
Canadian Manufacturers & Exporters
Manufacturiers et Exportateurs du Canada
STRATEGIC GOVERNMENT PROCUREMENT
Driving business investment and innovation through strategic government procurement
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Executive Summary and Introduction

Canadian manufacturers and exporters face numerous challenges to remain globally competitive and invest in their people, processes, and products. The continuing strength of the Canadian dollar, the international financial crisis, the European debt crisis, the increasing competition at home and in primary markets, and the accelerating pace of technological innovation are just some of the issues Canadian industry is currently facing.

In recent years, political leaders, academics and business decision-makers have put significant emphasis on innovation as a key driver of manufacturing competitiveness and long-term success. Simply put, Canadian manufacturers cannot survive in today's highly challenging and competitive global business environment without being innovative. While industry, itself, plays an important role in determining its own success, governments have a significant role to play with the rules, regulations, and supporting mechanisms to encourage and foster innovation and product commercialization.

As such, similar to business competing on a global scale, governments, too, must compete and strive to create the best business environment to attract investment, research, and production. Today, many countries, including Canada's primary trading partners, use government procurement strategies to stimulate the domestic economy and create jobs by being a strategic supporter and customer of domestic innovation and by creating a level playing field for companies to operate in primary markets.

For example, in the United States, highways, roads, airport facilities, and mass transit infrastructure projects are supported by policies that maximize economic benefits for the country by maximizing the use of domestic manufacturing industry, while allowing competition that is based on equitable rules for all vendors. In the US and other markets, governments support industrial growth as first customers for innovative products developed domestically.

Other governments also use procurement policies to help create a level playing field in procurement markets through the implementation of reciprocity policies in international agreements. This has been successful for markets like the European Union, where it opened its procurement market domestically while ensuring the foreign markets remain open to domestic companies. Given that Canada imposes fewer procurement restrictions in domestic policies compared to many other countries, this approach would further support and enhance domestic economic interests at home and internationally.

To date, Canada has not adopted either of these approaches, and as a result, Canadian procurement policies have fallen behind global standards. This directly impacts our ability to attract investment, innovation, and R&D. Implementing these policies would create a more globally competitive procurement strategy for Canada and be the basis of a national strategy aimed at fostering domestic innovation.

This paper outlines the importance and use of strategic procurement today, details what CME believes should be the guiding principles for a government procurement strategy, and identifies the priorities sectors for implementation of such a strategy.

The use of strategic procurement in Canada: Industrial Regional Benefits Policy

Traditionally, strategic procurement has been used in areas such as national defence to ensure a country could preserve its domestic capacity to produce and deploy highly sophisticated defence systems if necessary. The creation of the Defence Advanced Research Projects Agency (DARPA) in the US is a good example of how innovation played a central role in protecting US national security by ensuring the technological superiority of the US over other military powers.

However, in other countries like Canada, creating a demand for military technology based on the DARPA model is very challenging, mainly due to the relatively small size of defence procurement in Canada. Instead, smaller countries — at least 35 countries, including Canada — have adopted the Industrial Regional Benefit (IRB) model as a mechanism to foster innovation and drive broader economic activities through defence procurement.

In short, the IRB model requires companies that win contracts above a certain threshold to provide direct or indirect offsets in the national economy. The most common types of direct offsets are co-production and sub-contracts for the production and after-sale service of military products. The most common types of indirect offsets are technology transfers, training, licensed production, and other types of purchases.

Canada adopted an IRB policy in 1986, which provides the framework for using federal procurement to provide long-term industrial and regional economic benefits. The policy states that defence companies winning contracts worth more than $100 million must provide offsets worth 100 per cent of the value of the contract. The policy is discretionary for contracts between $2 million and $100 million and does not apply to smaller projects. Currently, more than $10 billion in contracted activities fall under the scope of the IRB policy. Beyond the Canadian content calculation of the offsets, the benefits must also provide high-tech and sustainable benefits, although the interpretation of high-tech can be broadly interpreted.

Since the IRB policy was introduced, there are several examples of innovation initiatives from the Canadian defence sector that can be linked directly to the policy. For instance, Lockheed Martin invested $1 million in the British Columbia Institute of Technology to “help design and support the creation of the BCIT 3D simulation technology,” to satisfy IRB requirements on the CP 140 Aurora Structural Life Extension program. Boeing contributed to the creation of the Canadian Composites Manufacturing Research and Development consortium, which is “a virtual centre of excellence” as an offset for the Medium-to-Heavy Lift Helicopter program.

