

THE CANADA-U.S.  
FREE TRADE AGREEMENT

AND

GOVERNMENT  
PROCUREMENT

• A N • A S S E S S M E N T •



TRADE: Securing Canada's Future

Canada 

THE CANADA-U.S.  
FREE TRADE AGREEMENT

AND

GOVERNMENT  
PROCUREMENT

• A N • A S S E S S M E N T •

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## Foreword

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The Canada-U.S. Free Trade Agreement (FTA), which came into effect on January 1, 1989, covers many aspects of trade and economic ties between the two nations.

But since the Agreement's implications and detailed provisions are distinct for different parts of the Canadian economy, a series of books is being published on each of the economic sectors and issues involved.

Following an environmental overview, this particular volume presents a thorough and detailed look at the Agreement's provisions on government procurement. In fact, there is a specific chapter in the FTA dealing with government procurement, so if you want the exact words, you should consult Chapter 13 of the Free Trade Agreement.

The following pages will give you, however,

- a solid, comprehensive reference, setting the FTA in historic and economic perspective;
- an explanation of the government's procurement process;
- a description of the GATT Procurement Code;
- a summary and explanation of the FTA's procurement elements; and
- a forward look at government procurement opportunities.

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## Executive Summary

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The Government Procurement Chapter of the Canada-U.S. Free Trade Agreement (FTA) builds on the 1981 GATT (General Agreement on Tariffs and Trade) Government Procurement Code (GATT Code) to open a further portion of government contracting to competition between Canada and the United States. It broadens and deepens the obligations both countries have undertaken in the GATT Code, and commits each country to work towards the further multilateral liberalization of government procurement and to negotiate further improvements to the bilateral agreement once multilateral negotiations are concluded.

Canada and the United States have agreed to extend the provisions contained in the GATT Code to purchases falling below the GATT threshold — CDN \$213,000 or US \$156,000 in 1988 — and above an agreed threshold of US \$25,000 (for 1989, CDN \$31,000). The coverage is mainly limited to goods and to those services that are incidental to the delivery of goods and applies to those federal government departments listed in the Agreement.

The procedures used for these purchases will build on the concept of national treatment and the principles of transparency and competition contained in the GATT Code. Under national treatment, subject to the scope and coverage agreed upon,

government purchasers in each country will treat suppliers and products of the other country on the same basis as domestic suppliers and goods. Transparency measures will ensure that both countries disclose the procedures they intend to follow to respect the provisions of the Agreement and provide sufficient notification and information.

It is estimated that the Government Procurement Chapter will open up new opportunities valued at over US \$2 billion in the United States. These are mainly concentrated in the product areas of automated data processing equipment, instruments and laboratory equipment, and medical, dental and veterinary equipment. A wide range of other products is also represented. Canadian businesses have proven themselves competitive in the U.S. procurement market in the past. These new opportunities should provide an even bigger market in future for competitive Canadian suppliers.





## Introduction and Overview

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The Canada-U.S. Free Trade Agreement is a historic and precedent-setting accord governing the largest bilateral trade in the world. The Agreement, which came into force on January 1, 1989, achieves major objectives for both countries. It eliminates barriers to trade in goods and services between the two countries, facilitates fair competition within the free trade area, significantly expands liberalization of conditions for cross-border investment, and establishes effective procedures for the joint administration of its provisions and the resolution of disputes. It meets the test of fairness and of mutual advantage to both Canada and the United States and sets the foundation for further bilateral and multilateral co-operation to expand and enhance the benefits of the Agreement.

The Agreement is an important contribution to Canada's sustained economic growth, development and prosperity. It is consistent with Canada's obligations to its trading partners under the General Agreement on Tariffs and Trade (GATT), building upon GATT principles and going beyond them in new areas such as services and trade-related investment measures. The Agreement, together with the Uruguay Round of multilateral negotiations under the GATT, shows Canada's commitment to reducing trade barriers around the world. Trade liberalization, a cornerstone in the government's overall economic strategy, offers Canadians a chance to grow and prosper in a competitive and dynamic economy.

From the beginning of the bilateral trade negotiations, close consultations were undertaken with a wide variety of sources. Advice was sought from the business community through the International Trade Advisory Committee and the 15 Sectoral Advisory Groups on International Trade. First ministers held nine special meetings to discuss the negotiations, in addition to discussions at their annual First Ministers' Conference. Provincial trade representatives participated in regular meetings of the federal-provincial Continuing Committee on Trade Negotiations, in addition to individual working groups on each of the elements of the Agreement. Government expertise in each sector of the negotiations was drawn from all relevant departments, ensuring the closest inter-departmental co-operation. This level of consultation, unprecedented for Canada in international trade negotiations, ensured that all interests and advice were taken into account to the greatest extent possible in every element of the Canada-U.S. Free Trade Agreement.

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This publication is one of a series of Canada-U.S. Free Trade Sectoral Assessments prepared by the government on such sectors and issues as agriculture, fisheries, energy, industry and consumers. Each sectoral assessment begins with a general discussion of the overall economic impact of the Agreement, based on the major study released by the Department of Finance. Each assessment then examines the implications of the Agreement for the particular sector or issue, providing background information, describing the elements of the Agreement and presenting an assessment of the economic impact.

### **Macroeconomic Impacts of the Agreement**

The Agreement is expected to provide significant economic benefits to Canadians:

- Canadian consumers will pay lower prices for both imported and domestic goods;
- investment will be undertaken in response to opportunities provided by the new trade environment;
- industries will reap the benefits of larger scale production and will become more efficient and more competitive;
- the productivity of Canadian workers will increase and so will their real incomes;
- the economy will grow more strongly and more jobs will be created; and
- the economy will become more flexible, more innovative, and more dynamic.

A comprehensive analysis of the macro-economic impacts of the Agreement has been undertaken by the Department of Finance, and is reported in the document *The Canada-United States Free Trade Agreement: An Economic Assessment*. It indicates that the Canada-U.S. Free Trade Agreement will raise the real incomes of Canadians by *at least* 2.5 per cent. This represents a permanent increase in real income of CDN \$12 billion in today's dollars, or about \$450 for every Canadian. This estimate quite likely understates the size of the economic benefits flowing from the Agreement because some important aspects are not captured in the analysis. For example, aspects such as free trade in services, liberalization of conditions for cross-border investment, more certainty about security of access to the large U.S. market and the dynamic effects of free trade in the form of a more flexible and more innovative economy will provide additional real net benefits that are potentially very large, but cannot be precisely measured.

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The Department of Finance analysis suggests that most Canadian industries — those that are protected now as well as those receiving little trade protection — will benefit from the Agreement and that all regions will share in the benefits. Central Canada with its large manufacturing base will benefit from a stronger and larger manufacturing sector. Other regions will benefit from lower prices of manufactured products and greater scope for upgrading their resources. Resource-based regions will also benefit directly because the Agreement reduces the risk of a further increase in U.S. protectionism.

Prices for a wide range of consumer goods will be lower, expanding the purchasing power of Canadian household budgets. Investment in plant and equipment will expand as Canadian firms move to take advantage of their enhanced access to the huge U.S. marketplace. Increased consumer and investment spending will lead to stronger economic growth and more job creation. Department of Finance estimates of the impact on employment over the medium-term fiscal planning horizon indicate a net increase of 120,000 jobs by 1993. Moreover, the number of net new jobs created will continue to grow as the implementation of the Agreement progresses.

But the output and employment gains go further. Without free trade, the threat of U.S. and international protectionism would place at considerable risk the robust pace of output and employment growth that Canada has enjoyed in recent years. Over the last three years, real output growth in Canada has averaged 4.2 per cent per year and employment growth has averaged 2.9 per cent, or almost 350,000 jobs per year. The Agreement will not only create new employment opportunities for Canadians, it will help to secure existing jobs. In the absence of the Agreement, any increase in U.S. protectionism would clearly cost Canadians jobs.

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The Department of Finance analysis suggests that the Canadian economy should have few difficulties in responding to the new opportunities provided by the Agreement and in making the adjustments that will be required. This conclusion is based on the following considerations.

- First, the Canadian economy has shown a great deal of flexibility and adaptability in handling the size and types of changes that will be required. Between 1960 and 1987, average Canadian tariff rates vis-à-vis the United States have dropped from 14 per cent to 4.5 per cent; yet, during that period, incomes and output grew more than 200 per cent.
- Second, the reduction in trade barriers will be implemented gradually over 10 years, giving enough time for businesses and workers to adapt to the free trade environment.
- Third, the Canadian economy is well positioned to adjust quickly and smoothly and to take advantage of the new opportunities provided by the improved and more secure access to the U.S. market. Canada's international competitive position has improved substantially over the past several years. Since 1983, Canada's record of output and employment growth has been the best of all major industrialized countries.
- Fourth, the adjustment requirements will be minimal compared with the changes normally occurring — every year for instance, there are five million job changes in Canada involving more than four million workers — and the federal government has in place a wide array of programs to assist individuals and businesses to adapt to changes in business and labour market conditions that will arise from free trade.

Substantial programs are in place to assist Canadian workers and businesses to respond to the Agreement. Additional training and adjustment programs have recently been announced as part of the Labour Force Development Strategy. The most important federal program directed at labour adjustment is the Canadian Jobs Strategy, that provides financial assistance for training, job development and relocation of workers. Employment and Immigration Canada also runs the Industrial Adjustment Service and provides counselling, referral and placement services. Unemployment Insurance is always available to help Canadians make the transition from one job to another.

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An equally extensive range of programs is available to help Canadian businesses capitalize on the new opportunities created by the Agreement. They include the Trade Commissioner Service of the Department of External Affairs; the Program for Export Market Development; the Microelectronics and Systems Development Program and the Technology Outreach Program operated by Industry, Science and Technology Canada. As well, the government remains strongly committed to regional development programs. The April 1989 budget provides for a consolidation of the government's commitments to regional development demonstrated over the past five years at levels which respect the government's fiscal situation and provide more long-term funding stability. The programs and services of the Atlantic Canada Opportunities Agency, the Department of Western Diversification and the Federal Special Northern Ontario Development Fund will continue to provide substantial regional development assistance.

In addition, the Advisory Council on Adjustment, composed of representatives from business and labour organizations and academics, has submitted its report to the government in which it makes a range of recommendations regarding adjustment assistance.

### **Government Procurement**

All levels of government purchase goods and services to meet their own needs. In Canada, it is estimated that this market represents about \$71 billion. This is approximately 11 per cent of the total of all goods and services purchased in Canada, including both the public and private sectors. In the United States, the public sector market was estimated at about CDN \$750 billion, 10 times the size of the Canadian market.

For government procurement, the Agreement builds on the GATT Code on Government Procurement and opens up new opportunities in federal procurement for Canadian and U.S. suppliers. These new opportunities are accompanied by modifications to existing procurement practices. The U.S. and Canadian governments are committed to giving national or equal treatment to Canadian and American suppliers of eligible products (that is, North American products) in respect to federal government procurements that fall under the Free Trade Agreement. In the United States, the Buy America Act will not be applied to these procurements. In Canada, the Canadian Sourcing Policy, the Canadian Content Policy and the Area Buy Policy will not be applied.

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Procedural changes to the Canadian procurement system will mean that suppliers interested in a Canadian government requirement that falls under GATT or free trade must make themselves aware of these requirements through a new government publication, *Government Business Opportunities*, rather than expect to be invited to bid. As well, suppliers for these requirements will be asked to certify as to the eligibility of their products to be covered by the Agreement.

