

Dialogues

a Canada West Foundation Publication

Winter 2007



What is TILMA?

Examining the Trade, Investment and Labour Mobility Agreement Between BC and Alberta



Our Vision

A dynamic and prosperous West in a strong Canada.

Our Mission

A leading source of strategic insight, conducting and communicating non-partisan economic and public policy research of importance to the four western provinces, the territories, and all Canadians.

Canada West Foundation is a registered Canadian charitable organization incorporated under federal charter (#11882 8698 RR 0001).

In 1970, the **One Prairie Province? A Question for Canada** Conference was held in Lethbridge, Alberta. Sponsored by the University of Lethbridge and the *Lethbridge Herald*, the conference received considerable attention from concerned citizens and community leaders. The consensus at the time was that research on the West (including British Columbia and the Canadian North) should be expanded by a new organization.

To fill this need, the Canada West Foundation was established under letters patent on December 31, 1970. The first Canada West Council was elected in June 1973.

Since that time, the Canada West Foundation has established itself as one of Canada's premier research institutes. Non-partisan, accessible research and active citizen engagement are hallmarks of the Canada West Foundation's past, present, and future endeavours. These efforts are rooted in the belief that a strong West makes for a strong Canada.

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A Note From the Editor

Robert Roach, Director of Research
Canada West Foundation

You CAN Get There From Here

When training a dog, it is best to start small and build wins before trying something harder. This dictum applies to removing the barriers to trade among Canada's provinces that hamper the Canadian economy and undermine the mobility rights of Canadian workers.

Unfortunately, the national Agreement on Internal Trade that was signed by all the provinces and territories and the federal government in 1994 has not lived up to expectations. Getting 13 governments (now 14 with the creation of Nunavut) to follow and enforce the rules has proven to be too difficult. Political will was stretched too thin. It may have been better to start with something smaller, build wins, and then try a pan-Canadian agreement.

The British Columbia-Alberta Trade, Investment and Labour Mobility Agreement (TILMA) that was signed in 2006 does just that. Recognizing that it makes no sense for provinces to treat each other like foreign competitors that must be kept at bay by an array of subsidies, red tape, and closed procurement practices, the governments of BC and Alberta agreed to take a real step toward free internal trade.

Economists and think tanks like the Canada West Foundation have been arguing for years that the barriers to internal trade in Canada are an unnecessary drag on the economy and bad public policy. Internal barriers to trade increase the cost of doing business, impede the freedom of Canadians to live and work where they choose, increase the cost of public infrastructure and hamstring Canada's ability to compete in the global marketplace.

We need to keep in mind that Canada, while blessed with many advantages, is a small country competing in an unforgiving international economy and that unnecessary economic inefficiencies are becoming a bigger handicap by the day.

This does not mean that governments must abdicate responsibility in all areas in favour of economic efficiency and the invisible hand of the free market. Governments in Canada can, and should, continue to set standards, provide services and ensure that our environment is not only protected, but thriving. Removing business subsidies, agreeing on labour standards, rationalizing paperwork and creating an open tender process for government contracts does not reduce the power of the provinces or undermine other legitimate public policy goals; it simply increases voluntary co-operation. In exchange, all provinces have to give up is short-term thinking, politically convenient subsidies to businesses and a fear of open competition.

By reducing the red tape that businesses operating in both BC and Alberta currently face, such as duplicate registration and reporting requirements, and by enabling workers with the same skills to move freely between the two provinces, the TILMA is a good, albeit small, step toward true free trade in Canada.

The TILMA also seeks to reduce the subsidies that flow to businesses and open government procurement to suppliers in both provinces. Under the TILMA, businesses in Alberta can bid on a government contract in BC and vice versa. These and other measures will have significant economic payoffs.

The reason the TILMA is a small step rather than an end result is two-fold.

First, we need free trade in Canada, not just free trade between its two westernmost provinces. The goal is not, and should not be, to create a BC-Alberta trading bloc. Instead, the TILMA should be viewed as an example of how provinces can work together. When the TILMA comes into effect in April 2007, it will present policymakers across Canada with a live experiment in free trade



and the lessons that will be learned should be used as the basis for other agreements and, eventually, a new-and-improved national agreement.

Indeed, a logical next step is for Saskatchewan and Manitoba to ramp up their efforts to join the TILMA. With luck and effort, the TILMA could be the first step toward a more open market in all parts of Canada.

Second, the TILMA includes many exceptions. For example, according to Article 6, "A Party may adopt or maintain a measure that is inconsistent with [the Agreement] provided that the Party can demonstrate that the purpose of the measure is to achieve a legitimate objective" where legitimate objective includes "public security and safety; public order; protection of human, animal or plant life or health; protection of the environment; conservation and prevention of waste of non-renewable or exhaustible resources; consumer protection; protection of the health, safety and well-being of workers; provision

of social services and health services; affirmative action programs for disadvantaged groups; or prevention or relief of critical shortages of goods." Hence, barriers will remain and free trade between BC and Alberta is a work in progress. The task at hand is to ensure that these and other exceptions prove the rule rather than become the rule.

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*This edition of Dialogues is particularly timely as the TILMA enters into force on April 1, 2007. There are many dimensions to the TILMA and many implications for public policy in Canada and the economic union that helps tie our diverse country together. In the pages that follow, a wide range of thinkers from across the country wade in with their thoughts on what the TILMA means and how it will affect Canadians. I want to thank these contributors for their insight and for helping to stimulate informed debate about this very important subject. **If you have questions or comments, please do not hesitate to contact me at roach@cwf.ca.***



BC as Canada's Pacific Gateway

by the Honourable Colin Hansen

The rise of the new West as an economic powerhouse was confirmed yet again in the Conference Board of Canada's recent publication *Mission Possible: Sustainable Prosperity for Canada*. Number one on the list of recommendations: create a common Canadian market, similar to the European Union. The Conference Board points to the BC-Alberta Trade, Investment and Labour Mobility Agreement (TILMA) as a model for achieving this common market.

I would like to put our reasons for seeking a more competitive economy in context. Why do we need a common market in the first place, and how can the new West hope to leverage its economic prosperity into longterm sustainability?

In British Columbia, we have realized that the Asia-Pacific region is where the future of a strong Canadian economy lies. We also realize—globally speaking—that we are not a big enough market to make much of an impression on our neighbours across the Pacific. We have our work cut out for us. The population of BC and Alberta is just shy of 7.7 million people, about one quarter of the total population of Canada. Canada's total population of about 32 million barely registers in the global marketplace. China's market alone is 1.3 billion people. How can we hope to make an impression if we are not one market, but 13 separate provinces

and territories each with its own set of rules on trade, investment, and recognition of professionals and skilled workers?

The TILMA is an excellent start for continuing prosperity for British Columbians and Albertans, and it is a model for the rest of Canada, but we cannot stop there.

Our Asia-Pacific Initiative is an important blueprint for sustaining our strong economic growth into the future. A major recommendation in the Conference Board's prescription for fixing Canada's economy is to widen our circle of influence. We need to go beyond the North American Free Trade Agreement to reinvigorate trade, not only with the US, but with Asia.

Underpinning our Asia-Pacific Initiative is the ability to attract the expanding volume of trade with the Asia-Pacific region. We cannot overestimate the strategic importance of our transportation assets in western Canada. Revitalizing the infrastructure of our transportation gateway is important not only to BC's economy, but to all of Canada.

BC is uniquely positioned to be Canada's Pacific Gateway because of geography. Our major airports are closer to Asia than airports in the United States. Travelers to and from Asia have already



discovered this: last summer, Vancouver had more non-stop flights to China and Hong Kong than both Los Angeles and San Francisco.

The Ports of Vancouver and Prince Rupert are also closer to Asia than anywhere on the west coast of North America. The Port of Vancouver—Canada's largest and most diversified port—is the largest on the Pacific coast (including US ports) in terms of cargo volume handled, total trade value and outward shipments. Increased trade with Asia has spurred port expansion, in both Vancouver and Prince Rupert.

BC is working with other provinces, the federal government and with industry to make sure we are prepared to take on the Pacific Century. Canadians invested the equivalent of \$6.2 billion in today's dollars to open up the St Lawrence Seaway in 1959. A similar effort is now required to capitalize on our future as a Pacific nation.

Capitalizing on our potential as Canada's Pacific Gateway also means leveraging our major strength: our people. Gateway is more than just transportation infrastructure; it is our relationships between people and businesses, and how they build strong trade and investment

relationships. Over 20% of British Columbia's population is of Asian origin. Our Pacific Leadership Agenda recognizes the power of building new relationships, whether they are within our own province or internationally, and is driving us to improve our competitiveness and productivity through education, skills training and immigration.

Gateway also means diversifying and strengthening our economy—going beyond shipping raw materials through our ports. The Lower Mainland's dynamic economy is now home to an increasingly strong financial sector.

In order to succeed in Asia, BC, the federal government and our provincial counterparts must collaborate and focus on Asia-Pacific issues to maximize our Pacific Gateway advantages and realize the benefits for all parts of Canada. We believe in a more coordinated approach to facilitating trade and investment.

By joining with Alberta to create a common market, and by looking beyond our borders to the Asia-Pacific region, BC is well positioned to translate our current economic success into long term prosperity.

The Honourable Colin Hansen is British Columbia's Minister of Economic Development and Minister responsible for the Asia-Pacific Initiative and the Olympics. First elected in 1996, he previously served as Minister of Health Services and Minister of Finance.

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Canada Should Learn a Lesson From BC and Alberta

by Nancy Hughes Anthony

It has often been asked, with a bit of tongue in cheek, that if Canadians are so supportive of free trade with the world, why don't they try it at home?

The sad fact is that there's more than a kernel of truth to the joke. Canadians are among the world's most successful traders, with exports to the US and the world equal to close to half of its GDP. But when it comes to trading across Canada, between the provincial fiefdoms, we are classic protectionists, using arguments that have long been discredited and which we rail against when they are used by other nations.

For decades, Canada's political leaders, both provincial and federal, have recognized that internal trade barriers increase the costs to both businesses and consumers, and negatively impact the competitiveness of the Canadian economy. They encourage businesses to make strategic decisions based on the shelter provided by these barriers rather than growing their businesses to compete internationally. This creates, in effect, artificially sheltered small economies.

Recognizing a problem is not, however, the same as making an honest effort to solve it. The last national attempt to dismantle such impediments came in 1994, when provincial, territorial, and federal governments signed the Agreement on Internal Trade (AIT).

The objective was modest in that the AIT calls for governments to identify areas, such as a specific good or service, and work to bring down, or altogether eliminate, the trade barriers for that good or service. But the AIT established no enforceable dispute resolution mechanism, compelled no one to act, and set no timetables for action. Predictably, the results have even been modest.