The federal government has taken steps towards supporting national manufacturing capabilities with the adoption of Canada First Defence Strategy, which strives to create a sustainable landscape for the federal fleet and to promote sovereignty and economic prosperity. The National Shipbuilding Procurement Strategy (NSPS) launched in June 2010 includes a $35-billion investment in ship construction, small ship construction, and the repair, refit and maintenance of the ships, and also includes IRB requirements as well as a ‘value proposition’ model. This model is new to Canadian defence procurement and includes three main components that take the form of commitments from the bidding companies when competing for the contract: human resource development, industrial development, and technology development. Companies can fulfill these commitments through a variety of mechanisms, including apprenticeship programs to emerging design technologies to modern shipbuilding processes. This new model of pairing IRB requirements with the value proposition commitments creates a precedent, where the winning bids constitute the basis of “best overall value to Canada,” which requires significantly greater commitment to invest in Canadian innovation and broader economic development through supply chain development.

CME believes this new model being used in the NSPS should be the model for future national defence contracting, not only because it provides best long-term economic support for Canadian industry, but because it also places the Canadian defence industry on a level playing field internationally compared to the support other companies receive in other markets. Furthermore, to maintain parity with supports provided in other markets, CME believes Canada should extend the procurement principals established in the NSPS to other sectors of government procurement and create a broader and more strategic procurement strategy.

A Strategic Canadian Procurement Strategy — Guiding Procurement Principles:

While the NSPS provides a baseline model on which to create a strategic Canadian procurement strategy, CME believe this is only part of the solution needed moving forward. CME believes governments can, and should, be more proactive in implementing procurement policies that create a level playing field for Canadian industry in more sectors of the economy. More specifically, governments at all levels in Canada must better use their procurement practices to drive and reward innovative businesses. We believe Canada should follow certain guiding principles, and in addition to those established under the IRB and "best value" approaches already in place under the NSPS, governments should introduce the following principles into its procurement processes:

1. The strategic use of IRBs at the sub-federal level

The IRB policy proved to be an efficient economic development policy that allows Canada to maintain and develop a relatively healthy defence industrial base, without benefitting from a large domestic market. While international agreements do not allow signatory governments to use IRBs outside the defence sector, sub-national governments that are not covered by these international agreements could potentially impose them. This ensures consistency with Canada's international obligations (WTO GPA Annex 5 Article 2 and NAFTA Chapter 10, Article 1001, Paragraph 5(a)) and maintains a level playing field for Canadian companies based on the procurement practices of many other countries.

Government procurement spending in Canadian infrastructure is currently estimated at over $60 billion annually. As part of this, the federal government transfers large amounts of money to provinces and municipalities for the renewal of Canada's infrastructure, including public buildings, roads and highways, water treatment and wastewater infrastructure, public transit, etc. These types of large projects are ideal for the use of IRBs, given that multinational companies involved have the capacity and the business networks required to provide offsets as a result of this contract.

Half of government expenditures on infrastructure goes to engineering work. The most goes to transportation, telecommunication, sewage, and water projects. Buildings account for another 18 per cent, machinery and equipment for 17 per cent, and repair and maintenance for 15 per cent of infrastructure spending.

One mechanism that might be useful for the creation of a coordinated national strategy on infrastructure procurement and fostering innovation and investments is the PPP Canada Fund, which is currently playing an important role in the development of Canadian infrastructure. PPP Canada was created to "improve the delivery of public infrastructure and provide better value, timeliness and accountability by increasing the effective use of P3." (www.p3canada.ca). PPP Canada works in partnership with provincial, territorial, municipal, First Nations, federal and private partners to support greater adoption of public-private partnerships in infrastructure procurement.

Right now, there are no policies adopted by PPP Canada that look at how to leverage these massive investments in Canadian public infrastructure, and there is no use of the NSE to make sure critical infrastructure is subject to greater scrutiny in regard to its importance for the nation's security.

If the IRB policy is extended to the infrastructure sector, it could be modified from its defence-related version to focus more on innovation. In order to balance the IRBs with the international competitiveness component of the process, governments could require only a certain percentage of the total value of the contracts to be spent in Canadian innovation — for example, 25 per cent.