The next chapter provides some general background on federal government procurement practices in both Canada and the United States and notes how these practices are modified, where necessary,

to meet the requirements of the GATT Code and Free Trade Agreement. The subsequent chapters give a detailed explanation of the Government Procurement Chapter of the Agreement and profile the kind of government purchases that will be opened to competition between Canada and the United States.

## Government Procurement — Background

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In Canada, the federal government accounted for about CDN \$24.7 billion or 34 per cent of the \$71 billion purchased by all levels of government in 1983. Provincial governments and agencies represent a further 47 per cent of the public sector market, with local governments, hospitals and universities accounting for the remainder. Of the total Canadian federal procurement, departmental contracts were valued at approximately CDN \$8.9 billion, of which about 50 per cent was goods and 50 per cent services, while federal Crown corporations bought an estimated \$16.9 billion<sup>(1)</sup>.

The United States' public sector market was estimated to be US \$555 billion in 1985. The federal government accounted for about \$240 billion or 43 per cent of this market, state governments 32 per cent and local governments the remainder. Of the total U.S. federal government purchases, US \$122 billion was spent on goods and US \$118 billion on services. Defence purchases comprised about 75 per cent of all U.S. federal purchases.

Canada has a well-established body of regulations on government procurement. These regulations are designed to ensure best value purchasing and fairness in spending public funds while supporting domestic policy objectives within the parameters of Canada's international obligations. The United States has a comprehensive legislative framework supported by regulations and administrative policies and procedures. The U.S. federal procurement system is designed to obtain a fair and reasonable price through full and open competition. The United States also uses procurement to support its domestic policies, within its international commitments. The focus of this chapter is departmental expenditures by both federal governments, the jurisdiction covered by the Agreement.

<sup>1</sup> A recent study on *The Canadian Public Sector Market* was published by Supply and Services Canada in 1988 detailing the government procurement market, including provincial and municipal purchasing.

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## The Contracting Process

### *Canada*

The Financial Administration Act and various Orders in Council provide the basis for Canadian federal government procurement policy. The Financial Administration Act and the Government Contract Regulations establish the general rules for all departments relating to the award of contracts. In addition, there are numerous programs designed to support broader domestic objectives through procurement. Some of these include the Industrial Benefits Policy, the Access Small Business Program, the Atlantic Opportunities Program and the Western Procurement Initiative.

Supply and Services Canada (SSC) is responsible, as the purchasing agent, for approximately half of federal departmental purchases. Responsibility for the remainder, much of which is for services, is delegated by Treasury Board to Public Works Canada and individual departments. Public Works Canada is the contracting authority for the majority of construction contracts relating to federal public works and installations.

SSC, in the majority of cases, solicits bids from source lists of companies or individuals who have registered as potential suppliers. However, in the case of requirements falling under GATT or the Free Trade Agreement, suppliers will be notified of proposed procurements through a designated publication. In general, there are several ways to solicit bids from suppliers. The decision as to which will be used is largely dependent on operational considerations such as the urgency, complexity and value of the purchase. Requests for Quotation are used for low-dollar-value

procurements. Invitations to Tender are used where the total requirement is clearly identified, enabling evaluation of the winning tender on the basis of price. Requests for Proposal are used where the evaluation criteria will not depend exclusively on price, owing to the complexity of the purchase. For Requests for Proposal, negotiations with contractors can take place both before and after evaluation of the proposal.

As well, SSC issues tenders for and sets up standing offers as a way for departments and agencies to contract directly with suppliers at pre-arranged prices or pricing methods, and at fixed terms and conditions, for specific periods of time on an as-requested basis. A standing offer is not a contract; a contract only exists if and when the department or agency places an order for goods or services listed on the standing offer.

Circumstances do occur where a non-competitive award process will be considered. This can happen when there is a monopoly on technology, or the scope or volume of the requirement places it beyond the normal capability of the industry, or when there is a need to conserve strategic sources. For contracts falling under either GATT or the Free Trade Agreement, the circumstances under which a sole source may be used are clearly defined and must be identified in a public notice of the contract award.



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Claims resulting from contract terminations or contract disputes, or both, where additional work may have been done or additional costs incurred, may be resolved through the Contracts Settlement Board. The board acts on behalf of the Minister of Supply and Services and offers a less costly alternative to litigation. The proceedings are informal and rely on bringing a common-sense attitude to problems with a view to finding mutually satisfactory resolutions.

The Free Trade Agreement introduces an additional layer of review in the form of a bid challenge process for contracts falling under the Agreement. The Procurement Review Board of Canada has been established to meet the obligation under the Agreement to provide a mechanism for impartial resolution of complaints that cannot be resolved administratively. The board has the power to receive complaints, carry out enquiries and recommend what remedy be provided by the contracting authority. The board may request a delay in the contract award during the enquiry and can, for example, recommend the re-evaluation of the bid, the termination of a contract and the payment of compensation. The board can also award reimbursement of the complainant's bid preparation costs. More detail on the bid challenge process in Canada can be obtained directly from the board.

### *United States*

Purchasing by the United States federal government can be divided into three broad categories: Department of Defense (DoD) military procurement, General Services Administration procurement, and procurement by other civilian agencies. Generally, each agency of government (military or civilian) purchases those items that are unique to its own needs while the General Services Administration procures, stores, and issues those items that are in general use by government agencies.

All U.S. laws, judicial decisions, administrative rulings and procedures regarding government procurement are codified in the Federal Acquisition Regulations (FAR), published as part of the United States Code of Federal Regulations. The FAR and the Federal Information Resources Management Regulations govern purchasing by all agencies, both civilian and defence. As a result, buying policies throughout the U.S. federal government are basically the same.

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The objective of U.S. federal procurement is to obtain a fair and reasonable price from contractors through full and open competition. Procurement by formal advertising is required in all cases where feasible and practicable. The prescribed methods of publicizing bid invitations include publication of notices in the *Commerce Business Daily*, sending copies to prospective suppliers on Bidders' Mailing Lists, display of invitations at the purchasing office or other appropriate public place, free publicity in magazines, newspapers and trade journals, and paid advertising when authorized.

Government agencies maintain a consolidated list of vendors interested in doing business with the government. Suppliers interested in selling to the government should submit a Bidders' Mailing List Application Form to the appropriate agency's purchasing or ordering offices. However, inclusion of a firm on such a bidders list is not a pre-condition for bidding and does not involve any qualification procedure. These lists are used as a supplementary method of advertising bidding opportunities.

The United States has an extensive bid protest system for government contracts, although it does not include appeals to the courts. A bidder may protest a contract award to the General Accounting Office (GAO)\* which is the authority responsible for adjudicating bid protest or to the contracting officer. If a timely written protest is submitted prior to a contract award, no award can be made until the matter is

resolved, unless there is an urgent requirement or if a delay in the award would be contrary to the public interest.

Any disputes that arise out of the provisions of the contract itself or from the actions of the parties in the performance of the contract must be settled under a contract clause common to all types of contracts except architect-engineer contracts. The disputes clause provides for the contracting officer to resolve any dispute over a question of fact. The officer's decision is final unless the contractor, within a set time limit, delivers a written appeal to the contracting officer and to the head of the procuring agency or other designated official. Most agencies have established administrative boards to hear such appeals.

In respect to the bid challenge mechanism under the Free Trade Agreement, the U.S. government will continue to use its existing bid protest system. Canadian suppliers who feel they have not received national treatment for a U.S. government contract that falls under the Free Trade Agreement must seek redress through the bid protest system of the General Accounting Office.

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## The Procurement Environment

### Canada

Procurement has been used as an instrument for industrial and regional development in Canada for well over a decade. This use of procurement is bound by the pre-eminent objective to meet operational requirements and by the international commitments made by Canada under the GATT Procurement Code and now the Free Trade Agreement. SSC has reflected the government's direction on social and economic goals through a number of policies that are applied in accordance with those international obligations.

Under Canadian sourcing policy, priority in soliciting bids is given to Canadian-based manufacturers and service companies. The aim is to encourage Canadian employment while ensuring adequate competition exists. Where there is not sufficient competition, the range of companies is widened to include, first, Canadian-based companies acting as bona-fide agents of Canadian or foreign manufacturers, and second, foreign-based manufacturers, service companies or foreign-based agents, and foreign governments or their selling agencies.

The Canadian Content Premium Policy applies to certain types of purchases. It allows for a premium equalling 10 per cent of the difference in foreign content value between two competing bids to be applied in evaluating bids, if by doing so Canadian content is enhanced. As well, this policy, when applied to negotiated sole source contracts, allows a premium of up to 10 per cent for substantial Canadian content in the product being purchased.

Preferential treatment is not accorded, however, to Canadian suppliers in the bid solicitation process in cases where such treatment would be inconsistent with the GATT Government Procurement Code. The same will apply to FTA covered purchases.

The major thrust of SSC regionalization strategy is contained in the Area Buy Policy. This requires that purchases by SSC regional supply centres be made as close as possible to the point of ultimate consumption, provided sufficient numbers of local suppliers exist and fair value for taxpayers' dollars can be obtained. As well, SSC has undertaken special efforts to support the programs of the federal government's regional development agencies. These include activities to explain government procurement processes and opportunities and giving companies assistance in developing as suppliers.

As well, a procurement review mechanism provides for interdepartmental review of contracts worth between \$2 and \$100 million, as well as for those contracts judged to have significant socio-economic impact regardless of value. A Procurement Review Committee is charged with identifying industrial benefits and regional opportunities that should be included in the Request for Proposal sent to potential suppliers. Competing bids are then evaluated on the basis of the industrial benefits package offered, as well as the normal criteria of price and quality.

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For projects worth over \$100 million, the Treasury Board Policy on management of Major Crown Projects requires formal interdepartmental project offices and review boards to approve each project's key stages. This allows for continuous meshing of operational requirements and budgets, procurement strategies and industrial benefits strategies.

#### *United States*

The United States has embodied in statute its policies governing the use of government procurement to meet social or economic ends.

The *Buy American Act* requires contracting authorities to acquire domestic end products unless (i) the goods are for use outside the United States, (ii) costs are assumed to be unreasonable, (iii) the head of the agency determines that domestic preference would be inconsistent with the national interest, (iv) one or more agencies have determined that U.S. products are not reasonably available as to quantity and quality or (v) purchases are for commissary resale. Federal Acquisition Regulation 25.108 lists articles, materials, and supplies excepted from the *Buy American Act*.

Implementing regulations also require contracting officers to give preference to U.S. products by adding a differential of between six and 12 per cent to the U.S. bidder's offer. The U.S. Department of Defense is bound by the requirements of annual appropriations acts which limit the purchases of certain goods and services outside the United States, such as food, clothing, fabrics, specialty metals, the construction and repair of naval vessels, buses, research and development and hand or measuring tools. Construction contracts are subject to special conditions under which Buy American provisions are applied to each material delivered to the construction worksite.

In most cases, the *U.S. Trade Agreements Act of 1979* negates the effects of the *Buy American Act* for procurements over the GATT Procurement Code threshold. For such procurements, most U.S. federal agencies treat products made in the United States and those made in designated countries (including Canada) equally.

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The *Small Business Act* assists U.S. small businesses in obtaining procurement contracts. The act is implemented by full-time advocates assigned to procurement operations centres. Purchasing departments must consider, for each procurement, the possibility of limiting the entire award, or a portion, to small businesses. Procurements can also be divided into economical production runs to allow small suppliers to participate. Where the contracting officer has set aside a procurement for small business firms, such procurements are not open to any non-U.S. firms or products. The act also has a sub-contracting program. Under this program element the Small Business Administration negotiates small business participation objectives with prime contractors in the award of large U.S. Government contracts.