Then, last year, came a reason to cheer. Alberta and British Columbia, with dissimilar but strong economies, penned the Trade, Investment and Labour Mobility Agreement. The TILMA was signed on April 28, 2006 and will come into full force on April 1, 2009 after a two-year transition period.

The TILMA is intended to create an open economy between Alberta and British Columbia. It will improve labour mobility, allow businesses to register in either Alberta or British Columbia, increase access to



government procurement opportunities, and create an enforceable dispute resolution mechanism.

The BC-Alberta agreement is also a conceptual leap forward over the AIT in that it liberalizes trade in all areas unless specifically stated, the opposite approach of the AIT. This makes it less likely that protectionism will continue to exist through inattention or stealth, since there must be a conscious decision to designate areas where barriers will remain.

It may take several years of experience under the TILMA for other provinces to “see the light,” and move more broadly to make Canada one free, unrestricted market. But the reasons for waiting are more psychological and political than economic.

A few years ago, the Canadian Chamber of Commerce conducted an information gathering exercise with its members, who represent large and small businesses in every sector and region of the country, to identify barriers to trade. In part, this was done because, too often, federal, provincial and territorial governments cite a lack of information regarding trade barriers as an excuse for inaction.

What our members told us is that they face a plethora of barriers, including: complying with multiple sets of regulations, different licensing requirements, labour mobility barriers, local preferences for government procurement, and local presence requirements. The barrier most commonly cited by our members was regulatory differences between federal, provincial and territorial jurisdictions.

For many larger firms (more than 100 employees), regulatory compliance represented an added cost to doing business; for smaller businesses, the regulatory burden was cited as a factor for not expanding their operations into other provincial or territorial jurisdictions. Over half of the companies that have encountered a trade barrier did not proceed to operate in that jurisdiction. This is

worrisome, given the fact that 95% of all businesses in Canada have less than 100 employees.

Other observations noted in the study include:

- Barriers to trade add to the cost of conducting business and discourage some businesses, especially small- and medium-sized businesses, from operating in more than one jurisdiction. This, in turn, negatively affects the competitiveness of Canadian businesses and the economy and thus limits the standard of living of Canadians.
- The most common barriers to trade are overlapping regulations between jurisdictions, multiple licensing requirements, and local preferences in awarding government contracts.
- Having to comply with multiple, but similar, sets of regulation increases the cost to business and represents a barrier for small firms who do not have the capacity to dedicate resources to ensure compliance.
- The local preference requirement in awarding government contracts creates closed economies and does not ensure that taxpayers receive the best value for their tax dollars, while inhibiting competitive businesses from expanding their operations.

The Canadian Chamber of Commerce believes that BC and Alberta have shown the way and, if other provinces and territories learn the lesson, Canada will not only be better off for practicing at home what it preaches abroad, but Canadians will be better off from having stronger, more competitive businesses and a higher standard of living.

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Nancy Hughes Anthony is President and CEO of the Canadian Chamber of Commerce (www.chamber.ca).

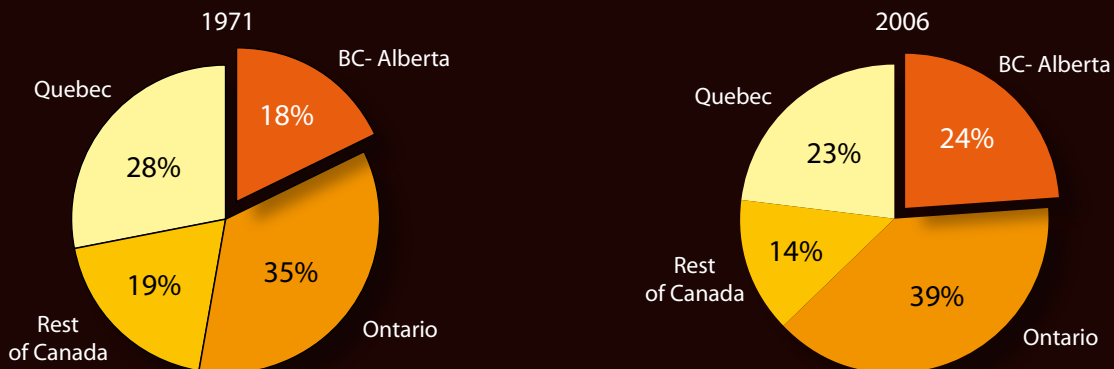
Greater Than the Sum of its Parts

by Brett Gartner

Together, BC and Alberta are a formidable economic force within Canada. Over time, the combined region of BC-Alberta has grown, both in terms of population and economic clout. While the two provinces are underrepresented in the House of Commons, their influence within Canada will increase as their relative economic strength continues to grow.

Sustained job growth and ample economic opportunities have enticed people to move to BC and Alberta from other parts of the country, as evidenced by recent trends in interprovincial migration. BC and Alberta were the only provinces with a net inflow of interprovincial migrants in 2005/06, with Alberta attracting record levels. Interprovincial migration was negative in all other provinces.

Figure 1
Share of Total Population, 1971 and 2006



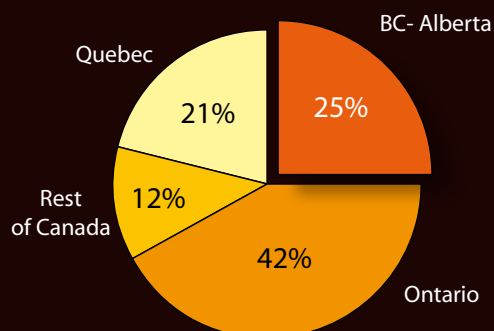
Source: Statistics Canada, *Annual Demographic Statistics, 2005*, Catalogue no. 91-213 and CANSIM, table 051-0001.

BC-Alberta's population has been growing steadily. Together, the two provinces account for one-third of Canada's population increase over the past five years. In 1971, BC-Alberta was home to 18% of Canadians compared to 28% in Quebec. At that time, Quebec's population was 57% larger. Today, the population of BC-Alberta is slightly larger than that of Quebec (see Figure 1).

The region's share of international immigrants is roughly proportional to its share of total population. However, a majority of immigrants to BC-Alberta—approximately 70%—settled in BC.

BC and Alberta have outperformed the rest of the country in terms of economic growth. In recent years, the two provinces have led the nation on most measures of economic performance. This strong performance has been due in large part to conditions in natural resource markets, notably high commodity prices and strong foreign demand.

Figure 2
Share of GDP, 2005



Source: Statistics Canada, CANSIM, table 384-0002.

The combined economy of BC-Alberta is responsible for about 25% of Canada's economic output (see Figure 2). Economic growth for the combined market of BC-Alberta has outpaced the rest of the country for the past few years (see Figure 3). Alberta's economy has led the way. Estimates put Alberta's real GDP growth at a remarkable 7% for 2006. BC's rate of growth should be in the 4% range. While not as high as Alberta's, BC's economic growth for 2006 is expected to double Ontario and Quebec.



Figure 3
Real GDP Growth, 2002-2005,
BC-Alberta and the Rest of Canada



Source: Statistics Canada, CANSIM, table 384-0002.

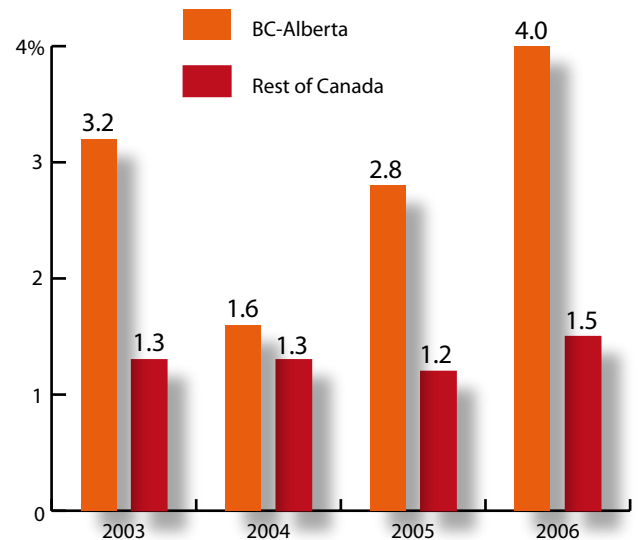
Construction activity and investment in machinery and equipment in BC-Alberta is nearly double that of Quebec and exceeds even Ontario, an economy that is 69% larger than BC-Alberta. Although inflationary pressures and labour shortages are causing some headaches, non-residential construction activity will continue to be an important component of growth in the region.

Byproducts of the region's economic prosperity are historically low unemployment rates and strong employment growth. The 2006 annual average unemployment rates for BC and Alberta—4.8% and 3.4% respectively—are considerably lower than the national rate of 6.3%. Alberta's unemployment rate led the country and Manitoba and Saskatchewan were the only provinces with rates lower than BC. Employment growth in BC-Alberta has significantly outpaced the rest of the country in recent years (see Figure 4). Between 2003 and 2006, employment in the two provinces is up 8.6% whereas it is up 4.0% in the rest of Canada. As a result of the region's strong growth, the two provinces have accounted for 40% of all job growth in Canada in the past three years.

The governments of BC and Alberta have done their part by providing a setting that is conducive to business and investment. BC has been a leader in regulatory reform, making it easier for businesses to succeed. Meanwhile, Alberta recently became the envy of other provinces by achieving debt free status. By working cooperatively on the British Columbia-Alberta Trade, Investment and Labour Mobility Agreement (TILMA), the two provinces have gone a long way in further enhancing their economic competitiveness.

Looking forward, residents of BC and Alberta will likely witness continued prosperity. Ongoing strength in worldwide demand for energy resources and other commodities, growth in the Asia-Pacific region, high levels of construction activity and business investment, and an educated and skilled workforce will all contribute to sustained economic growth.

Figure 4
Employment Growth



Source: Statistics Canada, CANSIM, table 282-0087.

Brett Gartner is an Economist with the Canada West Foundation.

The **DARK SIDE** of **TILMA** by Barry O'Neill

When the **TILMA**, the new trade deal between Alberta and British Columbia, comes into force in April most people in the two provinces will have still never heard of it. That's too bad, because it will have a big impact on their lives.

The Trade, Investment and Labour Mobility Agreement was in the works since 2004 and was announced in 2006. Despite the fact that it will have far more impact than most legislation, it was negotiated without debate in the legislatures, public hearings or public consultation.

Business interests were among the only groups consulted. The Conference Board of Canada, hired to look at the TILMA for the BC government, confined its questions to 24 organizations, "11 from government ministries and 13 from industry organizations."¹ The Conference Board report, incidentally, was written in 2005, but was kept secret until January 2007 when it was released only days before Freedom of Information requests came due.

Why all the secrecy? After all, in the 1980s Canadians actually got to fight an election on the Free Trade Agreement enacted by the Mulroney government. And the promises being made for the TILMA are enormous. BC's Premier Gordon Campbell says that the TILMA "will create \$4.8 billion of additional economic activity. It's expected to create about 80,000 new jobs in the province."² That comes to

an increase in GDP of about 3.8% and an increase in employment of 3.6%.

