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Consultation Submission on the Implementation of Reciprocal Procurement and Buy Clean

The Buy Clean Industry Alliance is a coalition of industry associations, think tanks, and labour and environmental groups, with a common goal of advocating for a national Buy Clean policy and net-zero construction materials sector.

The Buy Clean Industry Alliance is made up of: Clean Energy Canada, Cement Association of Canada, BlueGreen Canada, Aluminium Association of Canada, Canadian Steel Producers Association, Forest Products Association of Canada, and EllisDon.

About Buy Clean Policies

Buy Clean is a set of policies that use government purchasing power to reduce the emissions associated with construction materials. These policies usually establish requirements for suppliers to report their “embodied carbon” emissions for specific products or materials, or for a construction project as a whole, and for procurement agencies to preferentially choose low-carbon products and projects. Utilizing public purchasing power drives additional demand for low-carbon products, establishes greater investor certainty and confidence, and thereby encourages industry to invest in new carbon-cutting technologies and processes.

The federal government and other public institutions in Canada together spent \$62.5 billion on public infrastructure in 2018, making up around a fifth of total infrastructure spending.¹ This makes public procurement a significant driver of not only economic growth, but also greenhouse gas emissions. The materials used in public infrastructure are responsible for 8 million tonnes of CO2 emissions annually, equivalent to the pollution caused by 1.7 million gas cars.²

The Canadian federal government has taken the first steps on Buy Clean through its Greening Government Initiative, and we are hopeful that a more comprehensive and ambitious Buy Clean Strategy will be launched before the end of the year.

Buy Clean requirements will often imply a de facto advantage for Canadian producers, because of Canada’s low-carbon advantage, powered by our relatively clean electricity supply and existing investments in lower-carbon production.

However, Canada’s low-carbon advantage is not currently recognized in trade or procurement policy. Canadian, lower-carbon products are not competing on a level playing field, since products from jurisdictions that do not put a price on carbon, have more carbon-intensive

¹ <https://cleanenergycanada.org/wp-content/uploads/2022/10/CEC-MoneyTalks-Final-Web.pdf>

² <https://cleanenergycanada.org/wp-content/uploads/2022/10/CEC-MoneyTalks-Final-Web.pdf>

production and do not regulate production as strictly, can enter the market at a lower price. As a result, these high-carbon, low-cost imports can push domestic manufacturing out of the market. The combination of Buy Clean policy and reciprocal procurement policy would ensure that government funds are spent on clean, Canadian products instead.

Restricting our procurement markets to like-minded trading partners, who are similarly pricing carbon and investing in cleaner production, will lower the emissions of procured commodities. As such, reciprocal procurement and Buy Clean requirements for federal infrastructure transfers will mutually strengthen both policies' objectives.

Response to Questions on implementation options

Applying Reciprocity to Federal Procurement

1. *Do you have any concerns regarding the implementation of either of these options, including anticipated impacts to your business or ability to source goods from foreign suppliers when bidding on government contracts?*

Reciprocal procurement policy at the federal level should be aligned with both procuring low-carbon materials as well as supporting Canadian producers and workers to produce these materials. This means setting standards based on the embodied carbon of construction materials, as well as considering a whole-building life cycle analysis for construction projects.

Currently, Canadian producers face a risk of being uncompetitive in the face of importers from countries with cheaper production costs and higher emissions, who do not pay a price for their emissions. Restricting the Canadian public procurement market to major trading partners focused on low-carbon competitiveness will filter out many of these high-emitting, low-cost importers and therefore create increased opportunities for low-carbon, made-in-Canada materials. To maximize the opportunities for low-carbon Canadian producers, the federal government should take a narrower approach to reciprocal procurement. With a combination of reciprocal procurement and Buy Clean policy, the federal government can channel Canadian dollars to Canadian producers of sustainable products.

In the longer term, a robust Buy Clean policy may also create additional leverage for Canada to negotiate further exemptions from Buy America policies—especially given the Biden Administration's focus on climate action and Buy Clean.³ This will benefit from Canada's built-in advantages for producing low-carbon materials (including our 83% clean electricity grid and investments to decarbonize heavy industry) to develop a more competitive export market.⁴

Additionally, Canada should work towards common low-carbon trade rules under existing trade agreements with like-minded trading partners, such as USMCA, CETA and the WTO Agreement

³ <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/15/fact-sheet-biden-harris-administration-advances-cleaner-industrial-sector-to-reduce-emissions-and-reinvigorate-american-manufacturing/>

⁴ <https://cleanenergycanada.org/report/underneath-it-all/>

on Government Procurement (GPA) to open more reciprocal markets for clean commodities and harmonize Buy Clean procurement criteria and datasets. In parallel, the federal government should work to support domestic industry in their efforts to decarbonize and qualify for international Buy Clean procurement criteria.