Each government agency is required to set aside a portion of its planned contract volume exclusively for small business, as well as all government purchases under \$25,000. On contracts that have not been set aside, small business bids enjoy a 12 per cent price premium in the evaluation of bids. Generally, a small business set-aside can only be overcome if a foreign small business is located in the United States and uses U.S. materials and labour.

The definition of a small business is set by the Small Business Administration according to standards specialized from industry to industry and based on sector specific characteristics. These standards can include companies quite large by Canadian small business standards.

### **The GATT Government Procurement Code**

Canada and the United States are signatories to the GATT Agreement on Government Procurement (referred to as the GATT Code) negotiated during the Tokyo Round of the multilateral trade negotiations. The code came into effect on January 1, 1981. Other signatories are Austria, the European Community, Finland, Hong Kong, Israel, Japan, Norway, Singapore, Sweden and Switzerland.

To achieve greater international competition in the government procurement market, detailed rules are set out on the way in which tenders for government purchasing contracts should be invited and awarded. Signatories agree to undertake to make laws, regulations, procedures and practices regarding government procurement more transparent and to ensure that they do not protect domestic products or suppliers or discriminate against foreign products or suppliers.

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The coverage of the GATT Code is determined primarily by the departments and agencies, called entities, that each country has identified as subject to the code and the dollar value threshold above which purchases are covered. The Canadian and U.S. entities covered by the GATT Code and the Canada-U.S. Free Trade Agreement are listed in Appendix C. Certain important segments of government purchasing activities are not covered, such as service contracts and purchases related to national security. As well, for U.S. government purchasing, procurements covered by the U.S. small business set-aside program are not covered. About CDN \$500 million of Canadian purchases and US \$18 billion worth of U.S. purchases are covered by the GATT Code.

Negotiations to improve and expand the scope of the coverage of the GATT Code took place between 1983 and 1986, resulting in changes to the code effective February 14, 1988. The currency value above which each country would open its code-covered contracts for competition has been lowered from 150,000 to 130,000 Special Drawing Rights (the unit of account of the International Monetary Fund), converted by each country into its currency. Thus, the new, lowered threshold will be reduced from CDN \$238,000 in 1987 to CDN \$213,000 (US \$156,000) during 1988 and 1989. Procedures in the GATT Code regarding transparency have also been improved.

## Elements of the Agreement

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The Canada-U.S. Free Trade Agreement has a chapter specific to government procurement (Chapter 13). The provisions in this chapter apply to goods and to services when they are incidental to the delivery of goods. The Government Procurement Chapter incorporates the provisions of the GATT Code and builds on them, particularly in the area of transparency measures. The provisions apply to the same federal departments and agencies that Canada and the United States have listed under the GATT Code. As well, the Government Procurement Chapter has incorporated the GATT improvements in transparency procedures that ensure as much information as possible is made available at each stage of the contracting process.

The Government Procurement Chapter adds several improvements to the GATT Code. First, by lowering the threshold for competition in covered purchases from CDN \$213,000 to CDN \$31,000, new markets are opened up in both the United States and Canada for each other's suppliers. Second, jointly agreed principles have been established in Annex 1305.3 governing bid challenge procedures. These will ensure equitable and effective recourse for suppliers. Third, there is a commitment to renegotiate bilaterally the provisions of the chapter following the conclusion of the multilateral negotiations of the GATT Code.

### Coverage

The Government Procurement Chapter covers 22 federal government departments and 10 federal agencies, including two Crown corporations: Canada Post and the National Capital Commission. Between 1982 and 1986, a yearly average of CDN \$497 million (calculated on a calendar year basis) was open to international competition under the GATT Code. Now, an additional CDN \$400 million (calculated on the 1986–87 fiscal year and the 1987 GATT threshold of CDN \$238,000 and an estimated free trade threshold of \$33,000) would be opened to competition between Canada and the United States as a result of the Government Procurement Chapter. This is due to lowering the threshold level from the 1987 GATT threshold of CDN \$238,000. As under the GATT Code, certain departments are not included in the coverage of the Government Procurement Chapter, namely the Departments of Transport, Communications, and Fisheries and Oceans. As is the case with the United States, a large proportion of the Department of National Defence's purchases are excluded for national security reasons.

Coverage is solely at the federal level and does not extend to provincial or municipal levels of government in Canada. Canadian entities covered by the Procurement Chapter are set out in Appendix C.

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For the United States, 11 out of 13 government departments are covered, the only exceptions being the departments of Energy and Transportation. A total of 40 governmental agencies and commissions, as well as the National Aeronautics and Space Administration (NASA) and the General Services Administration are included. The lower threshold adds about US \$2.4 billion for competition between Canada and the United States to the US \$18 billion of U.S. federal government purchasing already open under the GATT Code. A complete list of the federal departments and agencies covered by the Procurement Chapter can be found in Appendix C.

Neither the U.S. small business nor the minority business set aside program is affected by the Free Trade Agreement. In signing the GATT Code, the United States indicated that, notwithstanding the list of entities covered, the GATT Code would not apply to set asides on behalf of small and minority businesses in the U.S. Because the same list of entities was adopted for the Free Trade Government Procurement Chapter, this provision continues to apply.

Services are not part of the Government Procurement Chapter unless they are incidental to the purchase of goods, e.g., if the value of these incidental services does not exceed that of the products themselves. Thus, services contracts per se are not included. The possible expansion of the GATT Code to cover services is under consideration in the context of the current Uruguay Round of trade negotiations under the aegis of GATT.

### **Eligible Goods**

The intention of the Procurement Chapter is that benefits from the opened markets should accrue to Canadian and U.S. goods. As a result, coverage applies to goods meeting a set of criteria respecting origin. The definition of eligible goods in Article 1309 of the Government Procurement Chapter is distinct from the rules of origin applying to trade in goods contained in Chapter Three of the Free Trade Agreement. For government procurement, eligible goods are: (a) unmanufactured materials mined or produced in the territory of either Canada or the United States, and (b) products manufactured in either Canada or the U.S., if the cost of the materials used in their manufacture, which originate outside the territories of Canada and the United States, is less than 50 per cent of the costs of all the materials used.

### **Threshold**

The Procurement Chapter breaks new ground by establishing a lower threshold of CDN \$31,000 (US \$25,000), instead of the current GATT threshold of CDN \$213,000 (US \$156,000). Above the new threshold, for those purchases covered by the Procurement Chapter, Buy American and Buy Canadian practices will not apply.



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The Procurement Chapter threshold is periodically converted from US \$25,000 to the equivalent in Canadian currency. The conversion value of the threshold will be fixed initially for one year starting January 1, 1989 and thereafter, beginning January 1, 1990, for two-year periods. This will bring the timing of changes in line with those of the GATT Code threshold, which was fixed for a two-year period as of 1988.

The top limit of the threshold is tied to the GATT Code threshold, which is expressed in terms of Special Drawing Rights (SDRs) and then converted into each country's national currency. As part of the changes negotiated in the GATT Code that became effective February 14, 1988, the GATT Code threshold has been lowered from 150,000 SDRs to 130,000 SDRs (CDN \$213,000 and US \$156,000).

### **National Treatment and Transparency**

The Government Procurement Chapter sets out procedural obligations, broader than those in the GATT Code, for the procurements it covers. Potential suppliers are ensured equal access to pre-solicitation information and an equal opportunity to respond to the requirements of the procuring department or agency in the tendering and bidding process. Criteria for the qualification of potential suppliers, the evaluation of bids and the awarding of contracts to best meet the requirements specified in the tender documentation, are to be free of domestic preference and clearly specified in advance. Information on contracts awarded is to be made available as a means of promoting competition.

The Free Trade Agreement specifies that each party will give eligible products treatment that is no less favourable than the most favourable treatment given to the party's own products. Supply and Services Canada reserves its most favourable treatment for Canadian manufacturers as well as for certain products designated as supporting national objectives. This most favourable treatment is then, under the Free Trade Agreement, also accorded to the eligible products of U.S. suppliers.

### **Bid Challenge Principles**

Jointly agreed principles governing bid challenge procedures are set out in Annex 1305.3 of the Procurement Chapter. These will ensure equitable and effective treatment for potential suppliers of goods eligible for coverage under the chapter who feel they have been treated unfairly. Recourse will be available through a Canadian or U.S. impartial reviewing authority, depending on the country where the procurement originates. This reviewing authority will ensure a timely decision and will also be able to recommend changes in procurement practices, if this is felt necessary, in accordance with the Procurement Chapter. In Canada, the Procurement Review Board of Canada was established as the reviewing authority. In the United States, recourse will be available through the General Accounting Office.

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Under the principles set out in Annex 1305.3, bid challenges can concern any aspect of the procurement process, up to and including the contract award. This includes pre-notification, tendering and bidding and the evaluation of bids. Suppliers are, of course, encouraged to resolve any problem directly with the contracting authority at an early stage, although this does not prevent them from seeking other avenues of relief, including the bid challenge mechanism.

For those entities and procurements covered by the Government Procurement Chapter, a contracting authority receiving a bid challenge must ensure an impartial and timely review. Once a bid challenge is received, an investigation must be started as quickly as possible. The reviewing authority has the option of delaying the proposed award pending resolution of the challenge, except in cases of urgency or where the delay would be prejudicial to the public interest.

In making its decision, the reviewing authority can recommend the appropriate remedy, such as requiring the re-evaluation of offers or re-competing or terminating the contract. Apart from the actual case decision, the reviewing authority can make policy recommendations to the contracting authorities, such as procedural changes that would ensure adherence to the obligations of the Government Procurement Chapter.

### **Exchange of Information**

The regular exchange of information on government procurement is an important part of ensuring transparency and identifying market opportunities. There are existing provisions for this exchange under the GATT Code. The Government Procurement Chapter in Article 1306 also provides that Canada and the United States shall exchange information on the procurements covered by the chapter, identifying the procuring entity and the product category, as well as sole sourcing statistics for each entity.

### **Defence Procurement**

Both defence departments (National Defence in Canada and the Department of Defense in the United States) have listed products which are included in the coverage of the GATT Code and the Government Procurement Chapter of the Agreement. These are mainly non-military goods such as vehicles, engines, industrial equipment and components, computer software and equipment, and commercial supplies.

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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.

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Within the GATT Committee on Government Procurement, the Informal Working Group on Negotiations is considering the possible expansion of the code. One consideration is to broaden the application of the code to include other government and government-affiliated agencies. Also, the nature and scope of service contracts are being examined to consider how these could be covered. At present, service contracts are not

covered, although services incidental to the supply of products are, if their value does not exceed that of the products themselves, e.g. less than 50 per cent of the value of the contract. Any changes that are negotiated in the GATT multinational forum will be automatically applied to the Canada-U.S. Free Trade Agreement as well.

## Government Procurement Opportunities

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Supply and Services Canada (SSC) has carried out an analysis of the new competitive opportunities in Canada and the United States opened by the Government Procurement Chapter. SSC analyzed the most recent data available<sup>1</sup> on Canadian and U.S. federal government contracts between the new threshold of US \$25,000 (at that time estimated as CDN \$33,000) and the 1987 GATT Procurement Code threshold of CDN \$238,000 (US \$171,000) to estimate the size of the new market being opened.

It should be emphasized that this profile reflects Canadian and U.S. government requirements at a particular point in time. These requirements will, of course, change from year to year depending upon government priorities and budgetary processes.

