

September 14, 2011

Canadian Manufacturers & Exporters speaks out on Obama's Buy American Policy.

Dear CME members and colleagues,

As you are aware, the White House released yesterday the details of President Obama's most recent proposal for job creation – the *American Jobs Act*. The Act includes over \$100 billion investments in infrastructure projects, including:

- Transport infrastructure (\$50 billion): \$2 billion for airport improvement, \$1 billion for traffic control systems, \$27 billion for highways, \$4 billion for High Speed Rail and Intercity Rail transportation corridors, \$2 billion for AMTRAK, \$3 billion for public transit capital assistance, and \$5 billion as discretionary funds.
- School renovations (\$25 billion): Includes elementary, secondary schools, community colleges. Excludes new constructions.
- Neighborhood stabilization (\$10 billion): For the redevelopment of abandoned and foreclosed properties and for the stabilization of affected neighborhoods.
- The Act also commits \$10 billion to the creation of a National Infrastructure Bank.

Why we care: As expected, the Act includes a number of onerous Buy American restrictions similar to those contained in the *American Recovery and Reinvestment Act of 2009* that will apply to these infrastructure projects.

The Act specifies that projects receiving funding must use 100% U.S. domestic content, as it relates to steel, iron and manufactured goods.

As much of the funding would be transferred to the sub-state level (e.g. school boards, transit authorities) for which the US has taken very minimal international commitments, Canada is not likely to benefit from great protection under the current international agreements. The February 2010 *Canada-United States Agreement on Government Procurement* (CUSPA) would also appear to provide only limited relief, as it is set to expire on September 30, 2011.

What CME is doing:

- The bill is in the first stage of the process. Despite President Obama's insistence that Congress pass the bill now, its ultimate fate is undetermined. It is far from clear which elements of this bill will be passed by Congress (if any) and, if passed, whether the final legislation would contain Buy American provisions in the form proposed (or in any form). CME will be following this Bill closely and will let you know of any developments.
- CME already expressed its concerns with both the Prime Minister and the Minister of International Trade, and we commend the government to respond rapidly by launching a fast-track consultation with U.S. administration in an effort to secure an exemption for manufactured goods from Canada – under the same terms of 2010 CUSPA.
- CME will be talking publicly about this through our national office and our provincial divisions.

You will find below more details with regards to the specific sectors that would be impacted by this legislation.

Sectors most likely to face restrictions:

- **The transportation sector**, which is already subject to pre-existing *Buy America* restrictions, although at a lower domestic content level (60%), will be affected. It is not clear, however, whether the higher threshold of 100% would trump the existing 60% for funds channelled through the National Infrastructure Bank. Companies involved in public transit equipment, highway repairs and construction, traffic control systems, high-speed rail will definitely be affected.
- **The construction sector** servicing school infrastructure (e.g. HVAC suppliers, construction materials) will also be affected.

If Buy American is applied to the grants flowing through the National Infrastructure Bank:

Companies involved in the **clean energy infrastructure, water treatment and waste equipment and transportation** will be impacted. That includes:

- **TRANSPORTATION:** The term 'transportation infrastructure project' means the construction, alteration, or repair, including the facilitation of intermodal transit, of the following subsectors: mass transit and high-speed rail, commercial ports infrastructure, airport equipment (including air control traffic systems, freight rail and bridge construction).
- **WATER INFRASTRUCTURE PROJECTS:** The term 'water infrastructure project' means the construction, consolidation, alteration, or repair of the following subsectors: Waterwaste treatment facility, Storm water management system, Dam, Solid waste disposal facility, Drinking water treatment facility, Levee, Open space management system.
- **CLEAN ENERGY INFRASTRUCTURE:** The term 'energy infrastructure project' means the construction, alteration, or repair of the following subsectors: Pollution reduced energy generation, Transmission and distribution, Storage and Energy efficiency enhancements for buildings, including public and commercial buildings.

CME Media Statement:

- Buy America a jobs killer for US and Canadian manufacturers - CME
- New Buy American procurement restrictions contained in President Obama's Jobs Bill currently before Congress threaten jobs in both Canada and the United States according to Canadian Manufacturers & Exporters.
- We are extremely disappointed and concerned that Buy American restrictions are reappearing, says CME President & CEO Jayson Myers. Canadian manufacturers that supply America's building, transportation, and state and municipal infrastructure markets will be seriously affected if these new restrictions become law.
- But, we are very pleased by the rapid response of the Canadian Government in seeking to exempt Canadian manufacturers from these provisions.
- We need to make the case very clearly to US officials that the proposed Buy American restrictions which are similar to the provisions that appeared two years ago under the American Recovery and Reinvestment Act are bad for US and Canadian industry alike.
- Experience with the ARRA showed us that Buy American procurement restrictions raised the cost and delayed the start-up of infrastructure projects in the US. They excluded Canadian manufacturers, but given the integrated nature of our supply chains, many US suppliers also lost business and jobs because their Canadian customers were shut out of the US market.
- Those were the problems that led to last year's Canada-US Procurement Agreement that provided

Canadian manufacturers an exemption to the ARRA restrictions. They are as relevant and important today as they were two years ago.

- Our procurement agreement provides a defence for Canada and I am very pleased that International Trade Minister Fast has moved so quickly to launch consultations to address this issue immediately,” stated Myers.
- CME and our members will be monitoring the situation closely and working with Minister Fast and his team to support Canada's case for an exemption.
- Political circumstances have also changed in the US. Buy American restrictions will make it more difficult to secure Republican support for the President's Jobs Bill.
- But, Canada still has to make our case very clearly: You don't create jobs by restricting business opportunities between the world's two largest trading partners.

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