With roughly $60 billion being spent in infrastructure procurement annually, the potential offsets for Canadian innovation are major. In fact, such an IRB policy applied in the infrastructure sector would significantly increase business spending in R&D — the area in which Canada is lagging compared to other OECD countries.

The type of innovation offsets allowed under this policy could be very large, and include:

- The creation of university research chairs or college research facilities;
- Participation with existing or new business-led centres of excellence;
- Partnership with Canadian SMEs on joint research;
- Contract research with academics; and
- Outsourcing of current R&D activities in Canadian suppliers.

In addition, if governments also presented additional points to bids that offer products that were the result of publicly funded R&D in Canada, this would create powerful incentives for firms to establish production facilities and R&D centres in Canada.

2. Governments acting as "First Buyers:"

One of the most important procurement approaches to foster business innovation is the use of pre-commercial procurement. This process is a multi-faceted approach involving exploration, feasibility, prototyping and commercialization and has been used when there are no off-the-shelf solutions to fulfill an identified need and where the government sees an opportunity to develop a new product that can be commercialized and exported successfully.

The EU has developed an interesting model for consideration in Canada, and is outlined by the following principle, that states:

> *"By developing forward-looking procurement strategies that include R&D procurement to develop new solutions that address these challenges, the public sector can have a significant impact on the mid-to long-term efficiency and effectiveness of public services, as well as on the innovation performance and the competitiveness of European industry. ...By acting as technologically demanding first buyers of new R&D, public procurers can drive innovation from the demand side."*

Canada should implement a similar model by implementing a "buy-first" policy to support broader product and service commercialization. In order to implement this, governments should promote and support a culture of risk-taking within its purchasing departments (rather than simply the lowest-cost bid) and must support the creation consolidated network of businesses, academic institutions, and government research organizations that can identify the areas where this process could be applied. Centres of excellence, and the networks developed in programs such as the Industrial Research Assistance Program (IRAP), could play this role. Based on the EU model, CME strongly recommends federal, provincial and municipal governments start identifying networks of procurers and innovation support agencies that could work together with industry to identifying the fields where pre-commercial procurement could take place, and establish the necessary criteria.

"First Buyer Principle" and Fixed-Wing Search and Rescue Aircraft:

The federal government is currently planning to replace the aging fleet of CC-115 Buffalo and CC-130 Hercules aircraft for search and rescue purposes. While the government is still receiving feedback from industry in order to decide which process to follow, the Canadian aerospace industry has raised the importance of looking at Canadian capabilities in terms of performance and functional characteristics, rather than design characteristics, which would clearly reject any potential Canadian bid from the process in favour of existing products manufactured abroad.

In December 2008, the president and CEO of BC-based Viking Air published an article stating the company proposed to work with DND to develop a staged approach to upgrading and modernizing the current fleet, as well as to investigate the potential of introducing newly manufactured Buffalos on a phased-in basis. Other original equipment manufacturers, like Bombardier Aerospace and Pratt & Whitney Canada, have stated the Canadian aerospace industry has the capacity to develop a Canadian-made product for search and rescue purposes that could be created for Canadian government purposes and then subsequently exported to markets internationally.

In the fall of 2009, PWGSC requested industry feedback was requested for the Fixed Wing Search and Rescue Statement of Operational Requirements (SOR). Following the industry consultation, the National Research Council (NRC) was engaged to conduct an independent review of the SOR. In its review, NRC focused on the technical requirements, as well as the assumptions and constraints underlying them. The government received the NRC report in March 2010. Based on the NRC review, the SOR has been amended to allow for a wider range of fixed-wing search and-rescue solutions and to reflect a capability-based rationale. It is not clear, however, if this wider range of solutions being investigated will lead to a real opportunity to develop a Canadian-made product fulfilling the needs of Canadian search and rescue activities.

3. Governments acting as "Smart Buyers:"

Governments should encourage the procurement of existing innovative products that are the result of public funding of innovation. One potential approach would be to include the criteria of "domestic innovation" in bids assessments. The federal and provincial governments invest billions of dollars annually in direct and indirect assistance to public and private R&D through grants, R&D tax credits, and programs aimed at funding collaborative research between business and academic sectors.