Experience, however, gives an indication of future opportunities. If the chapter had been applied to Canadian government procurement in fiscal year (FY) 1986–87, a threshold lowered from \$238,000 to \$33,000 would have affected an estimated 5,036 contracts valued at CDN \$400 million. These contracts would have been tendered and awarded without application of the Canadian Sourcing Policy or the Canadian Content Premium Policy. The impact of the lowered threshold on U.S. government procurements, had the chapter been applicable in FY 1984–85, would have meant that 40,016 contracts valued at US \$2,364 million (CDN \$3,061 million) would have been tendered and awarded without the application of the *Buy American Act*.

### New Markets

For both governments, the same kinds of goods form a large share of the procurements opened up under the Government Procurement Chapter of the Agreement (see Tables 5.1 and 5.2). General purpose data processing equipment and instruments and laboratory equipment are the two largest purchase categories in both countries. These represent 24.4 per cent of all procurements covered by the chapter in Canada and 30.3 per cent in the United States. A further 18.7 per cent in Canada consists of furniture, medical, dental and veterinary equipment, and office supplies. For the United States, the other major categories are medical, dental and veterinary equipment, engine accessories, and furniture.

Table 5.3 shows the number and value of Canadian and U.S. federal government procurements that would have been opened had the chapter been applicable in the years being studied. These are presented under the Federal Supply Classification (FSC) System used by both Canada and the United States to classify the types of goods purchased.

<sup>1</sup> For Canada FY 1986–87 beginning April 1, and for the United States, FY 1984–85 beginning September 1.

**Table 5.1**

**CANADA**

**Major Government Purchases Between CDN \$33,000 and \$238,000\*  
1986/87**

Description	\$ CDN Millions	Per Cent
General Purpose Data Processing Equipment (FSC 70)	56.5	14.1
Instruments and Laboratory Equipment (FSC 66)	41.2	10.3
Furniture (FSC 71)	32.2	8.1
Medical, Dental and Veterinary Equipment (FSC 65)	23.0	5.8
Office Supplies and Devices (FSC 75)	19.3	4.8
<b>Sub-Total</b>	172.2	43.1
<b>Other Purchases</b>	227.8	56.9
<b>Total</b>	400.0	100.0

Source: Supply and Services Canada, Research and Analysis Branch

\*GATT threshold as of 1988 is CDN \$213,000 while the Free Trade threshold is CDN \$31,000.

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## Table 5.2

### United States

### Major Government Purchases Between US \$25,000 and \$171,000\* 1984/85

Description	\$U.S. Millions	Per Cent
General Purpose Data Processing Equipment (FSC 70)	419.1	17.7
Instruments and Laboratory Equipment (FSC 66)	297.4	12.6
Medical, Dental and Veterinary Equipment (FSC 65)	238.5	10.1
Engine Accessories (FSC 29)	107.4	4.5
Furniture (FSC 71)	97.1	4.1
<b>Sub-Total</b>	<b>1,159.5</b>	<b>49.0</b>
<b>Other Purchases</b>	<b>1,204.5</b>	<b>51.0</b>
<b>Total</b>	<b>2,364.0</b>	<b>100.0</b>

Source: Supply and Services Canada, Research and Analysis Branch

\*GATT threshold as of 1988 is US \$156,000.

**Table 5.3**

**Canadian and U.S. Government Purchases Between CDN \$33,000 and \$238,000, 1986-87 (US \$25,000 and 171,000, 1984/85)\***

Federal Supply Classification		Canada (SSC)		United States	
		Number of Times Purchased	Value CAN. \$000	Number of Times Purchased	Value U.S. \$000
Group	Description				
22	Railway Equipment	2	110	6	353
23	Ground Effect Vehicles, Motor Vehicles, Trailers and Cycles	63	3,724	314	22,039
24	Tractors	16	969	59	3,623
25	Vehicular Equipment Components	197	14,279	627	40,584
26	Tires and Tubes	17	1,522	242	15,737
28	Engines, Turbines and Components	2	95	6	373
29	Engine Accessories	82	5,716	1,650	107,371
30	Mechanical Power Transmission Equipment	23	1,319	397	23,033
31	Bearings	—	—	—	—
32	Woodworking Machinery and Equipment	1	41	6	334
34	Metalworking Machinery	63	4,874	231	14,723
35	Service and Trade Equipment	12	865	120	6,882
36	Special Industry Machinery	39	3,073	612	33,090
37	Agricultural Machinery and Equipment	28	1,819	43	1,813
38	Construction, Mining, Excavating and Highway Maintenance Equipment	27	2,308	129	8,114
39	Materials Handling Equipment	43	3,086	275	16,153
40	Rope, Cable, Chain, and Fittings	25	2,475	72	5,081
41	Refrigeration, Air Conditioning and Air Circulating Equipment	38	3,093	466	27,621
42	Fire Fighting, Rescue, and Safety Equipment	64	5,538	176	11,280

\*GATT threshold as of 1988 is CDN \$213,000 (US \$156,000) while the Free Trade threshold is CDN \$31,000.



**Table 5.3**

**Canadian and U.S. Government Purchases Between CDN \$33,000 and \$238,000, 1986–87 (US \$25,000 and 171,000, 1984/85)\***

Federal Supply Classification		Canada (SSC)		United States	
		Number of Times Purchased	Value CAN. \$000	Number of Times Purchased	Value U.S. \$000
Group	Description				
43	Pumps and Compressors	61	4,286	726	42,293
44	Furnace, Steam Plant, Drying Equipment, and Nuclear Reactors	15	1,242	133	7,391
45	Plumbing, Heating, and Sanitation Equipment	76	7,621	78	4,373
46	Water Purification and Sewage Treatment Equipment	7	302	12	645
47	Pipe, Tubing, Hose and Fittings	54	3,606	607	32,546
48	Valves	35	2,356	708	72,919
49	Maintenance and Repair Shop Equipment	72	5,661	1,226	73,965
51	Hand Tools	10	903	153	7,734
52	Measuring Tools	4	378	20	1,105
53	Hardware and Abrasives	105	7,955	736	43,483
54	Prefabricated Structures and Scaffolding	33	2,479	125	8,193
55	Lumber, Millwork, Plywood and Veneer	119	8,396	216	10,481
56	Construction and Building Materials	103	6,776	195	10,081
59	Electrical and Electronic Equipment Components	61	4,722	72	3,741
60	Fiber Optics Materials, Components, Assemblies and Accessories	1	33	38	2,352
61	Electric Wire, and Power and Distribution Equipment	139	11,858	1,442	88,344
62	Lighting Fixtures and Lamps	52	3,636	417	27,556

\* GATT threshold as of 1988 is CDN \$213,000 (US \$156,000) while the Free Trade threshold is CDN \$31,000.

**Table 5.3**

**Canadian and U.S. Government Purchases Between CDN \$33,000 and \$238,000, 1986–87 (US \$25,000 and 171,000, 1984/85)\***

Federal Supply Classification		Canada (SSC)		United States	
		Number of Times Purchased	Value CAN. \$000	Number of Times Purchased	Value U.S. \$000
Group	Description				
63	Alarm and Signal Systems	31	2,184	110	6,677
65	Medical, Dental, and Veterinary Equipment and Supplies	262	22,963	4,084	238,513
66	Instruments and Laboratory Equipment	582	41,187	5,002	297,351
67	Photographic Equipment	107	8,002	661	37,690
68	Chemicals & Chemical Products	176	13,563	594	32,074
69	Training Aids and Devices	27	2,792	344	23,265
70	General Purpose Automatic Data Processing Equipment (including Firmware), Software Supplies and Support Equipment	736	56,516	7,101	419,082
71	Furniture	390	32,284	1,921	97,056
72	Household and Commercial Furnishings and Appliances	100	8,712	467	25,138
73	Food Preparation and Serving Equipment	63	4,229	420	20,419
74	Office Machines, Text Processing Systems and Visible Record Equipment	175	12,077	813	41,781
75	Office Supplies and Devices	256	19,236	1,229	59,128
76	Books, Maps and Other Publications	24	2,163	368	21,845
77	Musical Instruments, Phonographs, and Home Type Radios	—	—	30	1,319
78	Recreational and Athletic Equipment	9	571	67	3,412
79	Cleaning Equipment and Supplies	69	4,403	466	22,617

\* GATT threshold as of 1988 is CDN \$213,000 (US \$156,000) while the Free Trade threshold is CDN \$31,000.

**Table 5.3**

**Canadian and U.S. Government Purchases Between CDN \$33,000 and \$238,000, 1986-87 (US \$25,000 and 171,000, 1984/85)\***

Federal Supply Classification		Canada (SSC)		United States	
		Number of Times Purchased	Value CAN. \$000	Number of Times Purchased	Value U.S. \$000
Group	Description				
80	Brushes, Paints, Sealers, and Adhesives	50	3,556	324	16,065
81	Containers, Packaging, and Packing Supplies	66	5,268	358	18,061
83	Textiles, Leather, Furs, Apparel and Shoe Findings, Tents and Flags	33	1,954	8	309
84	Clothing, Individual Equipment and Insignia	60	4,818	43	2,728
85	Toiletries	23	1,185	563	30,979
87	Agricultural Supplies	16	827	59	3,067
88	Live Animals	6	417	16	1,069
89	Subsistence (excl. DND/RCMP)	179	10,091	789	51,871
91	Fuels, Lubricants, Oils and Waxes	111	9,526	586	41,164
93	Nonmetallic Fabricated Materials	25	1,528	641	38,141
94	Nonmetallic Crude Materials	1	90	25	1,435
95	Metal Bars, Sheets, and Shapes	15	1,120	7	252
96	Ores, Minerals, and their primary products	—	—	12	522
99	Miscellaneous	25	1,769	573	35,554
<b>Total</b>		<b>5,306</b>	<b>400,147</b>	<b>40,016</b>	<b>2,363,990</b>

1. The Federal Supply Classification Groups not reported on this table are not covered by the government procurement chapter.

Source: Supply and Services Canada, Research and Analysis Branch

\*GATT threshold as of 1988 is CDN \$213,000 (US \$156,000) while the Free Trade threshold is CDN \$31,000.

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### Geographic Distribution

Of the CDN \$400 million<sup>1</sup> of Canadian federal government procurement affected by the lower threshold under the Free Trade Agreement, \$355 million or 89 per cent was awarded to suppliers located in Canada. The remaining \$45 million (11 per cent) went to suppliers outside Canada. A provincial breakdown of the domestic share of the Canadian federal procurement market is presented in Table 5.4. The procurements that could have been opened to free trade competition in FY 1986–87 were acquired from every province and territory.

In the U.S. federal government market, out of the total free trade portion of US \$2,364 million, \$2,200 million or 93 per cent was awarded to suppliers located in the

United States and \$164 million (seven per cent) went to offshore suppliers. As in Canada, the chapter opens up contracts that were being purchased from suppliers located in all parts of the country. A complete listing is provided in Table 5.5.

Five states accounted for 38 per cent of the U.S. domestic government procurement market — California, New York, Maryland, Virginia and Massachusetts. In the 22 states that are adjacent to Canada, the U.S. government had purchased in the United States the equivalent of US \$1,014 million, or 46 per cent of the U.S. domestic market opened up by the Agreement.

<sup>1</sup> This estimate, as well as other calculations, was computed on the basis of the 1987 GATT threshold of CDN \$238,000 not on the more recent February 1988 threshold of CDN \$213,000.

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### **Future Opportunities**

Canadians have proven themselves competitive suppliers in the U.S. procurement market of a variety of products including vehicles, scientific apparatus, aircraft equipment, industrial machinery, plastic, rubber and leather products, electrical machinery and power generation machinery. The new opportunities opened to Canadian suppliers should provide a basis to expand their sales to the U.S. Government through its common purchasing agent, the General Services Administration, as well as directly to other U.S. government agencies.