Perhaps things were kept quiet because those big numbers are imaginary. They come from the Conference Board study paid for by the province. The Conference Board got the numbers by asking their key consulting groups (industry and ministries) for their guesstimate as to what the impact of the deal would be.

People who have actually looked at the numbers suggest the real possible benefits are much smaller. Ron Parker, an Industry Canada deputy minister, told the Senate Committee on Banking, Trade and Commerce that studies suggest that the real cost of interprovincial trade barriers is between 0.2% or 0.4% of GDP.³ Even those much lower figures are largely based on studies done before the provinces signed the Agreement on Internal Trade (AIT) in the mid-1990s to reduce trade barriers. In other words, claims for the TILMA's benefits are more than 10 times higher than the total impact of trade barriers. The deal is being oversold. Potential benefits are just not that big.

¹The Conference Board of Canada, *An Impact Assessment of the BC-Alberta Trade, Investment and Labour Mobility Agreement*, September 2005, page 29.

²Campbell, Gordon, Speech to the Union of BC Municipalities, October 27, 2006.

³Parker, Ron, testifying before the Standing Senate Committee on Banking, Trade and Commerce, Issue 7, Meeting of October 4, 2006.



What are the people of Alberta and BC giving for minimal gains? The Canada West Foundation's Todd Hirsch told newspapers that the TILMA erased "the provincial boundary for all purposes except voting and the colour of the license plate."⁴

When our Fathers of Confederation created Canada as a federation, they felt that there was some value in having provincial boundaries. Even some of the people carefully selected to give the right answers to the Conference Board expressed doubts. Some of the government respondents suggested that "there are legitimate reasons for different standards and regulations," "the specific regional and sector benefits may not outweigh the costs," and "the agreement does not recognize that the growth or management of a provincial economy is a legitimate objective."⁵

In the hands of an aggressive business or industry, the TILMA is a powerful tool to undermine government's ability to make decisions

in the interests of its citizens. Key to this are the deal's investment provisions that give more rights to corporations than those found in international agreements like the NAFTA. Under the TILMA, "measures" that restrict investment are not permitted. No new standards or regulations that restrict investment are allowed.

It doesn't take a lot of imagination to think of ways that such language could be used against government activities. Almost any municipal zoning bylaw restricts investment rights in some way or another. Ethical or local purchasing polices will be prohibited. What about smoking bans or the prohibition of junk food in schools? A second Conference Board report on the TILMA identified some of the measures business found to be unacceptable intrusions. One of these was that Ontario's Fire Marshal was stricter than other provinces. And while the TILMA does permit some defense against possible challenges, it would be up to the government to prove that its measures are legitimate and that they are the least restrictive measure possible.

The issue will be decided not by the courts, but by a dispute process that Alberta Intergovernmental Affairs Minister Gary Mar describes as being "everything Canadian business asked for."⁶ The process uses

"When our Fathers of Confederation created Canada as a federation, they felt that there was some value in having provincial boundaries."

a dispute panel similar to NAFTA and the World Trade Organization (WTO). WTO panels have frequently ruled that governments must change measures the panels find overly restrictive.

The TILMA also takes steps to reduce the differences between provinces in requirements for professions and trades. Canadians should have the right to move with their work between provinces, but the TILMA's measures will achieve this by adopting the lowest common denominator.

The Canadian Institute of Chartered Accountants, hardly a radical organization, has questioned how the TILMA achieves labour mobility. Speaking to a Senate Committee, it said: "As provincial

standards for regulation of professions are not uniform to begin with, this provision essentially makes the lowest of the standards that may exist in Canada acceptable as the base of qualification—

essentially a race to the bottom, if you will. We do not believe that this is consistent with the obligation of legislators and governments nor of the professions themselves to ensure that the public is protected."⁷

The Chartered Accountants spoke for many Canadians when they told the Senate Committee: "In our striving for the ideal of a domestic free market open to unrestricted competition, it is critically important to remember that not all standards and regulations are inherently bad, nor are they necessarily anti-competitive, particularly where the standards and regulations are present for the specific purpose of protecting the public..."

Canadians can support the TILMA's goals. The way it is done cannot be supported. Businesses should be able to invest, but that right must be tempered by the right of governments to protect their citizens. People should have the right to move between provinces, but the lowest qualification in the country for a profession is not acceptable everywhere.

We can find measures that will achieve these goals, but those measures must be subject to public discussion that includes all groups in society, not just industry that has privileged access to two right-wing governments. The way that the TILMA has been created makes clear that the governments of Alberta and British Columbia consider democracy just as much of a nuisance as any trade barriers.

Barry O'Neill is President, CUPE BC, and CUPE National Vice President for Alberta and British Columbia (www.cupe.ca).

⁴Hirsch, Todd, *A Match Made in the West*, The Globe and Mail, July 10, 2006.

⁵The Conference Board of Canada, *An Impact Assessment of the BC-Alberta Trade, Investment and Labour Mobility Agreement*, September 2005, page 29.

⁶Mar, The Hon. Gary, Alberta Minister of Intergovernmental Affairs, Speech to the Richmond Chamber of Commerce, June 6, 2006. http://www.iir.gov.ab.ca/trade_policy/documents/SpkNotes_Mar-TILMA-6Jun06.pdf

⁷Canadian Institute of Chartered Accountants testifying before the Standing Senate Committee on Banking Trade and Commerce, November 23, 2006.

Raising the Dead:

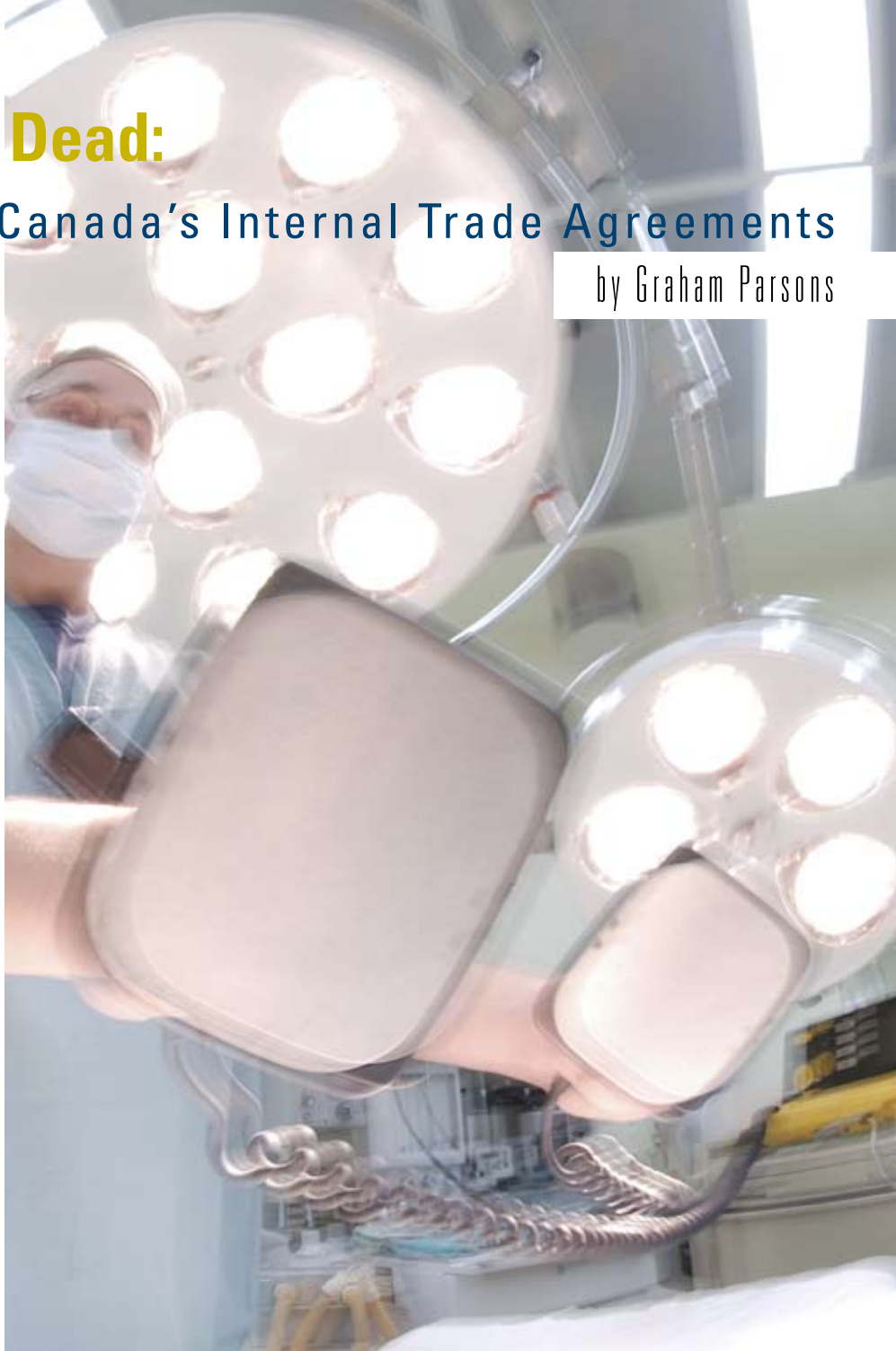
Breathing Life into Canada's Internal Trade Agreements

by Graham Parsons

On April 28, 2006 the provincial governments of British Columbia and Alberta signed their own internal trade agreement—the TILMA (the BC-Alberta Agreement on Trade Investment and Labour Mobility). This bilateral agreement came 11 years and 9 months after the Canadian Agreement on Internal Trade (AIT) was signed amid much fanfare on July 18, 1994 by Canada's provincial, territorial and federal governments. The AIT came into force a year later on July 1, 1995.

The negotiation of the bilateral TILMA between Alberta and British Columbia has been a clear signal that the regulatory framework that governments put in place for internal trade in Canada under the AIT in the 1990s did not work. Moreover, judging from the outstanding obligations contained in the AIT work plan as of September 2006, there is little prospect of the Agreement ever working. The *AIT Outstanding Obligations Status Report*¹ shows that, of the 21 outstanding obligations tackled by governments in the 11 years that have passed since signing the agreement, 67% were still “in progress” and nearly one quarter were never even started. Less than 10% of the AIT obligations have been completed.

Does it matter that Canadian governments cannot make internal trade work in Canada? I believe that it does and I am on the record to that effect. In 1993, I wrote a *Western Economic Cooperation Agenda* for the Canada West Foundation demonstrating the clear benefits of liberalizing trade within western Canada. The benefits at the time ran into the billions of dollars.² At other times I have characterized Canadian trade barriers as cholesterol in the economy that will in time require surgery.³



Trade barriers are a silent killer of productivity and jobs and weaken Canada's international competitive position. Unlike our health, there are no drug companies to provide an easy fix. However, we can and should do something about our continuing problems of internal trade in Canada.