As such, Canadian procurement processes should include innovation at the core of the assessment grid

used to evaluate various bids submitted for the delivery of goods and services. Government should assess procurement opportunities on a full product delivery/cost opportunity basis that includes not just the selling price, but the government funds already invested in R&D. In this process, governments would support products that are a direct result of intense R&D activities in Canada and that have already received public funds in support of this domestic R&D. CME believes this could significantly increase R&D in Canada, especially from large multinationals looking for the best environment to invent new products and to commercialize them in economic sectors where large sales take place in the public sector (health care and vaccines, certain infrastructure projects, and public transit equipment).

Similar to the necessary changes in government procurement processes outlined above, government buyers must alter their procurement processes away from simply the lowest cost and put greater priority on best value for Canada. This could be an extension of the principles established in the current NSPS process, which would include total investments made in the R&D of these products and the broader economic benefits to Canada. The creation of independent networks, as used in Europe with the Lead Market Initiative, would help lower the risks associated with such an approach. These networks would be responsible for providing advice to governments and making sure procurement initiatives are targeted in sectors with most potential, especially for future exports.

Government acting as a smart buyer in creating a national vaccine strategy

CME believes the federal and provincial governments could better use their procurement practices in order to provide Canadian vaccine manufacturers a strong domestic market and establish their production and R&D facilities in Canada. For instance, governments could use a points system to meaningfully recognize the value of a domestic supplier by ascribing points to desired criteria in both supplier and product characteristics. Specific elements of the points system could include:

- Domestic manufacturing capacity;
- Product qualities (ease of use, stability, barcode support for e-registries, etc.);
- Economic and innovation benefits (R&D and manufacturing investment, etc.);
- The details of a vaccine stockpile plan which protects Canadian sovereignty and national security;
- Ability to collaborate on product supply and security issues; and
- Market share, price of products and cost of the stockpile plan.

We believe such an approach could not only improve current investment in Canadian R&D in the vaccine sector, but would improve the image of Canada as an investment destination with multinationals looking for the best environment to locate global R&D activities. Such a smart procurement method would definitely make Canada a country of choice for the development and commercialization of healthcare-related products and services.

4. Use existing exemptions provided by international agreements

Complying with all negotiated international obligations is a critical principle for establishing a Canadian strategic procurement strategy. However, today, Canada does not effectively use the procurement powers and exclusions that were negotiated through international agreements to drive innovation. Canada should only better focus the current policies on innovation but it could also expand the coverage of these policies in other procurement sectors based on current international obligations as negotiated through agreements such as the WTO General Procurement Agreement (GPA) and the North American Free Trade Agreement (NAFTA).

The National Security Exemption (NSE) of trade agreements is commonly used to protect the national interest of a country, including in NAFTA (Article 1018) and the WTO-GPA (Article XXIII). For purposes of the NAFTA, signatories left the definition of “national security” open to interpretation given the changing nature of threats to national security. Some countries, therefore, have been using it more extensively than others, depending on what they consider “strategic national interest.”

Treasury Board Canada (www.tbs-sct.gc.ca/cmp/doc/nse-esn/nse-esn-eng.rtf) has developed guidelines for procurement agencies and departments with regards to the use of NSE. In general, the application of NSE is in response to a broad range of national security threats including “national defence and military threat,” “sovereignty,” and “protection of intelligence.”

The group of factors that falls under “sovereignty” are those of most interest for the purpose of these recommendations. These guidelines stress the importance of looking at national security broadly, by stating: “National security is more than military territorial integrity and traditional

concepts of national sovereignty. It is also about threats to economic security, environmental security and human security as society and its democratic institutions become targets of terrorist threats and therefore need to be protected and defended."

The Canadian government has recently made some positive steps towards a better use of the National Security Exception (NSE) in the field of IT services and critical electronic communications. On May 28, 2012, the Department of Public Works and Government Services Canada (PWGSC) published a notice on MERX regarding the use of NSE for Email, Network and Data Centre. The notice states that:

> *"Over the past decade, there has been an increasing recognition of the central role played by email, network/telecommunications and data centre systems in every aspect of government operations. However, during the same period, we have learned that these systems have been the target of hostile threats, which causes grave concerns about the implications of cyber threats on Canada's national security. The government's current aging infrastructure in email, network/telecommunications and data centre systems, all of which are interconnected, leaves the government vulnerable to such cyber threats. The government is also concerned about potential compromises to security achieved through the supply chain itself."*

According to the government, the NSE will apply to a variety of procurements, which may involve different procurement strategies. In some cases, the procurement strategy may involve the pre-selection of suppliers who, among other things, meet certain security clearance criteria at the time of pre-selection.