Canadian suppliers should also take advantage of the correlation between the Free Trade Procurement Chapter and the GATT Procurement Code. Competing in the U.S. government procurement market is only a first step for Canadian suppliers to expand into the even larger multinational market opened through GATT.

Sources of information on Canadian and U.S. government procurement are provided in Appendix D. Companies interested in entering the U.S. market should also contact the appropriate Canadian trade offices in the United States (see Appendix E).

**Table 5.4****Canada — Supply and Services Canada (SSC)  
Contracts Between CDN \$33,000 and \$238,000\* by Province/Territory, FY 1986-87**

Province/Territory	Total SSC Contracts (millions)	SSC Contracts Open To FTA	
		Value (\$ million)	Per Cent of Total Contracts
Newfoundland	100.160	3.210	3.2
Prince Edward Island	10.667	0.674	6.3
Nova Scotia	370.568	10.269	2.8
New Brunswick	91.990	6.555	7.1
Quebec	2,594.254	71.823	2.8
Ontario	3,566.511	209.461	5.9
Manitoba	218.734	10.890	5.0
Saskatchewan	81.111	5.960	7.3
Alberta	301.379	19.800	6.6
British Columbia	322.330	15.413	4.6
Yukon and Northwest Territories	21.726	1.023	4.7
Canada Wide	423.713	—	—
Canada	8,113.245	355.078	4.4
Offshore	637.311	45.069	0.2
Unknown	0.473	—	—
<b>Total</b>	<b>8,751.029</b>	<b>400.147</b>	<b>4.6</b>

Source: Supply and Services Canada, Research and Analysis Branch

\*GATT threshold as of 1988 is CDN \$213,000 while the Free Trade threshold is CDN \$31,000.

**Table 5.5****U.S. Federal Contracts Between US \$25,000 and \$171,000\*  
by State, FY 1984/85**

State	Total U.S. Federal Contracts	U.S. Federal Contracts Open to FTA	
		Value (US \$ millions)	Per Cent of Total Contracts
Alabama	725.670	21.882	3.0
Alaska	119.918	2.565	2.1
Arizona	1,526.840	28.033	1.8
Arkansas	741.150	7.507	1.0
California	18,879.172	293.561	1.6
Colorado	561.432	20.321	3.6
Connecticut	4,886.838	71.261	1.5
Delaware	230.112	4.945	2.1
District of Columbia	388.535	45.389	11.7
Florida	3,745.834	48.160	1.3
Georgia	2,715.860	38.501	1.4
Hawaii	166.990	7.526	4.5
Idaho	29.588	1.917	6.5
Illinois	1,359.351	80.427	5.9
Indiana	2,663.585	52.647	2.0
Iowa	496.501	20.588	4.1
Kansas	1,179.175	12.941	1.1
Kentucky	367.916	9.785	2.7
Louisiana	1,511.797	8.836	0.6
Maine	789.656	5.902	0.7
Maryland	3,005.853	148.045	4.9
Massachusetts	4,981.064	116.127	2.3
Michigan	2,495.902	99.869	4.0
Minnesota	1,904.613	45.119	2.4
Mississippi	836.969	8.513	1.0
Missouri	6,604.977	36.215	0.5
Montana	72.600	0.664	0.9
Nebraska	152.245	6.994	4.6
Nevada	18.021	0.989	5.5
New Hampshire	590.633	15.116	2.6

**Table 5.5****U.S. Federal Contracts Between US \$25,000 and \$171,000\*  
by State, FY 1984/85**

State	Total U.S. Federal Contracts	U.S. Federal Contracts Open to FTA	
		Value (US \$ millions)	Per Cent of Total Contracts
New Jersey	2,490.515	111.795	4.5
New Mexico	109.021	5.993	5.5
New York	6,599.713	151.450	2.3
North Carolina	612.045	52.264	8.5
North Dakota	141.309	0.504	0.4
Ohio	3,953.834	110.693	2.8
Oklahoma	231.077	8.993	3.9
Oregon	169.354	25.907	15.3
Pennsylvania	3,361.777	104.916	3.1
Rhode Island	216.794	6.695	3.1
South Carolina	225.602	15.931	7.1
South Dakota	24.232	2.750	11.3
Tennessee	384.031	20.226	5.3
Texas	7,930.544	90.038	1.1
Utah	369.750	9.159	2.5
Vermont	150.700	6.625	4.4
Virginia	3,024.392	123.689	4.1
Washington	2,256.414	29.905	1.3
West Virginia	69.314	6.132	8.8
Wisconsin	1,195.691	48.411	4.0
Wyoming	61.195	0.717	1.2
Puerto Rico	202.365	7.177	3.5
Guam	—	—	—
United States	97,528.466	2,200.315	1.2
Offshore	85,075.090	163.675	0.1
<b>Total</b>	<b>182,603.556</b>	<b>2,363.990</b>	<b>1.3</b>



## Conclusions

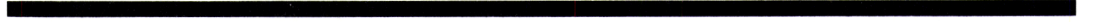
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The Government Procurement Chapter provides Canadian and U.S. businesses with new opportunities in government procurement. Companies seeking to expand their markets and develop their potential fully will find a more open, more competitive market. The chapter provides an equal opportunity to submit bids, requires clearly specified bid evaluation criteria and opens access to contract award information. Equitable bid challenge procedures are also assured. With these measures, the chapter ensures a unique transparency in the procurement process, giving greater certainty in a more competitive market structure.

The Procurement Chapter sets the stage for the future multilateral liberalization of government procurement markets. Both Canada and the United States are committed to expanding the provisions of the GATT

Procurement Code. The agreement in the chapter to renegotiate bilaterally within one year of the conclusion of the GATT multilateral negotiations is going to extend even further the benefits of the Procurement Chapter for Canadian and U.S. businesses.

The Government Procurement Chapter gives suppliers a more stable and predictable environment for seeking business opportunities in the U.S. federal government market. With a competitive attitude and a knowledge of the procurement system, Canadian suppliers will be ready to market their exports to the U.S. government procurement market.



## Appendix A

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### **Elements of the Canada-U.S. Free Trade Agreement — Synopsis**

On October 4, 1987, Canada and the United States agreed in principle on the elements to be included in the Canada-U.S. Free Trade Agreement. The legal text of the Agreement was tabled in the House of Commons and received royal assent on December 30, 1988. The main elements of the Agreement are the following.

#### *Tariffs and Rules of Origin*

All bilateral tariffs will be removed, starting January 1, 1989 when the Agreement enters into force, on the basis of three formulas: a) some will be eliminated immediately; b) some will be eliminated in five equal annual steps; c) some will be eliminated in 10 equal annual steps.

Goods that originate entirely in Canada or the United States will qualify for the new tariff treatment. Goods incorporating offshore materials or components that have been sufficiently changed to warrant a change in tariff classification will also qualify. In certain cases, goods will need to incur 50 per cent of manufacturing cost in either country before they qualify.

Definition of eligible goods under the Government Procurement Chapter differs slightly from the rules for tariffs on goods. The Government Procurement Chapter criteria for eligible goods provide for unmanufactured materials mined or produced in Canada or the United States, and Canadian or U.S. manufactured material if the cost of goods used in the manufacturing, and originating outside Canada and the United States, is less than 50 per cent of the cost of all the goods used in such materials.

#### *Quantitative Restrictions*

GATT provisions governing quantitative restrictions on imports or exports will continue to apply. Existing quantitative restrictions will be eliminated, either immediately or according to an agreed timetable, or will be grandfathered. With respect to export measures for short supply or conservation reasons, the Agreement goes beyond the GATT to allow for proportional access to supplies on a historical basis without any price discrimination being imposed by governments. The Agreement provides for co-operation on implementing any such export measures to prevent diversion to third parties.

#### *Technical Standards*

The two governments agree to build on the GATT Standards Code. They will endeavour to make federal standards more compatible in order to reduce technical barriers which interfere with trade, while still protecting health and safety, environmental, national security and consumer interests. Increased compatibility of standards at the state, provincial and private levels will be encouraged. For the Government Procurement Chapter, the technical specifications of the GATT Procurement Code apply.

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### *Agriculture*

Both governments agree to eliminate tariffs on agricultural trade within 10 years and not to use direct export subsidies on their bilateral agricultural trade. There is a special tariff provision for fresh fruit and vegetables which enables the temporary reimposition of current tariffs under certain circumstances. Both governments will exclude each other from their respective meat import laws, and Canadian import licences for wheat, barley and oats will be eliminated once grain support levels are equivalent in both countries. Canada will be exempt from any future U.S. quantitative restrictions on products containing 10 per cent or less sugar. The Agreement retains the Canadian supply management and marketing board system and provides for a slight increase in Canadian import quotas for poultry and eggs. Both countries agree to reduce technical regulations which interfere with trade, while still protecting human, animal and plant health.

### *Wine and Distilled Spirits*

The two governments agree to provide national treatment in listing and distribution practices, with certain exceptions for B.C. wineries and private wine outlets in British Columbia and Ontario. Canada will eliminate the price mark-up differential between Canadian and U.S. wines over a seven-year

period, and immediately for distilled spirits. The Agreement does not apply to current restrictions on beer. All other price discrimination in Canada and the United States will be eliminated immediately.

### *Energy*

Both governments agree to prohibit most restrictions on energy exports and imports, subject to existing GATT reasons for which such restrictions may be applied, including those related to supply or conservation. In the event of short supply export controls, however, the exporting country will allow for access up to the historical proportion for energy commodities and will not impose higher prices for export. As with the general quantitative restrictions, there is no obligation to supply.

### *Automotive Trade*

The Agreement retains the Auto Pact and its safeguards for current participants. Canadian value-added commitments by the Auto Pact manufacturers are not changed in any way by the Agreement. Rules of origin in the Agreement encourage the sourcing of more parts in North America. Automotive duty waivers and remissions will be phased out, as will the Canadian embargo on used vehicle imports.

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### *Emergency Measures*

Both governments agree to more stringent standards in the application of safeguard measures (quotas or restrictions) to bilateral trade. Global import quotas or surtaxes imposed by either government under Article XIX of the GATT will exempt the other party if its shipments are not substantial (less than five to 10 per cent of total imports). During the period of transition of this Agreement if imports from the other country alone are a substantial cause of serious injury, duty reductions provided by the Agreement may be suspended for a maximum of three years, but only one such action per product can be taken.

### *Government Procurement*

Canada and the United States agree to expand access for each other's suppliers to purchases by governments at the federal level, building on the GATT Government Procurement Code. The coverage of the code will be broadened to purchases between US \$25,000 (CDN \$31,000 for 1989) and US \$156,000 (CDN \$213,000). Further bilateral negotiations will be resumed once the GATT Code is renegotiated.

### *Trade in Services*

The agreement provides, for the first time, a set of disciplines covering many service sectors. In the future, both governments will extend the principles of national treatment, right of commercial presence and right of establishment, consistent with the investment chapter, to each other's providers of services. Sectoral annexes spell out these obligations for tourism, architects, and computer and enhanced telecommunications services. However, these provisions do not apply to either Canadian or U.S. government procurement.

### *Financial Services*

The Agreement preserves the access that Canadian and U.S. financial institutions have to each other's markets and opens new areas of competition in securities underwriting and banking.

### *Cultural Industries*

Cultural industries are explicitly exempted from the Agreement.

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### *Temporary Entry for Business Purposes*

Business persons trading in goods and services will benefit from improved and easier border crossing.