Allowing trade barriers to stay in place in Canada is more than economics. Trade barriers go to the very heart of our federation and our individual freedoms. In 1996, Peter Arcus and I wrote a Canada West Foundation paper on interprovincial trade and Canadian unity in which we concluded: *As Canada's*

¹www.ait-aci.ca/index_en/progress.htm

²A *Western Economic Cooperation Agenda: Strengthening the Economic Union Within Western Canada*, Canada West Foundation, Calgary, 1993.

³*Internal Trade and Economic Cooperation: Down to the Wire on an Internal Trade Agreement*, Canada West Foundation, Calgary, 1994.

international trading ties come to dominate national trade, Canadians will soon develop stronger ties abroad than with the rest of their own country. This is already true in many regions of Canada. Ignoring the health of Canada's economic union is to weaken the economy and also the strength of the political union. Either the Agreement on Internal Trade must quickly be turned into an effective vehicle to reform and strengthen domestic trade or alternatives must be adopted. **The status quo does no service to a united Canada.**⁴

Our words were prophetic and I now believe it is again time for reform. Clearly the AIT has failed and the TILMA is a direct and rational response to Canada's dysfunctional common market. The TILMA is a good start, but only a start. As Canada declares itself to be a "nation of nations" following the Parliamentary resolution on Quebec in November of 2006 ("That this House recognize that the Québécois form a nation within a united Canada") it becomes more important to strengthen the national economic union. It is time to replace the failed AIT with real alternatives, including a federal internal trade court and a stronger and wider western internal trade agreement. It is now time for the federal government to revisit the internal trade file within a national unity framework.

The federal Minister of Finance rightly identified internal barriers to trade as a priority for reform in his November 23, 2006 Economic and Fiscal Update where he committed to "accelerate discussions with the

provinces to eliminate costly internal barriers to trade and mobility."⁵ Further federal provincial negotiations are welcomed, but on the basis of the past performance, more direct federal action may also now be appropriate.

A federal Canadian Internal Trade Commission should be evaluated as a national economic tribunal with judicial powers derived from Section 91 of the Constitution. Once established, the decisions of the internal trade court would provide a clear signal that Canada's people, businesses and economic resources are "free to move about the country," and could use the federal authority to challenge and end provincial barriers to trade. At the same time, the bilateral Alberta and BC initiative should be expanded to include all four western provinces and the northern territories.

Canada likes to think of itself as a leader in the world, yet remains archaic in its framework for internal trade. Given the progress the global community has made in trade liberalization in recent decades, perhaps a little competition between top down and bottom up economic federalism within Canada is now required to allow Canada to catch up with the rest of the world. It is time to replace the failed AIT with real alternatives including an internal trade court and a stronger and wider western internal trade agreement. Not to do so is to fail Canadians and their expectations for themselves within Canada, for the unity of the country and its economic future.

⁴Interprovincial Trade and Canadian Unity, Canada West Foundation, Calgary, 1996.
⁵Flaherty, J., Economic and Fiscal Update, Presentation to the House of Commons Standing Committee of Finance, Ottawa, November 23, 2006.

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Dr. Graham Parsons is the President of the Organization for Western Economic Cooperation.

After serving the West for 35 years from its head office in Calgary, the Canada West Foundation has spread its wings and increased its effectiveness with the opening of the BC office in Vancouver, under the direction of **Dr. Roslyn Kunin.**

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Cooperation in Eastern Canada:

Will Atlantic Provincial Governments Follow the Western Lead?

by Elizabeth Beale

Alberta and British Columbia have taken a significant step towards the creation of a single economy with the establishment of the Trade, Investment and Labour Mobility Agreement (TILMA) last April. This agreement creates a framework for the elimination of barriers between the two provinces in trade, investment and labour mobility by 2009. Although some sectors are exempted from this agreement (notably energy), this nevertheless represents significant progress in loosening the restrictions on interprovincial trade, an area in which success in Canada has often been elusive. Could this encourage other provinces to follow the western lead, opening the door for further economic integration within Canada?

So far, Atlantic premiers have shown little enthusiasm for following a similar path. The Council of Atlantic Premiers (CAP) met in December 2006, its first meeting since the TILMA was signed, but the pursuit of an Atlantic version of the TILMA was not discussed. CAP is currently exploring the feasibility of harmonizing rules and regulations for small- and medium-size business, responding to pressure from groups such as the Canadian Federation of Independent Business and the Atlantic Provinces Chamber of Commerce. However, any decision to implement this on a regional basis would require the support of all of the premiers, something that may be difficult to achieve given the preference expressed by some premiers for retaining provincial, rather than regional, red-tape reduction initiatives.

The Council of Atlantic Premiers (initially the Council of Maritime Premiers)¹ has provided the umbrella for a range of regional initiatives across the provinces since its inception in 1972. Moderate success has been achieved in select areas such as integrating the delivery of some public services, adopting common procurement protocols and creating common standards in trucking weights and dimensions. At an officials' level, provincial governments engage in numerous initiatives to cement the relationship among the four provinces. However, the broader challenge of identifying strategic priorities and taking concrete steps to improve internal trade has largely been sidestepped by the Council. In the past, efforts to bring harmonization of labour codes, minimum wage or industrial benefits to the table have been mostly unsuccessful. Decisions to initiate or implement programs or even to arrange meetings depend on the interests of the premiers, and domestic (i.e., provincial) agendas frequently derail regional ventures.

Does this mean that there is little support for cooperation within Atlantic Canada? On the contrary, there is a solid record of economic cooperation on many fronts in Atlantic Canada. Whether drawn together by necessity (i.e., the small population base of the region and individual provinces), proximity, economic circumstances (a similar industrial structure and thus similar challenges across the

¹The Maritime provinces include Nova Scotia, New Brunswick and Prince Edward Island; the Atlantic provinces includes the three Maritime provinces plus Newfoundland and Labrador.

region), or pushed into it by the need to face a common foe (often the federal government), Atlantic Canadians have been obliged to cooperate. Regional linkages have grown within the business community as individual firms in separate locations, particularly those in the professional services, have joined forces. There are now myriad initiatives and institutions that help to support regional agendas in areas such as health, education and business support. That cooperation doesn't always extend evenly across the region: Newfoundland and Labrador's independent status until 1949 plus its geographic distance from the three Maritime provinces gives it a unique perspective on many matters. Nevertheless the formal and informal connections across the region facilitate many mutually beneficial outcomes.

Could the federal government be a partner in encouraging the Atlantic provinces to come to the table on an initiative similar to the TILMA? Possibly, although the federal government has played it both ways, at times supporting regional agendas, at other times encouraging dissent. One of the greatest economic benefits to the region arose from the federal push to develop a single value added tax, combining provincial retail sales taxes with the federal GST. The implementation of the Harmonized Sales Tax in Nova Scotia, New Brunswick and Newfoundland and Labrador in 1997² continues to receive strong support from the business community for its role in reducing compliance costs, removing tax distortions and improving fiscal cooperation.

But regional discord has been fostered by federal action in other areas, notably the negotiation of offshore accords with Nova Scotia and Newfoundland and Labrador in the mid-1980s. The two accords give these provinces the right to control the development of offshore oil and gas resources. However, the accords contain provisions for provincial industrial benefits exempt from the NAFTA, restricting

²Prince Edward Island elected to stay out of the agreement.

³Output growth in Atlantic Canada has averaged 2.8% annually over the past 10 years compared with 3.3% in Canada. Annual average GDP growth in Newfoundland and Labrador slightly exceeded national performance over the past 10 years, although considerable volatility has been evident from one year to the next.

the free flow of goods, services and labour from other provinces for project development, and effectively undermining the efforts to build free trade in the region and in Canada. The oil and gas industry has been vocal in its complaints that, rather than facilitating development, the accords have contributed to a regulatory gridlock for new offshore developments on the east coast. Furthermore, the more recent decision (2005) to provide an offset under the federal equalization program so that the two provinces are not penalized for increased offshore revenues, has pitched the interests of the two offshore oil and gas producing provinces against those of the other two Atlantic provinces and exacerbated the divisions on the fiscal imbalance across the country.

If the establishment of a more open economy in Atlantic Canada is to be successful, the push will need to come from outside government, particularly from the business community. For most businesses, the benefits of operating in a larger and more competitive business environment are self evident—facing a single business registry or regulatory regime would reduce their costs and increase the speed of transactions; consolidation in government services would reduce costs and could improve program quality. Yet not all Atlantic Canadians are convinced that the movement to freer trade will work in their favour. After a decade of slow growth³ and the steady trickle of out-migration, many fear that the continued trend toward free trade will benefit larger provinces and cities, and work to the detriment of smaller provinces and more remote regions. With job losses in resource and many manufacturing industries mounting, Atlantic provincial governments are under continued pressure to adopt protectionist measures. To counter this, the business community will need to create a strong campaign to convince those living in Atlantic Canada that their long term interests lie in following the western lead.

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Can We Eliminate Interprovincial Trade Barriers? The West Shows Us How

by Paul Darby

Improving Canada's productivity performance through a reduction in interprovincial trade barriers is crucial for our future economic success. Productivity is the most important benchmark that the Conference Board of Canada uses to gauge the strength of our economy in comparison to other countries. It is a measure of our potential to increase our standard of living in that it drives growth in our wages and incomes. If Canada's productivity is high and growing, we increase our ability to provide the social programs and the infrastructure investment that our citizens want and expect. Unfortunately, Canada's recent productivity growth has been lackluster at best. Between 2000 and 2005, Canada's average productivity growth ranked 20th among OECD countries—a truly poor performance.

Given the importance of productivity as a determinant of Canada's economic and social wellbeing, the Conference Board has explored the driving forces behind productivity growth in numerous studies. For example, our 2004-05 Performance and Potential Report, *How Can Canada Prosper in Tomorrow's*

"These results indicate that productivity gains could be realized by lowering regulatory non-tariff barriers to trade, not only between Canada and the US, but also among and between Canadian provinces."

World?, examined the issue in depth by comparing Canadian and US productivity performance for 29 sectors. The message from the research is clear: while many factors in the operating environment and within individual industry sectors and firms explain productivity performance, openness to trade and investment is a key driver of productivity growth.

While Canada has made considerable progress in lowering tariff barriers with the implementation of the NAFTA, deep concern remains regarding our regulatory regime, which has the potential to create important non-tariff barriers. Ground-breaking Conference Board research, performed under the Canada Project, determined that there is a highly significant correlation between the degree of non-tariff barriers to trade and relative Canada-US productivity.

These results indicate that productivity gains could be realized by lowering regulatory non-tariff barriers to trade, not only between Canada and the US, but also among and between Canadian provinces. Some degree of regulation is clearly necessary, including regulations that protect the health and safety of citizens or anti-monopoly provisions that enhance the functioning of markets. The central problem is regulations that go beyond a reasonable trade-off between economic growth and other policy objectives, and thus become unnecessary barriers to competition and impediments to productivity growth.

