



October 14, 2011

The Honourable Ed Fast
Minister of International Trade
Department of Foreign Affairs and International Trade Canada
125 Sussex Drive
Ottawa, ON K1A 0G2

Re: American Jobs Act and Buy American Provisions

Dear Minister:

On behalf of Canadian Manufacturers & Exporters (CME) and members of the Canadian Manufacturing Coalition (CMC), I am writing in advance of your upcoming meeting with United States Trade Representative Ron Kirk regarding the continued emergence of “Buy American” provisions in U.S. legislation.

First, thank you again for participating in the Manufacturing Summit on September 12, 2011 in Montreal. Our associations and membership greatly appreciated your comments and candour on the future of Canada’s international trade efforts.

As you know, a key issue that emerged at the time of the Summit was the announcement of the U.S. Administration’s *American Jobs Act* (AJA) including “Buy American” provisions drawn from the language of the American Recovery and Reinvestment Act (ARRA). Although the AJA was recently rejected by the U.S. Senate, the inclusion of the “Buy American” legislation was deeply troubling to the participants in a Summit that focused on the “shared vision initiative” of the two leaders. Similar language continues to be included in legislation at the State levels, and could reappear if the Administration reworks the AJA in whole or in part. In fact, spurred by the AJA proposal, the Summit’s concluding action statement called on the two governments to “open markets for exports for manufacturers within our two countries” and to ensure the reduction of barriers to North American supply chains and to further market integration.

Prior to the Summit, CME along with the members of the manufacturing coalition, had been aggressively working on identifying priority sectors and levels of government for a permanent and expanded government procurement agreement to succeed the expiring *Canada/US Government Procurement Agreement* (CUSPA) negotiated consequent to the ARRA. In parallel, we had been working through our counterpart organizations in the U.S. to build support for such an agreement. However, with the introduction of the AJA “Buy American” provisions, despite the CUSPA and the “shared vision initiative”, the direction and feedback from our membership has changed dramatically.

Our priority is for a bilateral agreement with the U.S. that is broadly-based, continuing, and inclusive of all business and service sectors as well as all levels of government, including transfers of funds for projects between levels of government. Canada should not be looking for simply another short-term exemption under a specific Act. Rather, we should be negotiating a

long-term agreement that recognizes the deep level of business integration that has been accomplished as a result of previous free trade agreements. Instead of attempting to eliminate legislated domestic preferences outright – whether those are Canadian or American – the definitions of ‘domestic’ should be expanded to include parts, goods, and services originating in either Canada or the U.S.

This approach has several benefits. First, it would recognize, support, and strengthen the competitiveness of integrated industries and supply chains, enabling both countries to compete better against the rest of the world. The United States Census Bureau has recently published a study showing that over half of Canada’s shipments of goods to and from the United States take the form of related-party trade (shipments between U.S. companies and their subsidiaries abroad, as well as trade between subsidiaries of foreign enterprises in the U.S. and their parent companies). The share of intra-corporate trade between Canada and the United States is much higher than for any other U.S. trading partner. This only confirms the fact that the integrated nature of supply chains between Canada and the United States is a unique and extremely important feature of our bilateral economic relationship.

Second, this approach would allow Canada to position ourselves apart from a key U.S. concern in “Buy American” policies – Canada is not a low-cost manufacturing jurisdiction that exports unfairly into North America while protecting its own procurement markets.

Third, this approach has precedence in the successful history of bilateral procurement cooperation, notably certain defence cooperation agreements that included the concept of a North American Defense Industrial Base, as defined in Department of Defense authorization legislation. Thus, in our view, a bilateral agreement between our two countries, providing companies on both sides of the border with 'equal' access to the other country's public sector procurement, is most likely to get the broadest support of business and political leaders in both countries.

We are most concerned with the political and business implications in Canada if such an agreement cannot be reached. Reciprocity in access to foreign markets is a principled approach of Canadian trade policy, and one that we strongly endorse and support. If Canadian manufacturers, exporters and service providers continue to face increasing exclusions under such U.S. legislation, pressure will surely mount for similar provisions to be introduced in Canada at all levels of government. The European Union has a Reciprocity Directive on government procurement which could be a model for Canada to examine and possibly emulate moving forward.

Although the U.S. procurement market is significantly larger than that of Canada, U.S. companies have far greater access to Canadian procurement, dollar for dollar, than the reverse. In fact, we have estimated in our previous work that the infrastructure procurement market in Canada exceeds \$60 billion annually, of which roughly 13% is captured by U.S. firms. With Crown Corporations, such as those in the electricity sector, the size of the Canadian procurement market is much larger. Exclusion from this market would significantly and negatively affect U.S. companies. We are sure that any initiative on the part of the Government

of Canada to grant only reciprocal rights of access to federally funded infrastructure contracts would help expedite the negotiation of a broader and more open bilateral procurement agreement.

While putting in place new Canadian restrictions is not our preference, reciprocity is essential and must be supported. Canadian companies do not compete today on a level playing field as a result of “Buy American” policies. We urge you in your meetings to begin the process of securing a permanent and expanded government procurement agreement with the U.S. that builds on the strengths of previous procurement and trade agreements and supports further integration of our economies and cross-border supply chains. Similarly, we will continue to work with our counterpart associations in the U.S. to build support for this approach.

Thank you again for your support on this critical issue. Please let us know how we can assist your efforts.

Sincerely,



President & CEO
Canadian Manufacturers & Exporters (CME)
Chair, Canadian Manufacturing Coalition (CMC)



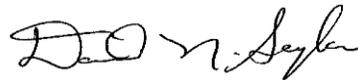
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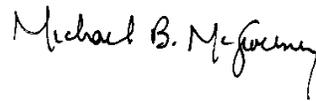
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