### *Investment*

The two governments agree to provide national treatment in future to each other's investors and will not impose export, local content, local sourcing or import substitution requirements on each other's investors. Existing laws, regulations and published policies are grandfathered. The Canadian threshold for the review of U.S. direct acquisitions will be raised to CDN \$150 million by 1992. Review of U.S. indirect acquisitions will be phased out over the same period.

### *Dispute Settlement in Antidumping and Countervail Cases*

A dispute settlement mechanism will guarantee the fair application of respective antidumping and countervailing duty laws. Either government may request a bi-national panel to review final antidumping or countervail determinations. Panel decisions will be binding. New legislation will not apply to the other country unless it is so specified.

A bi-national panel may review such proposed legislative changes and issue opinions. Both governments will attempt to develop and implement a substitute system of countervail and antidumping laws within seven years.

### *Institutional Provisions*

A Canada-United States Trade Commission will be established to supervise the implementation of the Agreement and resolve disputes. The two governments further agree to bi-national panel procedures at the insistence of either country to make recommendations for the settlement of disputes regarding the interpretation and application of the Agreement in other than antidumping and countervail cases. They will refer such disputes to binding arbitration in the case of safeguards and, with the agreement of both governments, may also do so in other cases. As well, the Government Procurement Chapter provides for the establishment of bid challenge procedures for procurements covered by the chapter.

## Appendix B

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### Questions and Answers for Suppliers

To what extent will there be an obligation under the Government Procurement Chapter to have similar procurement systems in both countries?

The chapter is based on national treatment in the administration of our respective procurement systems. This implies that, for the commodities subject to the chapter, government purchasers would treat eligible products of the other country no less favourably than those of their own country. This does not mean the adoption of identical procurement systems.

*How is the eligibility of goods determined?*

All Request for Proposal documents for requirements under the Free Trade Agreement will include a form or "Statement of Eligibility" that the companies will have to fill out. Goods requested will be listed by the bidder who will indicate the value and whether it meets the 50 per cent North American content rule. Bidders will certify this information to be true. Should a supplier fail to fill out this form, it will be assumed that the products do not meet the eligibility criteria.

*What will be the implications of the chapter on the Supply and Services Canada solicitation process?*

Insofar as the solicitation process is concerned, the chapter specifies that the GATT procedures will apply. Therefore, for the goods covered, the solicitation process will provide for public notice of upcoming requirements as well as a minimum lead time to allow all interested suppliers to bid. The prescribed time limit will be the same as that provided by the GATT Code (40 days as of 1988).

*How will bid opportunities be advertised?*

Bid opportunities are advertised in the publication entitled *Government Business Opportunities*. The publication can be obtained from the Government Publishing Centre (Ottawa, Canada K1A 0S9) by subscription of CDN \$215 annually in Canada and US \$258 outside Canada.

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*In order to compete, is it necessary to be pre-registered on the qualified suppliers list?*

In accordance with Canada's international obligations, once at the beginning of each year Supply and Services Canada publishes a list of the product categories for which only pre-qualified suppliers will be invited to participate. This list is very short and is limited to those products for which the supply process includes elements of complexity in qualification or security. For purchases covered by the GATT Code and free trade, all requests for bids would be the subject of a Notice of Proposed Procurement. In the vast majority of these cases, lists would not be used and all interested suppliers could submit a bid. In order to be aware of the contracts that fall under the GATT Agreement on Government Procurement or under the Free Trade Agreement, suppliers must check *Government Business Opportunities*.

*What will happen to sole sources?*

The GATT Code provides for conditions under which sole source tendering can be considered, so long as it can be demonstrated that such actions are not used to avoid the rules regarding competition or in a manner that would constitute a means of discrimination against foreign suppliers.

These provisions will also apply under the Government Procurement Chapter. They relate to situations such as the protection of proprietary rights, urgent requirements or additional deliveries such as parts replacements. Such contracts will not be the subject of a Notice of Proposed Procurement but their award will be announced within 60 days following the award. The announcement will specify the reason for award as a sole source.

*Will Supply and Services Canada still be able to use source lists and to pre-qualify suppliers?*

The GATT Code and, by extension, the Government Procurement Chapter do not preclude pre-qualification of suppliers. To the extent that such mechanisms are used, however, this must be done in such a way as to avoid discrimination between foreign and domestic suppliers.

*Would U.S. suppliers be subject to the same terms and conditions as Canadian suppliers?*

In accordance with the principle of national treatment, U.S. suppliers of eligible goods covered by the chapter will not be treated any less favourably than Canadian suppliers.



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*Would U.S. suppliers be requested to comply with the Employment Equity Program for Federal Contractors?*

The Employment Equity provisions will continue to apply only to Canadian suppliers, as will be the case for the U.S. affirmative action programs that now apply exclusively to U.S. contractors. These contractual requirements fall outside the purview of the Government Procurement Chapter as they are not meant to and do not inadvertently confer an advantage to domestic suppliers.

*What will happen to the set-aside program with the Correctional Services?*

This program is consistent with the exception of the GATT Code dealing with products of prison labour. As such it is not affected by the chapter.

*Will the Agreement cause a change in the role of the Canadian Commercial Corporation (CCC)?*

The principal role of the CCC is to function as a government-to-government contracting agency that identifies Canadian sources of supply for requirements of foreign governments and obtains bid opportunities for Canadian suppliers. Consequently, with the implementation of the Agreement, the CCC will continue to play an important role in providing new or additional export opportunities for Canadian firms.

*Will there be a procurement dispute mechanism?*

The Government Procurement Chapter provides for the establishment of an effective bid challenge system for suppliers who have reason to believe that the rules of the chapter have been infringed. Each party to the agreement has the responsibility to review complaints on its own procurements. As a result, the Canadian government has created the Procurement Review Board of Canada (PRB) as an autonomous body with a mandate to review complaints from suppliers on any aspect of the government procurement process. The PRB's mandate in complaints is limited to those relating to procurements covered by the Free Trade Agreement. Information on the PRB can be obtained from: Procurement Review Board of Canada, P.O. Box 1533, Station B, Ottawa, Ontario, K1P 6P6, Tel: (613) 990-1988, Fax: (613) 992-3686.

*What will happen to the U.S. Small Business Set-Aside Program?*

The Government Procurement Chapter does not apply to U.S. set asides on behalf of small and minority businesses. The same is true under the GATT Code, for which the list of entities covered is identical to the chapter.

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*Will Research and Development contracts, or advertising contracts, be covered?*

Contracts for both advertising and research and development are generally considered as service contracts and thus are excluded in most cases from the GATT Code. The same situation will apply under the Government Procurement Chapter. In addition, when a goods contract relates to the procurement of a prototype or a first product in the course of an experiment, the GATT Code provides for the use of single tendering. Again the same provision will apply under the chapter

*What will be the effect on the Defence Production Sharing Agreement?*

Canada's access to U.S. defence procurement of military goods under the Defence Production Sharing Arrangements is not affected by the Free Trade Agreement.

*How does the Agreement relate to the use of standards and specifications in the procurement process?*

It is recognized that the way in which purchasing specifications are developed and applied can sometimes impede trade by creating unnecessary obstacles. The GATT Code contains specific provisions

on the development and use of technical specifications so as to avoid situations where they would constitute arbitrary or unjustifiable discrimination between countries. Standards and regulations that may appear restrictive are allowed, however, where their demonstrable purpose is to protect health and safety, environmental, national security and consumer interests.

The Canadian and U.S. governments have also agreed in Chapter Six of the Agreement to harmonize federal standards-related measures to the greatest extent possible, to promote harmonization of private standards and to set up a process for mutual recognition and accreditation of testing facilities. It is expected that the Canadian General Standards Board of Supply and Services Canada, an accredited standards-writing organization supporting the national standard system, will play an important role in ensuring that these obligations and commitments are met.

## Appendix C

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### List of Canadian and U.S. Federal Government Entities (and Successor Entities) Covered by the Government Procurement Chapter

(Annex 1304.3 of the Agreement)

#### Canada

The following entities are included in the coverage of the GATT and Free Trade Agreement by Canada:<sup>a</sup>

Department of Agriculture

Atlantic Canada Opportunities Agency

Department of Consumer and Corporate Affairs

Department of Employment and Immigration including:

Immigration and Refugee Board

Canada Employment and Immigration Commission

Department of Energy, Mines and Resources including:

Atomic Energy Control Board

Energy Supplies Allocation Board

National Energy Board

Department of the Environment

Department of External Affairs including:

Canadian International Development Agency (on its own account)

Department of Finance including:

Office of the Superintendent of Financial Institutions

Canadian International Trade Tribunal

Municipal Development and Loan Board

Department of Indian Affairs and Northern Development

Department of Justice including:

Canadian Human Rights Commission

Statute Revision Commission

Supreme Court of Canada

Department of Labour including:

Canada Labour Relations Board

Department of National Defence<sup>b</sup>

Department of National Health and Welfare including:

Medical Research Council

Department of National Revenue

<sup>a</sup> Where an entity has changed its name or has been subsumed into other entities, the successor entity is to be understood.

<sup>b</sup> See following list of covered products for DND and RCMP.

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Privy Council Office including:  
Canadian Intergovernmental Conference Secretariat  
Commissioner of Official Languages  
Economic Council of Canada  
Public Service Staff Relations Board  
Federal-Provincial Relations Office  
Office of the Secretary to the Governor General  
Office of the Chief Electoral Officer

Department of Public Works including:  
Defence Construction (1951) Limited  
National Capital Commission

Department of Regional Industrial Expansion including:  
Machinery and Equipment Advisory Board  
Statistics Canada

Ministry of State for Science and Technology including:  
Science Council of Canada  
National Research Council of Canada  
Natural Sciences and Engineering Research Council

Department of Secretary of State of Canada including:  
Social Sciences and Humanities Research Council  
Office of the Coordinator, Status of Women  
Public Service Commission

Department of Solicitor General including:  
Royal Canadian Mounted Police<sup>a</sup>  
Correctional Service of Canada  
National Parole Board

Department of Supply and Services (on its own account) including:  
Canadian General Standards Board

Department of Veterans Affairs including:  
Veterans Land Administration

Department of Western Economic Diversification  
Canada Post Corporation<sup>b</sup>  
Auditor General of Canada  
Fisheries Price Support Board  
National Battlefields Commission  
National Library  
National Museums of Canada  
National Archives of Canada  
Treasury Board

<sup>a</sup> See following list of covered products for DND and RCMP

<sup>b</sup> The Canada Post Corporation is on this list on the understanding that, should it cease to be a governed department, the provisions of Article IX, paragraph 5(b) of the GATT would not apply.

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## **DND/RCMP Covered Purchases**

The following products (listed by Federal Supply Classification (FSC)), that are purchased by the Department of National Defence (DND) and the Royal Canadian Mounted Police (RCMP), are included in the coverage of the GATT and the Canada-U.S. Free Trade Agreement, subject to the application of paragraph 1 of Article VIII of the GATT Government Procurement Code.