There are currently a very large number of barriers to trade between provinces, barriers that are found in all sectors of the economy and affect trade in both goods and services. These interprovincial barriers to trade have often been justified as a means of protecting local jobs, income, public health and other provincial interests. However, in recognition of their potential to lower productivity, the Canadian federal and provincial governments have made repeated commitments to reduce barriers to the movement of people, goods, services and investment within Canada. In 1994, Canada's first ministers signed the Agreement on Internal Trade, and in 2004, the provinces and territories set up the Council of the Federation, with a priority on revitalizing internal trade through a lowering of interprovincial trade barriers.

These steps have led to some progress toward bringing down interprovincial trade barriers. But the lack of a binding dispute settlement mechanism and difficulties in implementing changes to the regulatory regime have slowed the progress of these pan-

Canadian efforts, especially in the face of continued strong lobbying pressure from local interest groups.

The most exciting and important development toward the elimination of interprovincial trade barriers has been the BC-Alberta Trade, Investment and Labour Mobility Agreement (TILMA), signed in April 2006. This agreement resulted in dramatic progress in lowering the regulatory barriers to trade between the two provinces, largely due to the relative simplicity of undertaking bilateral negotiations, as opposed to seeking pan-Canadian consensus. The TILMA breaks important new ground in moving to the principle that all measures that restrict or impair trade, investment, or labour mobility are subject to the disciplines of the agreement, unless excluded by specific exceptions identified in the agreement. In addition, the TILMA establishes a binding dispute settlement process. As a result, the TILMA represents arguably the most important step toward reducing interprovincial non-tariff barriers since Confederation.

The brightest prospects for further reductions in interprovincial non-tariff barriers will come from other provinces following the example of the TILMA, either by joining the TILMA or by negotiating their own bilateral arrangements. Saskatchewan and Ontario have both expressed interest in joining the BC-Alberta free-trade zone. Any movement along these lines requires our full support if Canada is to generate sufficient future income growth to sustain our standard of living and remain competitive in a world where trade is highly integrated, not just regionally, but globally.

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Paul Darby is the Executive Director and Deputy Chief Economist of the Conference Board of Canada (www.conferenceboard.ca).





Interprovincial Trade: Where the Exceptions Make the Rules

by Todd Hirsch

Canada talks a lot about the virtues of free and open trade, and we love tsk-tsking the United States for failing to play by the free trade rules. But like the US, we easily fall into the trap of being free traders when it works in our favour, and throwing up barriers when it doesn't.

Look no further than the web of barriers, restrictions and limitations that poison commerce within our own national borders. Doing business across provincial boundaries can prove to be amazingly difficult. Interprovincial trade barriers in Canada are like dandelions—easy to see, but really hard to get rid of.

Back in July 1994, the provincial and territorial leaders hammered out the Agreement on Internal Trade (AIT), which sought to eliminate the

barriers that keep trade and labour from flowing freely across our own provincial borders.

The AIT was a great achievement—everyone shook hands and lots of photos were taken. It was heralded as an astounding accomplishment that would usher in a new era of prosperity. Then all of the premiers went home and proceeded to ignore the whole thing.

To be fair, we have made some progress. But over a decade later, many barriers to interprovincial trade remain.

A major problem in weeding out the remaining trade and labour mobility barriers is that, at least technically, none exist! The AIT got rid of them all in eleven sweeping categories ranging from procurement

to environmental protection. The document is 106 pages long, mostly of incomprehensible definitions and principles.

But also contained in the garbled text are hundreds of exemptions, special considerations, and phrases like *"unless just cause dictates otherwise."* In other words, there is a lot of opportunity for a province to find a special escape hatch to appease some special lobby group. And that is the root cause of the problem. There are no barriers to interprovincial trade—just exceptions to the rules.

This makes it extremely difficult to cite an example of a trade barrier. There is no master list or inventory of trade barriers. It's like asking the gardener how many dandelions he planted this year. He would give you a dirty look and tell you he's planted none. He'd be telling the truth, yet the dandelions keep coming.

The considerable wiggle room in the AIT and the lack of any meaningful enforcement mechanism means that tearing down barriers is an option, not a requirement. In a lot of cases, governments have simply ignored both the spirit and the letter of the AIT. A classic example of this is Quebec's refusal to allow coloured margarine in the province despite repeated rulings that this restriction is in direct contradiction to the AIT.

But a recent agreement signed by the premiers of British Columbia and Alberta could be the beginning of something big. Called the Trade, Investment and Labour Mobility Agreement (TILMA), it is further reaching than the AIT, with fewer exemptions and stronger mechanisms for penalizing non-compliance.

There is considerable commitment behind the BC-Alberta agreement. A bilateral agreement, by its very nature, has a greater sense of mutual understanding and urgency to it than a multilateral agreement. Among the 12 premiers who signed the AIT, how many were unequivocally committed to reducing trade barriers? In a

"But savvy businesses in Manitoba and Saskatchewan should be licking their chops at the chance to bid on business deals in BC and Alberta—everything from construction and engineering to business and personal services—with completely unfettered access to compete and succeed in these markets."

group setting, there is a lot of pressure to sign things to which you are actually not committed. No one wants to be the one premier who didn't sign on.

The TILMA will make British Columbia and Alberta the second largest free-trade zone in the country, after Ontario. The combined GDP of these two fast-growing provinces is \$375 billion, a fair bit larger than Quebec (\$279 billion).

Manitoba and Saskatchewan should be watching the BC-Alberta agreement with both interest and concern. The interest should come in watching how productivity and efficiency increases in these two provinces. The concern should come from the implications of being excluded from this dynamic free trade zone.

What would it look like for Manitoba and Saskatchewan to join BC and Alberta in a true free trade zone spanning western Canada? Fear mongers would predict the accelerated exodus of young, skilled workers and businesses to Alberta. Think Maude Barlow and Mel Hurtig circa 1988. The sky is falling, the sky is falling!

But savvy businesses in Manitoba and Saskatchewan should be licking their chops at the chance to bid on business deals in BC and Alberta—everything from construction and engineering to business and personal services—with completely unfettered access to compete and succeed in these markets.

Labour costs, industrial land costs, housing costs, and just about every other (non-tax) cost are lower in Manitoba and Saskatchewan. If Manitoba and Saskatchewan were to join the TILMA, the only ones with something to fear would be inefficient business operators in Alberta and BC.

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Todd Hirsch is the Chief Economist at the Canada West Foundation.



Small Business Stands to Gain with the TILMA

by Danielle Smith

The Trade, Investment and Labour Mobility Agreement (TILMA) will face a noisy opposition campaign as its date for implementation approaches in April 2007, and as more provinces and American states express interest in signing on.

A 2001 interview with former BC Premier Glen Clark illustrates why the advocates of big government will be out in full force girding for battle. Clark told the Vancouver Sun of his tenure in office: “We were an old-fashioned activist government, with no more money. So you’re naturally driven to look at ways you can be an activist without costing anything. And that leads to adding to regulation.”

In the eyes of a politician, regulation—in the name of workplace health and safety, improving working conditions, protecting the environment, and a stack of other reasons—is an easy, no-cost way to advance an activist agenda. But while regulation may cost nothing from a politician’s perspective, the costs are felt acutely by the business sector, which is forced to navigate through a maze of regulatory obstacles. Those costs end up hitting the economy in the form of foregone investment, expansion and job growth, and hitting the wallets of consumers in the form of higher prices, less choice and lower living standards.

In fact, regulation is not a cost-free way of enacting public policy. In our 2005 report, *Rated R: Prosperity Restricted by Red Tape*, the Canadian Federation of Independent Business estimates that regulation costs \$33 billion per year in direct costs to businesses from hours spent on paperwork, dollars spent on professional fees and lost sales—foregone economic activity that’s been choked off under the burden of excessive rules and paperwork.

When BC Premier Gordon Campbell took office, he committed to reducing the total regulatory burden in his province by 30%. His government didn’t just meet this target, it exceeded it, reducing the number of regulatory requirements from 382,139 in 2001 to 268,699 by 2004. However, the fact that more than a quarter million regulations remain on the books—at the provincial level in BC alone—underscores how remarkable it is that Alberta and BC were able to negotiate a trade treaty like the TILMA.

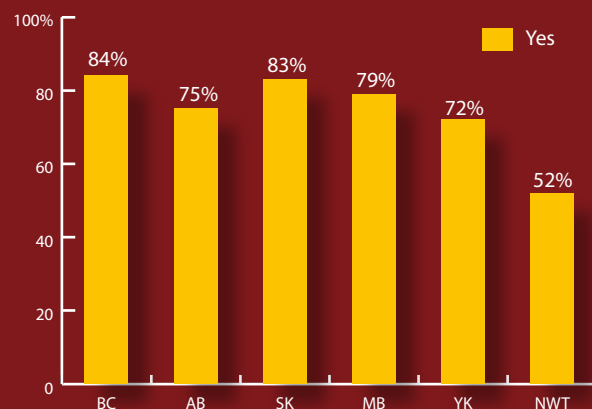
Once fully enacted, the agreement will create the second largest trading bloc in the country behind Ontario, generating an estimated \$4.8 billion in new economic activity and creating 78,000 new jobs.

Some groups, unfortunately, see a glass half empty rather than a cup that overfloweth. To understand why, it’s important to acknowledge the three main beneficiaries of existing trade barriers:

- Big corporations, who are able to lobby for special grants, subsidies and regulations that put their competitors at a disadvantage.
- Big labour, who use regulatory restrictions to limit entry into a wide variety of professions in order to control labour supply and bid up wages.
- Big government, who use regulations to placate activist constituents demanding action on a battery of social policy issues.

Those who lose are small businesses, who typically do not have the regulatory compliance officers, human resources departments and individual lobbying capability to counter the onslaught of excessive government rules. Firms with fewer than 50 employees account for 95% of all businesses in Canada, employ 60% of all workers and are overwhelmingly enthusiastic about the TILMA. In recent surveys, we found 75% of our Alberta members and 84% of our BC members endorsed this new approach to free trade. CFIB members in other parts of the country also can’t wait for their chance to join: 83% of our members in Saskatchewan, 79% of our Manitoba members and most of our members in the territories believe their jurisdictions should sign on, too.

Should your province/territory join the British Columbia-Alberta agreement to remove interprovincial barriers to trade, investment and labour mobility?



Source: CFIB, Mandate Survey #224, December 2006; CFIB, Mandate Survey #220, November 2005

It is disappointing then, that organizations such as the Council for Canadians and the Canadian Centre for Policy Alternatives have panned the agreement and are fighting against its implementation.

