributes funds and the provincial government is responsible for implementation.

(2) Subject to periodic review.

(3) All cost-shared contracts shall be awarded in accordance with Quebec (provincial) purchasing practices.

(4) All projects will be federally delivered.

ANNEX C

LIST OF FEDERAL CROWN CORPORATIONS

FINANCIAL

Canada Deposit Insurance Corp.
CMHC
(?) C.C.C.
E.D.C.
F.C.C.
F.B.D.E.

MANUFACTURERS

1 A.E.C.L.
* Canadian Arsenals
DEVCO
Royal Canadian Mint
* Uranium Canada Ltd.
* Eldorado Nuclear (CDIC)
* Canadair (CDIC)
* de Havilland (CDIC)
Petro-Canada
* (Massey-Ferguson) (CDIC)
* (CDC) (CDIC)

OTHER

* Crown Assets Disposal Corp.
* Canadian Sports Pool Corp.
* Canagrex
* Loto-Canada
Canadian Patents and Developments Ltd.

FISHERIES RELATED

Canadian Saltfish Co.
Freshwater Fish Marketing Co.
* St. Anthony Fish
* Pêcheries Canada
(Fisheries Products Limited)
(National Sea Products)

REAL ESTATE

(?) Canada Lands Co.
Harbourfront
* Societa a responsabilita limitata in mobiliare
* Mingan Associates

REGULATORY

Agricultural Stabilization Board
Canadian Centre for Occupational Health and Safety
Canadian Dairy Commission
Canadian Livestock Feed Board
Standards Council of Canada

SERVICES

1 VIA Rail
1 Air Canada
*1 Teleglobe
1 C.N.
* C.M. (W.I.) Steamships
(?)1 Great Lakes Pilotage
(?)1 Laurential Pilotage
(?)1 Pacific Pilotage
(?)1 Atlantic Pilotage
1 Northern Canada Power Corp.
1 St. Lawrence Seaway Authority
1 Canada Ports
1 Montreal Ports
1 Vancouver Ports
*1 Northern Transportation Co.
1 CBC
1 Telesat

* to be privatized
() Government ownership of some shares
? may be privatized in near future
1 USA request for coverage under CATT Government
Procurement Agreement

ANNEX D

EXEMPT
Sec. 15(1)

EXEMPT
Sec. 15(1)

ANNEX E

PROCUREMENT PRACTICES OF CANADIAN PROVINCES

British Columbia:

- Procurement, as a policy, is used as an instrument of economic development. The ability of the supplier to provide "added economic value" to British Columbia is a major consideration in purchasing decisions. A preference of up to 10% for in-province suppliers and 5% for Canadian suppliers is applied to all contracts under \$200,000. Schools, universities, hospitals and municipalities are encouraged to apply a similar policy.

Alberta:

- No legislative or regulatory preference exists. Alberta suppliers are favoured when price, quality and service are equivalent.

Saskatchewan

- Limited number of products are restricted to in-province sources
- premium paid on occasion to Buy-Saskatchewan

Manitoba

- 1% preference for local procurement
- some tendering restrictions, particularly in respect of major provincial projects

Ontario

- preferential treatment to Ontario companies when their bids are competitive
- use of negotiated contracts works to exclude Quebec firms from rail systems
- isolated instances of awarding major contracts to Ontario companies in spite of purchasing authority intentions to purchase out-of-province (e.g. Toronto street cars from Hawker-Siddeley rather than Bombardier)

Quebec

- when sufficient competition exists, only Quebec enterprises are invited to tender
- this limitation can be applied when there is not sufficient competition if it serves industrial development objectives
- for contracts exceeding \$50,000, a preference of up to 10 percent is applied to the Quebec content of bids
- tenders must state the percentage of Quebec, Canadian and foreign content
- in purchasing urban transit equipment, at least 40 percent provincial content is required.

Nova Scotia

- Government Purchasing Act (1964) states wherever possible Nova Scotia products should be purchased and purchases should be from persons who maintain and operate business in the province
- sourcing is limited to in-province suppliers if three or more are available
- even if less than three, tendering can be limited if Nova Scotia suppliers are reasonably competitive
- up to 10 percent premium to maintain particular industries

New Brunswick

- sourcing is limited to in-province suppliers if three or more are available and competitive
- even if less than three local suppliers are available, tendering may be limited to in-province suppliers
- tenders are also evaluated by impact on the New Brunswick economy. Information is required on reasons for all out-of-province sub-contracting
- if government demand warrants, New Brunswick sources can be developed by use of product development assistance.

Newfoundland

- Department of Public Works and Services Act states that wherever possible, Newfoundland products should be purchased and purchases should be from persons who maintain and operate businesses in the province
- premium of up to 10 percent may be allowed for locally produced products
- 25 percent premium may be allowed for local suppliers if cost-benefit analysis shows benefit is 1.5 times the added cost.

ANNEX F

EXEMPT
Sec. 15 (1)

ANNEX G

EXEMPT
Sec. 15 (1)

EXEMPT
Sec. 15(1)

ANNEX B

EXEMPT
Sec 15(1)

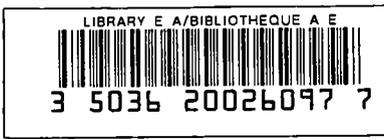
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Secs. 14
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Secs. 14
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