Placing Conditions on Federal Funding for Provincial and Territorial Infrastructure Projects

1. *Would mandatory content requirements for federally-funded provincial and territorial infrastructure projects (either covered or not covered by government procurement trade obligations) have an effect on your business?*

Government spending makes up around one fifth of infrastructure spending, which is precisely why public procurement can have a large impact on decarbonizing building materials. However, most of this spending does not occur directly at the federal level. While federal infrastructure spending made up \$2.7 billion in 2018, sub-federal levels of government together spent twenty times that amount on infrastructure.⁵ To fully leverage government spending power, the Buy Clean Industry Alliance supports extending Buy Clean and reciprocal procurement requirements to all federal infrastructure transfers.

The combination of reciprocal procurement requirements and Buy Clean requirements on transfers to provinces and territories may be perceived as imposing an undue administrative burden. Accordingly, these policies should be designed such that they complement each other. The government should accelerate the implementation of Buy Clean to be launched at the same time as or in close proximity to reciprocal procurement. This would also save on capacity building or training for procurement officers.

2. *Should the requirements under this option be limited to certain sectors or types of infrastructure projects, and if so, which?*

For materials that are not covered by Canada's trade obligations, such as urban rail and urban transportation equipment, the Government should take an approach based on low carbon intensity and reciprocal access. This would imply allowing importers to supply materials insofar as they meet low-carbon requirements and come from jurisdictions where Canadian producers have access to procurement markets for the same products.

Creating a Preference Program for Canadian Small Businesses

1. *Should a small business set-aside program focus on certain sectors, and if so, which ones?*

⁵ These include crown corporations, local governments, healthcare and education institutions, and provinces and territories. <https://cleanenergycanada.org/report/money-talks/>

A Preference Program for Canadian Small Businesses should leverage the opportunity to incentivize and fund clean innovation in small businesses. By imposing Buy Clean requirements within a Canadian Small Business Preference Program, the federal government can drive innovation and support small businesses to develop and scale up new technologies and production methods. Our trading partners are actively supporting innovation in small business, such as through the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs in the United States. The federal government should similarly assist Canadian small businesses in staying competitive in a low-carbon future.

At the same time, the government should support small businesses in submitting low-carbon bids, by assisting businesses in conducting life cycle analyses and developing environmental product declarations. This will prepare Canadian Small businesses to compete in the low-carbon markets that will grow out of the energy transition, as well as in other Buy Clean procurement markets such as the United States.

Waivers and Exceptions

1. *Should other exceptions be considered? If so, what exceptions would you consider necessary?*

With the energy transition accelerating globally, the government should prioritize the scale up of the near and net-zero materials increasingly being produced by Canada's industries. When Buy Clean requirements and reciprocal procurement policy have both come into effect, it should largely be possible to satisfy both. In the event that no low-carbon materials in line with Buy Clean requirements are available from suppliers within Canada or reciprocal procurement jurisdictions, exceptions can be made to reciprocal procurement requirements while material availability continues to grow. However, exemptions should not be common practice.

Basis of Origin

1. *Do you have any views on whether supplier location or commodity origin should be used to determine a supplier's eligibility to participate in procurement opportunities?*

To be transparent, fair, and effective, government procurement policy should consider a commodity's full lifecycle and impact along the supply chain. Reciprocal procurement policy should therefore use the commodity origin rather than supplier location. A combined reciprocal and Buy Clean approach can ensure transparent implementation of these requirements.

A Buy Clean approach to procurement requires suppliers to disclose the emissions impact of the product they are supplying. For complete construction projects, a whole-building life cycle assessment should be conducted, reflecting emissions embodied in raw material sources, supply chain processes, transportation distances, construction practices, design choices, building location, and climate and operating practices.

Usually the life-cycle emissions and other relevant environmental impacts are communicated through an Environmental Product Declaration (EPD). Although a requirement to submit an EPD with a bid imposes an additional administrative requirement on suppliers, it ensures transparency and fairness in a green procurement process.

EPDs could in turn be used to report the basis of commodity origin. By combining different reporting requirements under one procedure, the federal government can ease the administrative burden on suppliers.

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