### **FSC**

22. Railway equipment
23. Motor vehicles, trailers and cycles (except buses in 2310, military trucks and trailers in 2320 and 2330 and tracked combat, assault and tactical vehicles in 2350)
24. Tractors
25. Vehicular equipment components
26. Tires and tubes
29. Engine accessories
30. Mechanical power transmission equipment
32. Woodworking machinery and equipment
34. Metal working machinery
35. Service and trade equipment
36. Special industry machinery
37. Agricultural machinery and equipment
38. Construction, mining, excavating and highway maintenance equipment
39. Materials handling equipment
40. Rope, cable, chain and fittings
41. Refrigeration and air conditioning equipment
42. Fire fighting, rescue and safety equipment (except 4220 Marine life-saving and diving equipment; 4230 Decontaminating and impregnating equipment)
43. Pumps and compressors
44. Furnace, steam plant, drying equipment and nuclear reactors
45. Plumbing, heating and sanitation equipment
46. Water purification and sewage treatment equipment
47. Pipe, tubing, hose and fittings
48. Valves
49. Maintenance and repair shop equipment
52. Measuring tools

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53. Hardware and abrasives
  54. Prefabricated structures and scaffolding
  55. Lumber, millwork, plywood and veneer
  56. Construction and building materials
  61. Electric wire and power and distribution equipment
  62. Lighting fixtures and lamps
  63. Alarm and signal systems
  65. Medical, dental and veterinary equipment and supplies

## **FSC**

66. Instruments and laboratory equipment  
except (6615: Automatic pilot mechanisms and airborne gyro components; 6665:  
Hazard-detecting instruments and apparatus)
67. Photographic equipment
68. Chemicals and chemical products
69. Training aids and devices
70. General purpose automatic data processing equipment, software, supplies and  
support equipment (except 7010 ADPE configurations)
71. Furniture
72. Household and commercial furnishings and appliances
73. Food preparation and serving equipment
74. Office machines, visible record equipment and automatic data processing  
equipment
75. Office supplies and devices
76. Books, maps and other publications  
(except 7650: Drawings and specifications)
77. Musical instruments, phonographs and home-type radios
78. Recreational and athletic equipment
79. Cleaning equipment and supplies
80. Brushes, paints, sealers and adhesives
81. Containers, packaging and packing supplies
85. Toiletries
87. Agricultural supplies
88. Live animals
91. Fuels, lubricants, oils and waxes
93. Non-metallic fabricated materials
94. Non-metallic crude materials
96. Ores, minerals and their primary products
99. Miscellaneous

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### **DND/RCMP Non-Covered Purchases**

Certain products purchased by DND and the RCMP are not included in the coverage of the GATT and the Free Trade Agreement.

### **FSC**

10. Weapons
11. Nuclear ordinance
12. Fire control equipment
13. Ammunitions and explosives
14. Guided missiles
15. Aircraft and aircraft frame structures
16. Aircraft components and accessories
17. Aircraft launching, landing and ground handling equipment
18. Space vehicles
19. Ships, small craft, pontoons, and floating docks
20. Ship and marine equipment
28. Engines, turbines and components
31. Bearings
51. Hand tools
58. Communication, detection and coherent radiation equipment
59. Electrical/electronic equipment components
83. Textiles, leather, furs, apparel and shoe findings, tents and flags
84. Clothing, individual equipment and insignia
89. Subsistence (food)
95. Metal bars, sheets and shapes

It should be noted that there are numbers for which FSC codes have not been assigned and which will not appear on either the list of inclusions or exclusions. These are 21, 27, 33, 50, 57, 60, 64, 82, 86, 90, 92, 97 and 98.

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### General Note:

Notwithstanding the above, neither the GATT nor the Free Trade Agreement applies to contracts that may be set aside for small businesses.

#### *United States*

The following entities are included in the coverage of the GATT and the Free Trade Agreements by the United States:<sup>a</sup>

Department of Agriculture (excluding procurement of agricultural products made in furtherance of agricultural support programmes or human feeding programmes)

Department of Commerce

Department of Education

Department of Health and Human Services

Department of Housing and Urban Development

Department of Interior (excluding the Bureau of Reclamation)

Department of Justice

Department of Labor

Department of State

United States International Development Co-operation Agency

Department of the Treasury

General Services Administration (excluding purchases by the Tools Commodity Center and purchases by the Regional 9 Office of San Francisco, California)

National Aeronautics and Space Administration

Veterans Administration

Environmental Protection Agency

United States Information Agency

National Science Foundation

Panama Canal Company and Canal Zone Government

Executive Office of the President

Farm Credit Administration

National Credit Union Administration

Merit Systems Protection Board

ACTION

United States Arms Control and Disarmament Agency

Civil Aeronautics Board

Federal Home Loan Bank Board

National Labor Relations Board

National Mediation Board

Railroad Retirement Board

<sup>a</sup> Where an entity has changed its name or has been subsumed into other entities, the successor entity is to be understood.



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American Battle Monuments Commission  
Federal Communications Commission  
Federal Trade Commission  
Inter-State Commerce Commission  
Securities and Exchange Commission  
Office of Personnel Management  
United States International Trade Commission  
Export-Import Bank of the United States  
Federal Mediation and Conciliation Service  
Selective Service System  
Smithsonian Institution  
Federal Deposit Insurance Corporation  
Consumer Product Safety Commission  
Equal Employment Opportunity Commission  
Federal Maritime Commission  
National Transportation Safety Board  
Nuclear Regulatory Commission  
Overseas Private Investment Corporation  
Administrative Conference of the United States  
Board for International Broadcasting  
Commission on Civil Rights  
Commodity Futures Trading Commission  
The Maritime Administration of the Department of Transportation  
The Peace Corps  
Department of Defense (excluding Corps of Engineers)

### **DoD Covered Purchases**

This Agreement will generally apply to purchases of the following Federal Supply Classification (FSC) categories subject to United States Government determinations under the provisions of Article VIII, paragraph 1, of the GATT Procurement Code.

### **FSC**

22. Railway Equipment
23. Motor Vehicles, Trailers, and Cycles (except buses in 2310)
24. Tractors
25. Vehicular Equipment Components
26. Tires and Tubes
29. Engines Accessories
30. Mechanical Power Transmission Equipment
32. Woodworking Machinery and Equipment
34. Metalworking Machinery

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35. Service and Trade Equipment
  36. Special Industry Machinery
  37. Agricultural Machinery and Equipment
  38. Construction, Mining, Excavating, and Highway Maintenance Equipment
  39. Materials Handling Equipment
  40. Rope, Cable, Chain and Fittings
  41. Refrigeration and Air Conditioning Equipment
  42. Fire Fighting, Rescue and Safety Equipment
  43. Pumps and Compressors
  44. Furnace, Steam Plant, Drying Equipment and Nuclear Reactors
  45. Plumbing, Heating and Sanitation Equipment
  46. Water Purification and Sewage Treatment Equipment
  47. Pipe, Tubing, Hose and Fittings
  48. Valves
  49. Maintenance and Repair Shop Equipment

## **FSC**

52. Measuring Tools
53. Hardware and Abrasives
54. Prefabricated Structures and Scaffolding
55. Lumber, Millwork, Plywood and Veneer
56. Construction and Building Materials
61. Electric Wire, and Power and Distribution Equipment
62. Lighting Fixtures and Lamps
63. Alarm and Signal Systems
65. Medical, Dental, and Veterinary Equipment and Supplies
66. Instruments and Laboratory Equipment
67. Photographic Equipment
68. Chemicals and Chemical Products
69. Training Aids and Devices
70. General Purpose ADPE, Software, Supplies and Support Equipment
71. Furniture
72. Household and Commercial Furnishings and Appliances
73. Food Preparation and Serving Equipment
74. Office Machines, Visible Record Equipment and ADP Equipment
75. Office Supplies and Devices
76. Books, Maps and Other Publications
77. Musical Instruments, Phonographs, and Home Type Radios
78. Recreational and Athletic Equipment
79. Cleaning Equipment and Supplies

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- 80. Brushes, Paints, Sealers and Adhesives
  - 81. Containers, Packaging and Packing Supplies
  - 85. Toiletries
  - 87. Agricultural Supplies
  - 88. Live Animals
  - 91. Fuels, Lubricants, Oils and Waxes
  - 93. Non-metallic Crude Materials
  - 94. Non-metallic Crude Materials
  - 96. Ores, Minerals and their Primary Products
  - 99. Miscellaneous

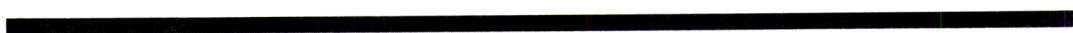
#### **DoD Non-Covered Purchases**

The GATT and the Free Trade Agreements will *not* apply to the following purchases of the DoD:

- (a) Federal Supply Classification (FSC) 83 — all elements of this classification other than pins, needles, sewing kits, flagstuffs, flagpoles, and flagstaff trucks;
- (b) 84 — all elements other than sub-class 8460 (luggage);
- (c) 89 — all elements other than sub-class 8975 (tobacco products);
- (d) 2310 — (buses only);
- (e) Specialty metals, defined as steels melted in steel manufacturing facilities located in the United States or its possessions, where the maximum alloy content exceeds one or more of the following limits; (1) manganese, 1.65 per cent; silicon, 0.60 per cent; copper, 0.06 per cent; or which contains more than 0.25 per cent of any of the following elements: aluminium, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium; (2) metal alloys consisting of nickel, iron-nickel and cobalt base alloys containing a total of other alloying metals (except iron) in excess of 10 per cent; (3) titanium and titanium alloys; or, (4) zirconium base alloys;
- (f) 19 and 20 — that part of these classifications defined as naval vessels or major components of the hull or superstructure thereof;
- (g) 51;
- (h) Following FSC categories are not generally covered due to application of GATT Article VIII, paragraph 1: FSC 10, 12, 13, 14, 15, 16, 17, 19, 20, 28, 31, 58, 59, 95

#### **General Notes:**

- 1. Notwithstanding the above, the GATT and the Free Trade Agreement do not apply to set asides on behalf of small and minority businesses.
- 2. Pursuant to Article I, paragraph (a) of the GATT, transportation is not included in services incidental to procurement contracts.



## Appendix D

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### Sources of Information on Government Procurement

#### Canada

Suppliers should use the publications and educational seminars available from Supply and Services Canada (SSC) to gain a general orientation on the specialized government market. More information on procedures and on the commodities being purchased can be obtained by a visit to the nearest Supply and Services regional office or to the headquarters in Hull. A list of these offices is provided in Appendix F. The Corporate Supplier Services Group is the focal point for communications between Supply and Services, the supplier community, customer departments and the regional offices. To receive the publication, *Suppliers Guide*, a practical booklet on procedures for businesses wishing to register as potential suppliers, write to Supply and Services Canada, Corporate Supplier Services Group, Statistical Information and Data Management Branch, Ottawa, Ontario, K1A 0S5 or telephone (819) 956-2400.

The Government Contract Regulations are public documents and copies can be purchased from the Canadian Government Publishing Centre, 45 Sacre-Coeur Blvd., Hull, Quebec, K1A 0S9.

For information respecting the Procurement Review Board of Canada, inquiries should be addressed directly to the board at P.O. Box 1533, Station B, Ottawa, Canada, K1P 6P6 or telephone (613) 990-1988.

### Where to Find Information on Contracts

SSC has, for a number of years, published lists of successful bidders for unclassified contracts issued by its headquarters for more than \$50,000 and by the regional offices for over \$10,000. As well, Notices of Proposed Procurements concerning contracts subject to international competition under the GATT Agreement on Government Procurement and, more recently, the Free Trade Agreement have been published in the Canada Gazette as they arise. However, as of April 1989, the Gazette is no longer used for the publication of notices or for the publication of information respecting contracts awarded.

Instead, this information is available through *Government Business Opportunities*, a weekly publication with an annual cost of CDN \$215 (in Canada) and \$US 258 elsewhere. For subscriptions to *Government Business Opportunities*, requests should be addressed to the Government Publishing Centre, 45 Sacre-Coeur Blvd., Hull, Quebec, K1A 0S9.