The opposition falls along several lines. As it has been said, what makes the TILMA unique from many other free trade agreements is it takes a sweeping approach to liberalizing trade and will remove virtually all trade barriers. It was what the 1994 Agreement on Internal Trade was supposed to achieve, but didn't.

Rather than negotiate areas to be included in the agreement—as previous trade agreements have done—the TILMA includes all areas, and puts the onus on government to argue why specific areas should be excluded. Even with such exclusions, the agreement demands that signatories ensure the protected regulation is the least intrusive means of achieving its stated goal.

However, critics say that claims about the damaging effects of interprovincial barriers “are really an attack on government's right to regulate.” Not really. They are an attack on excessive government regulations that are thinly disguised protectionist measures. The fact that BC and Alberta have different rules about the way hay must be stacked on trucks has nothing to do with workplace safety or environmental protection. It is simply a nuisance rule to force truckers to stop and adjust their loads, to inhibit cross-border competition.

Even though groups such as CFIB are actively trying to reduce the overall regulatory burden on small- and medium-sized business, we have no illusions that TILMA will prompt a massive deregulation drive.

The main purpose of the agreement is far less ambitious: its goal is simply to ensure that businesses in Alberta find it as easy to do business in BC as they do in their home province, and vice versa. What it really means is that BC cannot have special regulations that treat Alberta businesses any less favourably than it treats BC-based businesses (as outlined in Article 4.1 and 4.2).

It does not mean that Alberta is going to have to sweep away reams of regulations that will put worker safety and the environment at risk, as critics would have the public believe.

For one thing, Article 5.1 allows provinces the flexibility to “mutually recognize or otherwise reconcile standards,” which gives provinces wide latitude in passing new regulations. Mutual recognition allows each government to largely maintain its autonomy in passing new rules as long as they acknowledge each other's regulations as equivalent.

Besides, if BC or Alberta find that the agreement is unduly interfering with their ability to make laws in the public interest—as critics fear—there is an escape hatch: under Article 20, not only can any new province easily join, but any party to the agreement may withdraw if it gives 12 months written notice.

Nor does it force provinces to have unfettered competition in every sector. Article 11.4 says that nothing prevents a province from maintaining a monopoly in its territory. The guiding principle is, if the province does allow competition, it must give equal opportunity to competitors from the other province.

Article 12.1 even allows the province to continue subsidizing certain sectors, as long as the subsidies are intended to offset supports that are offered in other provinces that have not signed on to the agreement.

It also opens up procurement policies. The Agreement on Internal Trade only requires open bidding on government spending worth \$100,000 on goods and services and \$250,000 on construction. Article 14.1 of TILMA reduces the threshold for competitive bids to \$10,000 for goods, \$75,000 for services and \$100,000 for construction. This means that small- and medium-sized businesses will have greater ability to bid on a wider array of government contracts. The more competition that is introduced into the government bidding process, the better deal the government—and taxpayers—are going to get. That's another plus.

Several other complaints about the agreement also have little merit. The Council of Canadians argues that the TILMA will bring us closer to economic integration with the US. This concern arose as a result of a recent meeting of the Pacific Northwest Economic Region (which includes the states of Alaska, Idaho, Montana, Oregon and Washington), where the group expressed an interest in possibly joining the TILMA.

While freer trade with the US is also desired by small business, it seems odd to pan an agreement between BC and Alberta because it might one day lead to greater trade freedom with the US. By promoting more west-east trade flows, agreements such as the TILMA only strengthen Canadian sovereignty and provincial interdependence.

Critics also complain that businesses will be allowed to launch complaints directly against government—rather than lobby their home province to act on their behalf in a trade dispute—and receive compensation awards of up to \$5 million for violations. Also, rather than have trade disputes drag on unresolved for years, the TILMA dispute resolution mechanism would result in a hearing, decision, report and appeal to be completed within

105 days (less than four months) of each complaint, making it much easier to file grievances.

While this is seen as a negative by the critics, it is actually one of the agreement's greatest strengths: there is finally an enforcement mechanism with teeth.

Fines are routinely written into regulations to motivate compliance and deter rule-breaking by businesses and individuals. It only seems reasonable that the government would also face fines to ensure compliance with its own rules.

Finally, critics argue that municipalities should demand to be completely excluded from the provisions of the trade agreement, in the interests of preserving local control. However, local zoning rules, green space requirements and noise bylaws are not at risk under the TILMA. The intention of the agreement is not to ensure there are no rules at all, but to ensure the local government applies the same rules to both Alberta and BC businesses without discrimination. What are at risk are buy-local rules that put out-of-province competitors at a disadvantage. Buy-local rules may be in the interests of certain well-connected business owners, but they are not in the best interests of their competitors or local taxpayers.

Indeed, rather than shield municipalities from having to comply with the objectives and spirit of the TILMA, the provinces' next steps in lowering trade barriers should be centred directly on the municipalities. For instance, contractors or skilled trades people typically need to acquire multiple business licences to operate in neighbouring cities. On October 27, 2006, at the annual convention of the Union of BC Municipalities, Premier Gordon Campbell challenged the cities to work together so that BC would become the first province to establish a single business licence by 2008. Now that it will be easier to do business cross-border, Alberta must ask whether it makes sense for a business to be required to obtain separate permits to operate in Fort McMurray, Edmonton, Calgary and Lethbridge. Tearing down intermunicipal trade barriers ought to be the next target.

The TILMA deal has opened a flood of momentum for trade liberalization that will make it easier for entrepreneurs to establish and grow their businesses. If it helps eliminate unnecessary rules and red tape, so much the better. Rather than continue to sit on the sidelines, provinces such as Saskatchewan and Manitoba would be well advised to join the parade.

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Reducing Provincial Barriers:

What the West Needs Now, What the Rest Needs Soon

by Roslyn Kunin

Some readers of this article might be old enough to remember 1988—the year before the Canada–US free trade agreement was implemented. Some readers might even have been old enough to buy wine that year. At government alcohol outlets, you had two options. If your budget was limited, you chose a domestic wine that was affordable but, by most counts, pretty bad wine. If your budget was less constrained, or if you wanted to impress your boss, you chose an imported wine—much better quality and also much more costly. Good and cheap did not come together in the wine selections in this country.

Then came free trade with the US. Panic is not too strong a word for the fears expressed about the future of Canada's wine industry. Who would buy the local "plonk de plonk" once good California wines were available at reasonable prices? But removing trade barriers did not kill the wine industry. Given competition, Canada's wineries started producing quality wines that are affordable at home and win prizes around the world.

Fear of free trade has long existed in Canada at the provincial level as have barriers of various kinds between the provinces—some of them

silly enough to be amusing. Coloured margarine is not welcome in Quebec. Hay from Alberta cannot feed BC cattle unless incoming trucks are reloaded to meet BC's shipping standards and vice versa. Bees from Alberta may not fertilize British Columbia crops. Only recently have talks started so that construction workers can move across the Quebec/Ontario border to meet the varying labour needs in this unstable, cyclical industry.

Constraining interprovincial activity reduces both the actual and the potential level of economic wellbeing that Canada can attain and diminishes our country's global impact. Canada represents 2% of the world's capital, and limiting our internal markets and mobility means that we are punching below our weight.

Recognizing this, in 1994, the provinces and territories signed an Agreement on Internal Trade (AIT). It was limited to a specific list of areas to be liberalized, did not have a satisfactory dispute resolution mechanism and lacked any effective means of enforcement. Since there is no penalty for violating the agreement; it has, to a large extent, been ignored.

Meanwhile in the West, BC and Alberta were beginning to realize that there was little to be gained by having the two provinces throw snowballs at each other across the Rockies. Canada as a whole would have to work hard to thrive in a global economy. Individual provinces could not hope to do so. The merging of the Vancouver and Alberta stock exchanges into the Canada Venture Exchange in 1999 was an early example of interprovincial co-operation between institutions and the subsequent merger with the TSX into a national organization added further clout.

Now the time has come for BC and Alberta to once again set an example that will increase the viability, strength and competitiveness of their respective provinces, as well as set an example for the other Canadian provinces by implementing freer movement across their common border with respect to goods, capital and people.

This is the TILMA—the Trade, Investment and Labour Mobility Agreement. It has been signed and implementation will begin this

April with full operation two years later. Unlike the AIT, the TILMA covers everything unless specifically excluded, rather than the other way around and it has a viable enforcement mechanism.

The TILMA will have a significant positive impact on the economy of the two most western provinces. Note that "economy" is in the singular. Just as Europe became one economy when the participating countries removed barriers to the movement of people, investment and goods, so will Alberta and British Columbia become one economy. And we already have a common currency.

This new economy will start out as the second largest in Canada, already surpassing Quebec on several dimensions, but it may not stay long in second place. The removal of barriers under the TILMA is estimated to add close to \$5 billion to gross provincial product and generate

an additional 78,000 jobs if workers can be found to fill them in provinces where unemployment is close to disappearing. Already, the western provinces are growing faster than Ontario and Canada as a whole. Given current population movements (westward) and industry patterns (resources strong, traditional manufacturing weaker), this faster growth is likely to continue, if not accelerate, under the TILMA.

Of course, if Ontario and other provinces are beginning to be a little concerned about the feverish pace of growth in the West, they do have an option: expand the TILMA agreement to other provinces. Some have already expressed interest. It may not be easy. Inertia and vested interests lean on the side of the status quo. However, once mobility is as free between and among Canadian provinces as it is between European countries, Canada can again start punching above its weight in the global economy.

"Coloured margarine is not welcome in Quebec. Hay from Alberta cannot feed BC cattle unless incoming trucks are reloaded to meet BC's shipping standards and vice versa. Bees from Alberta may not fertilize British Columbia crops."

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Dr. Roslyn Kunin is a Senior Fellow and Director of the BC Office with the Canada West Foundation.



The TILMA: A Gamble Not Worth Taking by Murray Dobbin

On April 1, 2007, the BC-Alberta Trade, Investment and Labour Mobility Agreement (TILMA) will come into force. After it was signed last year, Todd Hirsch of the Canada West Foundation wrote that the agreement could mean an “erasing of the provincial boundary for all purposes except voting and the colour of the licence plate.” A closer examination of the agreement, however, reveals what it erases is not so much provincial borders, but instead, much of a government’s ability to act in the public interest.

The TILMA imposes a set of restrictions on government that is unparalleled in existing trade and investment agreements. For example, under the TILMA governments cannot: “restrict or impair” trade, investment, or labour mobility, introduce new regulations that do this, or provide business subsidies that “distort investment decisions.”

The agreement pairs such radical restrictions with a NAFTA-like enforcement mechanism. The TILMA establishes a whole new avenue for litigation to be taken against governments. It allows private persons, as well as the parties to the agreement, to take their complaints about government to independent dispute panels. These panels are empowered to impose awards of up to \$5 million if governments violate the TILMA, even when governments are acting completely consistently with domestic law and within their constitutional authority. No limits are placed on the number of complaints that can be taken on the same issue as long as they are not taken at the same time.

