

# Prospects for “Buy North American”? The Challenge of Government Procurement

---

Addressing Global Trade Challenge through Canada – United States Cooperation

**Geneviève Dufour**

**Full Professor, Law Faculty**

**Université de Sherbrooke**

**November 17, 2021**

# Plan

---

1. US international commitments in the field of public procurement
2. Buy American Act / Buy America Policy
3. Biden Executive order : Buy American Plan
4. Gateways to favourable treatment for Canadian suppliers
5. Options for Canada ?

# The Canada - EU Procurement Relationship in the light of their International obligations



## WTO Government Procurement Agreement (GPA)

### Non-discrimination principle

1. National principal
  - Exception : modulation of the commitments in the Agreement
2. Most favored Nation
  - Exception : Free Trade Agreement (NAFTA / CUSMA)



# Buy American Act

Act of **1933** which has evolved

Assets purchased **by Federal agencies**

**Threshold:** \$10K

**Products covered:** all

**Requirements :** Made in US AND 55% US inputs

Possible exemptions

**Does not apply per se to services, states and cities but many apply it**



# Buy America Policy

Package of measures taken since **1982**

**Federal project funding**

**Threshold:** depends on the organization \$100K

**Products covered:** iron, steel, etc.

**Requirements :** Variable depending on the organization

Possible exemptions

Targets projects from state or municipal departments and agencies



PRESIDENT BIDEN'S  
**BUY AMERICAN  
 EXECUTIVE ORDER**

	Invests in the future of American industry
	Rewards companies who treat their workers with dignity and respect
	Encourages the government to purchase products made in America – by all of America's workers



WH.GOV



Executive Order on  
 Ensuring the Future  
 Is Made in All of  
 America by All of  
 America's Workers

January 25, 2021

# Gateways to favourable treatment of Canadian suppliers

---

1. WTO Agreement on Government Procurement (GPA) ?
2. CUSMA ?
3. Waiver for Canadian suppliers ?
4. Sectoral agreement ?

# What options for Canada ?

---

Statu quo

---

Renogociation of CUSMA

---

Deal for a waiver

---

Compliance analysis of  
Biden plan



Thank you !



Genevieve.dufour2@usherbrooke.ca