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### *United States*

There are several sources of information for those intending to do business with the United States Government. The *Commerce Business Daily* contains a daily listing of U.S. government procurement invitations, subcontracting leads, contract awards, and foreign business opportunities. This publication is available on an annual subscription basis from the U.S. Government Printing Office, Superintendent of Documents, North Capitol and H Street, Washington D.C. 20402, Tel: (202) 783-3238.

Other publications available from the same office are *Doing Business with the Federal Government*, a publication of the General Services Administration; *U.S. Government Purchasing and Sales Directory*, prepared by the U.S. Small Business Administration as a guide to products purchased, major purchasing offices, and specifications; and *Selling to the Military*, published by the U.S. Department of Defense.

Another publication of the General Services Administration is entitled *Government Business Opportunities Through the Business Service Centers* and is available from GSA Business Service Centres, and field offices of the U.S. Department of Commerce.

Some other publications related to procurement by specific departments are *Selling to the Department of the Treasury*, available from the U.S. Government Printing Office; *This is Interior Contract Guide*,

available from the Government Printing Office; *Selling to NASA*, available from NASA headquarters; *Selling to the United States Department of Agriculture*, available from the U.S. Department of Agriculture; *An Introduction to DOE Procurement*, available from the U.S. Department of Energy; and *Contracting with the United States Department of Transportation*, available from the U.S. Department of Transportation.

Two useful Canadian government publications about the U.S. procurement market are *Canadian Industry and the United States Defence Market*, available from the Department of External Affairs, Defence Programs Bureau (TDD), 125 Sussex Drive, Ottawa, Canada, K1A 0G2, and *Selling Non-Defence Products to the U.S. Federal Government*, available from the United States Trade and Investment Development Division (UTE), Department of External Affairs or from the Canadian Embassy, Non-Defence Government Procurement and Market Access Unit, 501 Pennsylvania Avenue N.W. Washington, D.C. 20001. Tel. (202) 682-1740.

Canadian trade offices in the United States can be helpful sources of information concerning procurement requirements and opportunities in their areas of responsibility. A list of these offices can be found in Appendix E.

## Appendix E

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### Canadian Government Trade Offices in the United States

Canadian Embassy  
501 Pennsylvania Avenue N.W.  
Washington, D.C. 20001  
Tel: (202) 682-1740

Canadian Consulate General  
Three Copley Place, Suite 400  
Boston, Massachusetts 02116  
Tel: (617) 262-3760

Canadian Consulate General  
310 South Michigan Avenue  
12th Floor  
Chicago, Illinois 60604-4295  
Tel: (312) 427-1031

Canadian Consulate General  
St. Paul Place, Suite 1700  
750 N. St. Paul Street  
Dallas, Texas 75201-3281  
Tel: (214) 992-9806

Canadian Consulate General  
300 South Grand Avenue  
10th Floor  
California Plaza  
Los Angeles, California 90071  
Tel: (213) 687-7432

Canadian Consulate General  
1251 Avenue of the Americas  
New York, N.Y. 10020-1175  
Tel: (212) 586-2400

Canadian Consulate General  
412 Plaza 600, Sixth and Stewart  
Seattle, Washington 98101-1286  
Tel: (206) 443-1777

Canadian Consulate General  
400 South Tower  
One CNN Tower  
Atlanta, Georgia 30303-2705  
Tel: (404) 577-6810

Canadian Consulate General  
One Marine Midland Center  
Suite 3550  
Buffalo, New York 14203-2884  
Tel: (216) 852-1247

Canadian Consulate General  
Illuminating Building  
Suite 1008  
55 Public Square  
Cleveland, Ohio 44113-1983  
Tel: (216) 771-0150

Canadian Consulate General  
600 Renaissance Centre  
Suite 1100  
Detroit, Michigan 48243-1704  
Tel: (313) 567-2340

Canadian Consulate General  
701 Fourth Avenue South  
Minneapolis, Minnesota  
55415-1078  
Tel: (612) 333-4641

Canadian Consulate General  
50 Fremont Street, Suite 2100  
San Francisco, California  
94105  
Tel: (415) 495-6021

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### Mini-Offices

Canadian Government Trade Office  
Suite 1400, 20 N. Orange Avenue  
Orlando, Florida 32801  
Tel: (305) 841-7337

Canadian Government Trade Office  
3935 Westheimer Road, Suite 301  
Houston, Texas 77027  
Tel: (713) 627-8079

Canadian Government Trade  
Development Office  
2312 South Bemiston Avenue  
Suite 800  
St. Louis, Missouri 63105  
Tel: (314) 862-0130

Canadian Government Trade  
Office  
1500 Columbia Plaza  
250 E. 5th Street  
Cincinnati, Ohio 450202  
Tel: (513) 762-7655

Canadian Government Trade  
and Investment Development  
Office  
4677 Old Ironside Drive  
Suite 450  
Santa Clara, California  
95054  
Tel: (408) 8355

Canadian Government Trade  
Office  
Gateway One, 9th Floor  
South Wing  
Pittsburgh, Pa. 15222  
Tel: (412) 392-2308

Canadian Defence Liaison  
Office  
11th Floor  
222 North Sepulveda Blvd.  
El Segundo, Ca. 90245  
Tel: (213) 335-4439



## Appendix F

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### Supply and Services Canada Supplier Contact Points

#### Headquarters\*

Place du Portage, Phase III  
11 Laurier Street  
Hull, Quebec

Corporate Supplier Services  
Group  
4th Floor, Core B3  
Tel.: (819) 956-3399

Bid Receiving Unit  
Core 0A1 (Main Lobby)  
Tel.: (819) 956-3370

#### Aerospace, Marine and Electronics Systems Directorate

Aerospace and Electronics  
Procurement Branch  
8th Floor, Core C1  
Tel.: (819) 956-1000

Marine and Armament  
Procurement Branch  
6th Floor, Core C1  
Tel.: (819) 956-1000

#### Industrial and Commercial Products Directorate

Transportation and Energy  
Products Branch  
7th Floor, Core B3  
Tel.: (819) 956-3979

Scientific, Electrical,  
Mechanical and Construction  
Products Branch  
7th Floor, Core A2  
Tel.: (819) 956-3544

Consumer Products and Traffic  
Management Branch  
9th Floor, Core B3  
Tel.: (819) 956-3786

#### Communications Services Directorate

Communications Services  
Procurement Branch  
1st Floor, Core C2  
Tel.: (819) 956-1916

Printing Supply Group  
National Printing Bureau  
45 Sacré-Coeur Blvd.  
Hull, Quebec  
K1A 0S7  
Tel.: (819) 956-7244

\* For all addresses in Hull, the postal address is Ottawa, Ontario, K1A 0S5

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**Supply and Services Canada  
Supplier Contact Points**

**Headquarters**

**Science and Professional Services Directorate**

Science Programs Branch  
12th Floor, Core C1  
Tel.: (819) 956-1778

Professional Services Branch  
10th Floor, Core C1  
Tel.: (819) 956-1400

**Office Automation, Services and Information Systems Directorate**

Procurement Operations Branch  
2nd Floor, Core C2  
Tel.: (819) 956-1184

**Regional Operations**

**Atlantic Region Offices**

Atlantic Directorate  
Ralston Building  
6th Floor  
1557 Hollis Street  
Halifax, Nova Scotia  
B3H 1V5  
Tel.: (902) 426-9333

Nova Scotia Region  
2 Morris Drive  
Burnside Industrial Park  
Dartmouth, Nova Scotia  
B3B 1S6  
Tel.: (902) 426-3881

Moncton Supply Centre  
New Brunswick Region  
P.O. Box 370  
Moncton, New Brunswick  
E1C 8L4  
Tel.: (506) 857-6020

New Brunswick Region  
Room 229, Customs Building  
189 Prince William Street  
Saint John, New Brunswick  
E2L 2B9  
Tel.: (506) 648-4895

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**Supply and Services Canada  
Supplier Contact Points**

**Regional Operations**

Newfoundland Region  
Building 302  
Churchill Avenue  
Pleasantville  
St. John's, Newfoundland  
A1A 1N4  
Tel.: (709) 772-5396

Prince Edward Island Region  
P.O. Box 5000  
17 Queen Street, Lowden Bldg.  
Charlottetown, P.E.I.  
C1A 7V6  
Tel.: (902) 566-7386

Quebec Directorate  
3rd Floor, East Tower  
Guy Favreau Complex  
200 Dorchester Blvd. W.  
Montreal, Quebec  
H2Z 1X4  
Tel.: (514) 283-6168

Eastern Quebec District  
Room 301  
1040 Belvedere Avenue  
Sillery, Quebec  
G1S 4N1  
Tel.: (418) 648-4087

Western Quebec Region  
800 Golf Road  
Nuns' Island  
Montreal, Quebec  
H3E 1G9  
Tel.: (514) 283-2430

Central Directorate  
Place du Portage  
Phase III, 7A1  
11 Laurier Street  
Hull, Quebec\*  
Tel.: (819) 956-3281

\* mailing address is Ottawa, Ontario K1A 0S5

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**Supply and Services Canada  
Supplier Contact points**

**Regional Operations**

Ontario Region  
6205 Kestrel Rd.  
Mississauga, Ontario  
L5T 2A1  
Tel.: (416) 670-6262

Southwestern Ontario District  
2nd Floor  
Dominion Public Bldg.  
457 Richmond Street  
London, Ontario  
N6A 3E3  
Tel.: (519) 645-4433

Southeastern Ontario District  
Unit 20, 407 Counter Street  
Kingston, Ontario  
K7K 6A9  
Tel.: (613) 545-8058

Northern Ontario District  
147 McIntyre Street West  
North Bay, Ontario  
P1B 2Y5  
Tel.: (705) 474-6613

Downsview Procurement  
c/o C.F.B. Toronto  
Building 151  
Downsview, Ontario  
M3K 1Y7  
Tel.: (416) 635-4731

Capital Region Supply Centre  
1010 Somerset Street West  
Ottawa, Ontario  
K1A 0T4  
Tel.: (613) 957-9982

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## Western Regional Offices

Western Directorate  
P.O.Box 2950, Station 'M'  
Harry Hayes Building  
584 — 220 — 4th Avenue, S.E.  
Calgary, Alberta  
T2G 4X3  
Tel.: (403) 292-4586

Manitoba Region  
100 Otter Street  
Winnipeg, Manitoba  
R3T 0M8  
Tel.: (204) 983-6111

Alberta and Northwest  
Territories Region  
15508 — 114 Avenue  
Edmonton, Alberta  
T5M 3S8  
Tel.: (403) 495-4001

Saskatchewan Region  
Room 601  
1783 Hamilton Street  
Regina, Saskatchewan  
S4P 4H3  
Tel.: (306) 780-7332

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**Supply and Services Canada  
Supplier Contact Points**

**Regional Operations**

**Pacific Regional Offices**

Pacific Directorate  
8th Floor  
1133 Melville Street  
Vancouver, B.C.  
V6E 4E5  
Tel.: (604) 666-7760

Vancouver Island Region  
912-1175 Douglas Street  
Victoria, British Columbia  
V8W 2E1  
Tel.: (604) 388-3522

Yukon Region  
102-307 Jarvis Street  
Whitehorse, Yukon Territory  
Y1A 2H3  
Tel.: (403) 668-5808

British Columbia Region  
12171 Horseshoe Way  
Richmond, British Columbia  
V7A 4Z6  
Tel.: (604) 272-9001

**Washington Office**

Director  
Washington Region  
Supply and Services Canada  
Canadian Embassy  
501 Pennsylvania Ave. N.W.  
Washington, D.C. 20001  
Tel.: (202) 682-1740