In signing the TILMA, BC and Alberta have given potential litigants a cornucopia of promising grounds with which to sue them. The best route for a complainant may be to take a case under the TILMA’s “No Obstacles” article. Any kind of government act—a program, a regulation, a policy, or anything else a government does—can violate this article.

An Agreement on Internal Trade (AIT) panel has already ruled on what it means to impose a “No Obstacles” obligation on governments: “(A)pplying the ordinary dictionary definition of the term, an obstacle to trade is created when a measure impedes trade. It need not restrict or prohibit it entirely; an obstacle is created simply when trade is impeded.”

So a “No Obstacles” provision appears to set the bar very low for successful challenges against government. The ramifications of this provision in the AIT, though, are not as serious as they are under the TILMA. Unlike the TILMA, the AIT does not allow complainants to be awarded compensation for violations of the agreement. The AIT has a screening process—not included in the TILMA—that prevents complaints from going forward that are intended “to harass” governments. And the AIT does not apply the “No Obstacles” rule to investment as the TILMA does.

It is hard to think of a government regulation or program that could not fall foul of the TILMA’s prohibition on obstacles to investment. When a municipality limits the height of buildings or prohibits commercial development in residential neighbourhoods, it restricts investment. Every service provided by local or provincial governments or Crown corporations restricts private investment

in the service. How many regulations and programs the TILMA will effectively “erase” depends both on how many complaints are successful and how much governments constrain themselves to avoid the TILMA challenges.

But what about differences in provincial regulations that, while causing headaches and costs to business, appear to contribute little to the public good? For example, because of differences in provincial standards, hay once had to be restacked before it was transported across the Alberta/BC border. The BC and Alberta governments, though, have already negotiated a resolution to this particular problem and they have not explained why they need the TILMA to force them to address issues in other areas.

The really intractable interprovincial trade disputes, ones where provinces have been reluctant to comply with Agreement on Internal Trade rulings, centre on certification of accountants and access to dairy markets. None of the cases taken to an AIT panel have involved a dispute between BC and Alberta. Because some governments are unwilling to change their rules in particular sectors, should BC and Alberta expose themselves to litigation in as many areas as they do under the TILMA?

The TILMA is about far more than reconciling regulations between Alberta and BC. And it's also not just about making sure provincial and local government do not “discriminate” in their treatment of companies. Niels Veldhuis of the Fraser Institute made this fundamental error in a January 19 CKNW radio interview when he said that, under the TILMA, if a municipal bylaw “applies equally to all parties, whether in Alberta or BC, then there's no discrimination and therefore the bylaw doesn't have to be changed.”

A government certainly violates the TILMA if it discriminates in favour of local companies. But it also violates the agreement simply by impeding investment, even when it is acting in a non-discriminatory way. In addition, the TILMA requires governments to mutually recognize each other's standards and regulations, a requirement that is over and above the requirement not to discriminate.

As federal Industry Minister Maxime Bernier explained to the Senate banking committee, mutual recognition is better from a market perspective than harmonization because it puts regulators “in competition” for the favour of business. Under mutual recognition, companies doing business in a province can choose between two different standards, and follow the standards where their head office

is located if this is more advantageous to them. The TILMA therefore does not so much make two provinces out of one as it makes them compete in a regulatory race to the bottom.

In the area of labour mobility, the TILMA ironically will likely result in decreased numbers of highly skilled tradespeople. For example, the TILMA prohibits one province from requiring additional training of workers if they have already been licensed by the other province. For example, BC has deregulated a number of its building trades, yet the TILMA would automatically qualify them to work in Alberta where the requirements are higher. Workers and employers will have less incentive to invest in the training needed to develop a highly skilled workforce.

The BC government is citing a study done for it by the Conference Board of Canada to claim that the TILMA will produce \$4.8 billion in annual GDP growth—which amounts to half the value of BC's existing exports to Alberta and over 10 times previous estimates of the cost of interprovincial trade barriers. To come up with this figure, Conference Board researchers assigned a number for what they believed the TILMA's effects would be in each sector of the economy and then translated these numbers into GDP growth—with no justification provided for this methodology. The Conference Board's predictions are also largely based on applying the TILMA to the primary resource sector, even though this is an area the TILMA exempts.

After the TILMA was signed, advocates promoted it as hugely significant. But as public concerns have been raised, government officials are now tending to discount the agreement's impacts. They are pointing to the legitimate objectives clause as preserving their right to regulate for a public purpose. A review of trade cases where governments have tried to defend themselves with similar clauses reveals how little they can be relied upon. Governments not only have to prove their objectives are legitimate but also demonstrate that they have not been “unnecessarily” restrictive—something they have failed to do in almost every case.

The BC government says in its backgrounder to the TILMA that “only serious cases” would go forward. Yet BC and Alberta have created extensive grounds for TILMA cases, eliminated the screening out of frivolous cases, and given business, in the words of Alberta minister Gary Mar, “everything it asked for” in the dispute system. It would seem to be an un-businesslike approach for the two governments to sign a legally binding agreement as broad as the TILMA and then hope that it will not be used against them.

Murray Dobbin is a Vancouver based journalist and author who has written extensively about trade agreements and their impact on democratic governance. His last book was *Paul Martin: CEO for Canada?* He is a board member of the Canadian Centre for Policy Alternatives.

Tomorrow's Forecast—A Strong Breeze From the West:

Who Will Have the Trade-Winds at Their Back?

by Ian Munro

Many commentators have noted the significance of the British Columbia-Alberta Trade, Investment and Labour Mobility Agreement (TILMA) that will come into effect on April 1, 2007. The TILMA is the most aggressive attempt to tear down interprovincial trade barriers in Canadian history and will create the second largest economy in the country after Ontario.

So what impact might this agreement have on the other eight provinces? Will these winds of change sweep down from the Rockies and flatten trade barriers from Lloydminster to St. John's? What impact will the TILMA have on the continuing negotiations under the Agreement on Internal Trade (AIT) that all provinces signed in 1994?

When considering the potential impacts of TILMA, policymakers in the remaining provinces should keep four key points in mind.

First, smaller economies typically are the biggest winners when entering free trade arrangements with larger partners.

Witness how Canada has benefited from free trade with the United States (certain unresolved irritants notwithstanding). With their relatively small populations and domestic markets, the Atlantic provinces in particular should be leading the charge to liberalize trade.

Second, for any government committed to the removal of interprovincial trade barriers, the TILMA provides a better route to do so than does the AIT.

Last October, Premier Gary Doer of Manitoba issued a progress report on the reduction of internal trade barriers under the auspices of the AIT. Almost 13 years after the AIT was signed, we are still two years away from a deadline (April 1, 2009) for provinces to be in compliance with its labour mobility provisions, a meaningful AIT chapter on energy has yet to be finalized, the issue of business subsidies is still under study, and an enforceable dispute resolution mechanism remains lacking.

While the TILMA is certainly not a perfect free trade agreement, it improves upon the AIT in several respects.

The basis of the TILMA is that all trade between Alberta and British Columbia is to be free of barriers and distortions except in certain specifically enumerated instances. In contrast, the AIT extends interprovincial free trade only to specified sectors and exempts the remainder of the economy from trade liberalization. The focus of the TILMA agreement going forward will be the whittling away of a set of clearly identified trade barriers. The AIT lacks such a visible “hit list” of barriers and expansion of the AIT’s scope on an issue-by-issue and sector-by-sector basis may feature continued foot-dragging and slow progress.

Another major difference is that the TILMA has a meaningful dispute resolution and enforcement mechanism from its outset. A party found not to be in compliance with the agreement may face a penalty of up to \$5 million for each transgression. Under the AIT’s mechanism for resolving disputes between governments, a successful complainant’s only recourse is to take retaliatory action, that is, to re-impose the very types of barriers whose removal is the basic goal of the AIT. If an individual person or business pursues an action against a government, the best outcome that can be hoped for is the recovery of costs incurred in pursuing the complaint and the issuance of a public report that highlights the errors of the offending government’s ways.

Premier Doer’s report does promise a new mechanism by September 2007, but it is to be “administrative, not judicial” in nature. One wonders just how sharp the teeth of these administrative measures will be: is the expectation still that a sharply-worded letter will be sufficient to bring a recalcitrant province into line?

Furthermore, the AIT can never “out-do” the TILMA. The TILMA states that if there is an inconsistency between the TILMA and the AIT, then the provision that “is more conducive to liberalized trade, investment and labour mobility” will prevail and any such prevailing provision of the AIT will be incorporated into the TILMA.

The third point for provincial leaders to consider is that, as all provinces reflect on both the advantages of the TILMA over the AIT and the strength and size of the Alberta and BC economies, there will be greater impetus to choose accession to the TILMA as the favoured route to internal free trade, rather than expending time and energy on protracted AIT negotiations.

An interesting question is whether we may see a TILMA tipping point: once one or two more provinces sign on, the remainder may feel compelled to follow quickly lest they essentially be left outside the “Canadian” marketplace.

Suppose that next-door-neighbour Saskatchewan accedes to the TILMA, would Manitoba not then feel compelled to follow suit so as not to be left out of a western Canadian internal market? Given that the combination of Alberta and British Columbia will form the second-largest economy in the country, would it not be in each of Ontario’s and Quebec’s interest to focus attention on maximizing access to that market, rather than expending energy on, say, reducing barriers to agricultural trade with the smaller provinces?

What we may see, then, is domino-effect accession to the TILMA, which would leave the AIT in its wake. As provinces sign on to the TILMA, the TILMA’s market will be that much larger, and the outsiders will feel greater compulsion to join. Equally, as new signatories become

part of the growing TILMA market, their incentives to work aggressively on AIT negotiations with the non-TILMA provinces will weaken.

This brings us to the final point: in any multi-party agreement featuring sequential accession over time there will be an early-mover advantage.

The next province to negotiate its way into the TILMA regime will have some degree of bargaining leverage. For example, it may be able to negotiate changes regarding a listed TILMA exception that it finds particularly troublesome. However, once you’re the ninth or tenth province seeking to climb aboard, you are pretty much in a take-it-or-leave-it position, particularly so for the smaller provinces.

The other provinces should seize the opportunity that the TILMA presents and move now to ensure the trade-winds will be at their backs.

"For any government committed to the removal of interprovincial trade barriers, the TILMA provides a better route to do so than the AIT."

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Beyond Provincial Borders:

The Alberta-British Columbia Economic Agreement in a Global Context

by Yuen Pau Woo and K.C. Sato

The British Columbia-Alberta Trade, Investment and Labour Mobility Agreement (TILMA) is an arcane document that will be read by only the most committed of policy wonks. The impact of the Agreement, however, will be far-reaching, as the two provinces harmonize business regulations and eliminate red tape, effectively creating a larger market and a more business-friendly environment in the region.