This is definitely a step in the right direction. CME believes, however, there is a need to expand the definition of critical infrastructure.

NSE and Critical Public Infrastructure:

Following the model of other nations, the NSE could be applied more broadly to what is defined as critical infrastructure. Critical infrastructure is generally defined as those systems and assets so vital to a country that the incapacity of such systems and assets would have a debilitating impact on our security. In 1996, former US President Bill Clinton established the President's Commission on Critical Infrastructure Protection, which provided a unique opportunity to the federal government and owners and operators of the nation's critical infrastructure to share information on vulnerabilities and threats to Canada's security. In its final report published in 1997, the commission listed the following industry sectors as critical infrastructure:

- Transportation infrastructure;
- Oil and gas production and storage infrastructure;
- Water supply infrastructure;
- Emergency services infrastructure;
- Banking and finance infrastructure;
- Electrical power infrastructure; and
- Telecommunications infrastructure.

In these sectors, government procurement is critical to the building and maintenance of these different types of infrastructure. CME strongly recommends the federal and provincial governments create a special commission on critical infrastructure, similar to the US commission, in order to examine what type of tenders in each of these areas should be subject to the national security exemption and to implement policies to make sure a Canadian supply base is created as a result.

The Canadian government has broadly identified the infrastructures that are critical for the nation's security and well-being through the National Cross-Sector Forum, a public-private forum which meets once a year to discuss issues related to the protection of critical infrastructures in various domains such as banking, energy and utilities, telecommunications, etc. The role of government procurement in the protection of these critical infrastructures, however, is not an issue that has been addressed through this forum.

Small Business Set-Asides

In addition to the NSR exemptions, the Canadian government has also negotiated small business set-asides in its international agreements including WTO-GPA and NAFTA (Article 1001.2b).

Canada currently uses this exception for its Procurement Strategy for Aboriginal Businesses (PSAB). The objective of the program is to promote Aboriginal business development by awarding bonus points to proposals from qualified Aboriginal suppliers, and by restricting certain bids to Aboriginal suppliers only. Considering that only two per cent of Canadian firms employ more than 500 employees, CME believes the federal government could extend this practice to other small businesses. It could, for example, work with industry

to identify certain sectors in which SMEs would get bonus points and areas for which only SMEs would be allow to bid.

The US system is probably the most well known and is regulated through the Federal Acquisition Regulation (FAR). FAR also includes the US international obligations, but provides a number of exclusions, including the "acquisitions of set-asides for small businesses."

Procurements over $3,000 (US) and under $100,000 (US) are automatically set aside for small business, unless the contracting officer determines there is no reasonable expectation of obtaining competitive offers from small businesses.

In addition to small business set-asides, procurements may also be set aside for small disadvantaged businesses (often referred to as "minority" businesses). Occasionally, small disadvantaged businesses compete with other businesses, but are awarded a price evaluation adjustment to make their offers more price-competitive.

By Government of Canada definitions, there are many types of "disadvantaged businesses" that can be considered or receive a price evaluation adjustment including veteran-owned small business, service-disabled veteran-owned small business, small disadvantaged business, women-owned small business concern or a HUBZone small business (small businesses exclusively located in historically underutilized business zones, primarily in designated inner-city locations: *http://www.canadainternational.gc.ca/sell2usgov-vendreaugouvusa/procurement-marches/barriers_other-obstacles_autres.aspx?lang=eng&view=d*).

5. Reciprocity:

Reciprocity with respect to access to foreign markets must be a principled approach for Canadian trade policy, and one CME strongly endorses and supports. If Canadian manufacturers, exporters and service providers are excluded from foreign procurement markets, we believe similar provisions should be introduced in Canada that would affect procurement at all levels of government. It is unfair for Canadian companies to face tough international competition at home while, at the same time, experience exclusion from participating in the home markets of their primary competitors. As such, while we believe an open market policy is the preferred approach, we cannot create an environment that places Canadian companies at a distinct disadvantage. The European Union has a reciprocity Directive on government procurement, which should serve as a model for Canada to examine and possibly emulate moving forward.

Reciprocity would also provide Canada with a powerful tool to leverage trade negotiations' international partners. The US, for example, would have stronger incentives to exempt Canadian suppliers from the Buy American rules if they knew in advance their suppliers in some key sectors of Canada's procurement markets would face restrictions as a result of this US domestic policy. Similarly, non-market economies, like China, would have greater incentive to open their procurement to Canadian products and services if they knew access to Canadian procurements from Chinese companies was directly linked to the level of access of Canadian companies in China's government procurements.

6. Respecting Canada/US integration:

Canadian and American industry in all sectors of the economy are deeply integrated as a result of previous free trade agreements. CME believes that rather than attempting to eliminate legislated "buy-local" preferences — whether those are Canadian or American — the "buy-local" definitions should be expanded to include parts, goods, and services originating in either Canada or the US, or a combination thereof.

This approach has several benefits. First, it is something that would support and strengthen the competitiveness of integrated industries. Second, Canada could position itself to support the US concerns for existing Buy American policies — that being China and other low-cost manufacturing jurisdictions.

Conclusion

Compared to most other major markets and most of our key trading partners, Canada has not effectively or sufficiently leveraged the power of government procurement. Many other countries use government procurement as a tool to drive innovation, R&D and investment — all of which lead to long-term job creation and a stronger economy.

Canada's history and current use of procurement policies has been primarily focused on some military defence spending and limited use in other sectors of the economy. Other nations, including the US, EU, China (and many others) have successfully used procurement policies as an economic development tool in areas such as military, infrastructure, services, medical equipment and vaccines. Canada's lack of use of a similar strategic procurement strategy, along with Canadian companies' exclusion from many of these foreign markets due to their domestic procurement restrictions, have placed Canadian industry at a disadvantage at home and abroad.

Given the current government focus on improving innovation and productivity to strengthen Canada's economic core, we believe now is an ideal time for the development and implementation of a government procurement strategy: A strategy principled and focused on strategic sectors that can drive maximum results for Canada.

By following the guiding principles detailed above, CME believes the government would drive innovation and investment at home, while opening the doors in a fair and balanced way internationally.

APPENDIX 1: Current Exceptions under International Agreements

1. National Security Exemption (NSE)

WTO-GPA

Article XXIII: Exceptions to the agreement

Nothing in this agreement shall be construed to prevent 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.

In another section of the agreement, Canada specifies, "Notwithstanding anything in these Annexes, the agreement does not apply to procurements in respect of:

(f) National security exemptions including oil purchases related to any strategic reserve requirements; and,

(g) National security exceptions including procurements made in support of safeguarding nuclear materials or technology.

NAFTA

Article 1018: Exceptions

"1. Nothing in this chapter shall be construed to prevent a 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."

Signatories of these agreements have left the definition of "national security" open to many interpretations, given the changing nature of threats to national security. Some countries, therefore, have been using it more extensively than others, depending on what they consider "strategic national interest."

2. Small Business Set-Asides

NAFTA

Annex 1001.2b
General Notes
Schedule of Canada

1. This chapter does not apply to procurements in respect of:

(d) Set-asides for small and minority businesses;

WTO-GPA

GENERAL NOTES

1. Notwithstanding anything in these annexes, the agreement does not apply to procurements in respect of:

(d) Set-asides for small and minority businesses;

3. Definition of public procurement:

NAFTA, Chapter 10, Article 1001, Paragraph 5(a) is available to all three signatories of the trade agreement and is the justification used by the US to impose the Buy America to Canadian suppliers. It states that:

Procurement includes procurement by such methods as purchase, lease or rental, with or without an option to buy. Procurement does not include:

a. Non-contractual agreements or any form of government assistance, including cooperative agreements, grants, loans, equity infusions, guarantees, fiscal incentives, and government provision of goods and services to persons or state, provincial and regional governments;

Canada has also negotiated the same exemption under the WTO Government Procurement agreement. Annex 5 (General Notes), Article 2 specifies that:

Procurement in terms of Canadian coverage is defined as contractual transactions to acquire property or services for the direct benefit or use of the government. The procurement process is the process that begins after an entity has decided on its requirement and continues through to and including contract award. It does not include non-contractual agreements or any form of government assistance, including, but not limited to, cooperative agreements, grants, loans, equity infusions, guarantees, fiscal incentives, and government provision of goods and services given to individuals, firms, private institutions, and sub-central governments. It does not include procurements made with a view to commercial resale or made by one entity or enterprise from another entity or enterprise of Canada.