The TILMA will advance what many Canadians assume already exists: unimpeded access for trade, investment, and labour flows across provincial borders. In forging the first agreement of its kind in Canada, Alberta and BC have set an example for the rest of the country. Indeed, other western provinces are looking at the feasibility of joining the TILMA.

While the TILMA was crafted principally to reduce interprovincial barriers to trade, investment, and labour mobility, it has important implications for commercial relations with Asia. The combined population of Alberta and BC is second only to Ontario. Potential investors, who are already drawn to western Canada because of the Asian demographic and abundant resources, will be further enticed by the combined market potential of Alberta and BC. Furthermore, the commitment to transparency, consistency, and non-discrimination in the TILMA will appeal to Asian investors, who have long complained about what is perceived as an unpredictable business environment in Canada, especially on the west coast.

The introduction of the TILMA will fit nicely with recent federal and provincial government initiatives for expanding trade and investment between Asia and North America, in particular the Pacific Gateway and Corridors Initiative. For example, the reduction of regulatory barriers in the transportation sector will be an important complement to the investments in port, road, and rail infrastructure under the Gateway Initiative. The TILMA also establishes a system of cross-province recognition for occupational certifications, which offers skilled workers extra flexibility to work in Alberta and BC. These enhancements to labour mobility will not only benefit workers already resident in the two provinces, but will also make it easier for new immigrants with recognized skills to find work.

The TILMA is a work in progress, and as such, it has the potential to expand into other areas that will broaden and deepen economic ties between Alberta and BC, as well as with Asian countries.

Reducing border barriers is only the first step in enhancing economic efficiency. Alberta and BC should also look at opportunities for policy coordination, joint marketing, and resource pooling, especially when it comes to business links across the Pacific. Tourism promotion is an obvious example, where Alberta and BC offer a set of complementary attractions that can be promoted as a package. There are also opportunities for closer collaboration in international education (marketing as well as curriculum development), resource development, film and TV production, and other sectors.

The Government of British Columbia has launched an Asia Pacific Initiative which will include domestic investments as well as the establishment of “in-market representatives” in key Asian countries. For its part, Alberta already has a strong network of offices in Asia and well-established business links in China and Japan. BC can benefit from the accumulated knowledge of Alberta’s Asia presence, whereas Alberta can usefully tap into the extensive business and cultural networks of Vancouver’s Asian community.

Yet another possibility is to explore overseas cooperation at the sub-national level, for example by leveraging existing sister province relationships (Heilongjiang, China and Hokkaido, Japan for Alberta and Guangdong, China for BC) for the benefit of all the sub-national units. As a start, BC and Alberta should invite business representatives from the other province to take part in sister-province/city partnership activities in Asia. By pooling networks, Alberta and BC will not only expand the range of opportunities available to their respective business communities, but will also send a message to potential trading partners about the combined economic strength of the two provinces. If the two governments demonstrate their commitment to closer economic cooperation between the two provinces, it will be only a matter of time before private sector groups follow suit.

The launch of the TILMA comes at a tense moment in global trade negotiations. If the stalemate in the WTO Doha Round does not resolve before the summer, the impetus for reducing trade barriers will fall to sub-regional, bilateral, and sub-national units. As Canada looks for ways to promote more open trade around the world, the Alberta-BC Agreement stands as an example and serves as a concrete agenda for reducing trade barriers in our own backyard.

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The Benefits of the TILMA

by Jock Finlayson

In April 2006, British Columbia and Alberta took a big step toward achieving true free trade within Canada by concluding a bilateral Trade, Investment and Labour Mobility Agreement (TILMA). The agreement will establish a single market of 7.7 million people that ranks as Canada's second largest economy (after Ontario). Once implemented, it will reduce barriers to the flow of goods, services, people and capital between the two provinces. Encouragingly, Saskatchewan and Ontario have already signaled tentative interest in joining the BC-Alberta pact.

Canada's Constitution prohibits the levying of tariffs on interprovincial trade in goods. However, it does not apply to non-tariff barriers and many other types of provincial restrictions affecting cross-border commerce. Most current internal barriers stem from discriminatory treatment of out-of-province goods, businesses and suppliers; restrictions on labour mobility; and differing provincial regulations and standards in a variety of policy areas. While provincial restrictions may be justified in certain cases, they impede interprovincial trade and fragment the Canadian marketplace. The consequences include higher costs for firms doing business across provincial borders and reduced worker mobility.

In a 2006 Conference Board of Canada study, entitled *Death by 1,000 Paper Cuts*, more than 90% of the companies surveyed said that provincial non-tariff barriers were inhibiting business in their sector. Among the areas of concern were discriminatory public sector procurement practices, differing consumer protection laws, agricultural trade barriers, local "business presence" requirements, and the complexities arising from different provincial regulatory standards and licensing practices.

There have been periodic national efforts to tackle internal trade barriers. In 1994, the federal and provincial governments signed the Agreement on Internal Trade (AIT). It was intended to ensure non-discriminatory treatment and the free movement of goods and services

across provincial boundaries, and to prohibit the establishment of new obstacles to interprovincial commerce. Unfortunately, the AIT has not been very successful. As two Canadian scholars recently wrote, "progress on implementing the AIT has been disappointing...Most of the targets and goals included at its signing have not been met."¹ The fact that the 14 governments that are party to the AIT must arrive at a consensus in order to change the AIT, or even make significant decisions, has made it difficult to move forward.

The AIT's limited scope and success was one of the factors prompting BC and Alberta to pursue their own agreement. The TILMA is intended to facilitate the growth of bilateral commerce—including trade in services as well as goods. It goes beyond the AIT in a number of respects. For example, the TILMA will apply to all government measures and all economic sectors, unless explicitly exempted by the agreement. Further, all government entities under provincial jurisdiction (Ministries, Crown agencies, local governments, etc.) are covered. This is the reverse of the AIT model, in which the enumerated obligations only apply to those sectors, institutions and activities explicitly identified by the agreement.

The TILMA also features a robust and legally enforceable dispute settlement mechanism. If the parties to a dispute are unable to overcome their differences, an arbitration panel will be established to review the case and deliver a binding report. Failure by a government body to abide by the report's findings may result in the levying of fines up to \$5 million. This process should have more teeth than the relatively feeble dispute settlement provisions found in the AIT.

The Alberta-BC agreement should benefit both provinces. Companies will only need to register in one jurisdiction to do business in the other; this will remove the need for duplicate reporting and residency.

¹Donald Lenihan and David Hume, *Governance in the Agreement on Internal Trade*, Ottawa: KTA Centre for Collaborative Government (July 2004).

A more harmonized regime of business regulation will make it easier for companies to operate and invest in both provinces.

The TILMA also prohibits governments from subsidizing local businesses in a manner that harms the interests of competing businesses in the other province. Article 14 of the agreement opens up public sector procurement to suppliers in both provinces by proscribing restrictions on bidding and preferences for domestic suppliers. Importantly, the procurement rules will apply to all parts of the provincial public sector. Allowing greater competition in public sector procurement markets should lead to greater competition and hence lower costs for taxpayers in both provinces.

Increased worker mobility is perhaps the biggest breakthrough in the TILMA. In Canada, the provinces have primary jurisdiction over regulated occupations and professions, of which there are many. Until now, Albertans and British Columbians working in a host of occupations—from architects, engineers and nurses to electricians and mechanics—typically have been required to secure separate certification in order to work in the other province. The TILMA adopts the important principle of labour mobility and establishes a process for reconciling occupational standards so that, by 2009, skilled workers will be free to seek employment in either province.

The TILMA does exempt a handful of areas deemed sensitive or essential to the integrity of provincial policy regimes. Article 6 permits either party to adopt or maintain a measure that is inconsistent with the rest of the Agreement, provided the measure qualifies as a “legitimate objective.” Part VII of the TILMA lists a number of such “legitimate objectives”: public security and safety, protection of the environment, non-renewable resource conservation, and the provision of education and health services. The TILMA also contains a handful of “general exceptions,” including water licensing, taxation, natural resource royalties, employment standards, and workers’ compensation.

The BC-Alberta agreement is a positive initiative that promises to strengthen linkages between Canada’s two most dynamic provincial economies. The TILMA sets an example for the rest of the provinces to follow. Allowing goods, services, capital and labour to flow more freely across the Alberta-B.C. border will expand trade, lower costs for businesses and taxpayers, and support the development of a more productive regional economy.

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Dr. Roger Gibbins President and CEO Canada West Foundation

Sometimes it is easier to go small rather than to go big, even with big ideas. Certainly this has been the Canadian experience with attempts to reduce interprovincial barriers to trade, investment and labour mobility.

Provincial governments have been chipping away at these barriers since the mid-1990s. However, the pace has been lethargic and the movement of little consequence. Provincial governments have brought little enthusiasm or political energy to the file; it is one of those things that languishes at the bottom of the inbox, only occasionally inspiring a bit of guilt and even less often inspiring any action.

Nor has the Government of Canada done much to herd the provincial cats in the direction of reduced interprovincial barriers. Although it is clear that the Mulroney government anticipated that the Free Trade Agreement and then the NAFTA would put pressure on the provincial governments to reduce their barriers in turn, that pressure has not proven to be irresistible. At the same time, successive federal governments have been preoccupied with their entanglement in the social union, in program delivery by provincial governments, rather than with managing the economic union.

Don't Water the Wine:

Taking the TILMA East

Improving Canada's economic space has taken a back seat, almost a seat in the trailer, behind trying to shape provincial programs related to health care delivery and child care.

In short, the reduction of interprovincial barriers to trade, investment and labour mobility was an idea without a champion. This is where Alberta and British Columbia stepped in with their Trade, Investment and Labour Mobility Agreement, accomplishing through bilateral negotiations what could not be done through multilateral forums. At long last, we have some significant movement, and at least within the "far West" the economic union has been strengthened.

What, then, lies ahead? First, the governments of BC and Alberta must push forward with all the nitty-gritty implementation details. Every effort must be made to ensure that implementation does not bog down, that the admittedly hard work gets done. This will only be achieved if there is continuing and strong political pressure from the top. Fortunately, this will almost certainly be the case with Premier Gordon Campbell, but the strength of Premier Ed Stelmach's commitment to the TILMA has yet to be tested.

Second, it is essential that the TILMA be bullet-proofed from a potential change of government in either province. It would be a tragedy if a future NDP government in British Columbia were to abandon the TILMA, or if a future Alberta government were to tackle a downward swing in the resource sector by throwing up new barriers. Although neither is a likely scenario, both are not beyond the realm of possibility.

Third, every effort should be made to expand TILMA east so as to include Saskatchewan and Manitoba. In many ways, the four western provinces do constitute a regional micro-economy characterized by significant labour mobility and business activity across provincial borders, all facilitated by dense interpersonal networks spanning the West. In short, the TILMA makes intuitive sense as a regional framework, one that could be used to position western Canada more effectively within an increasingly competitive global economy.

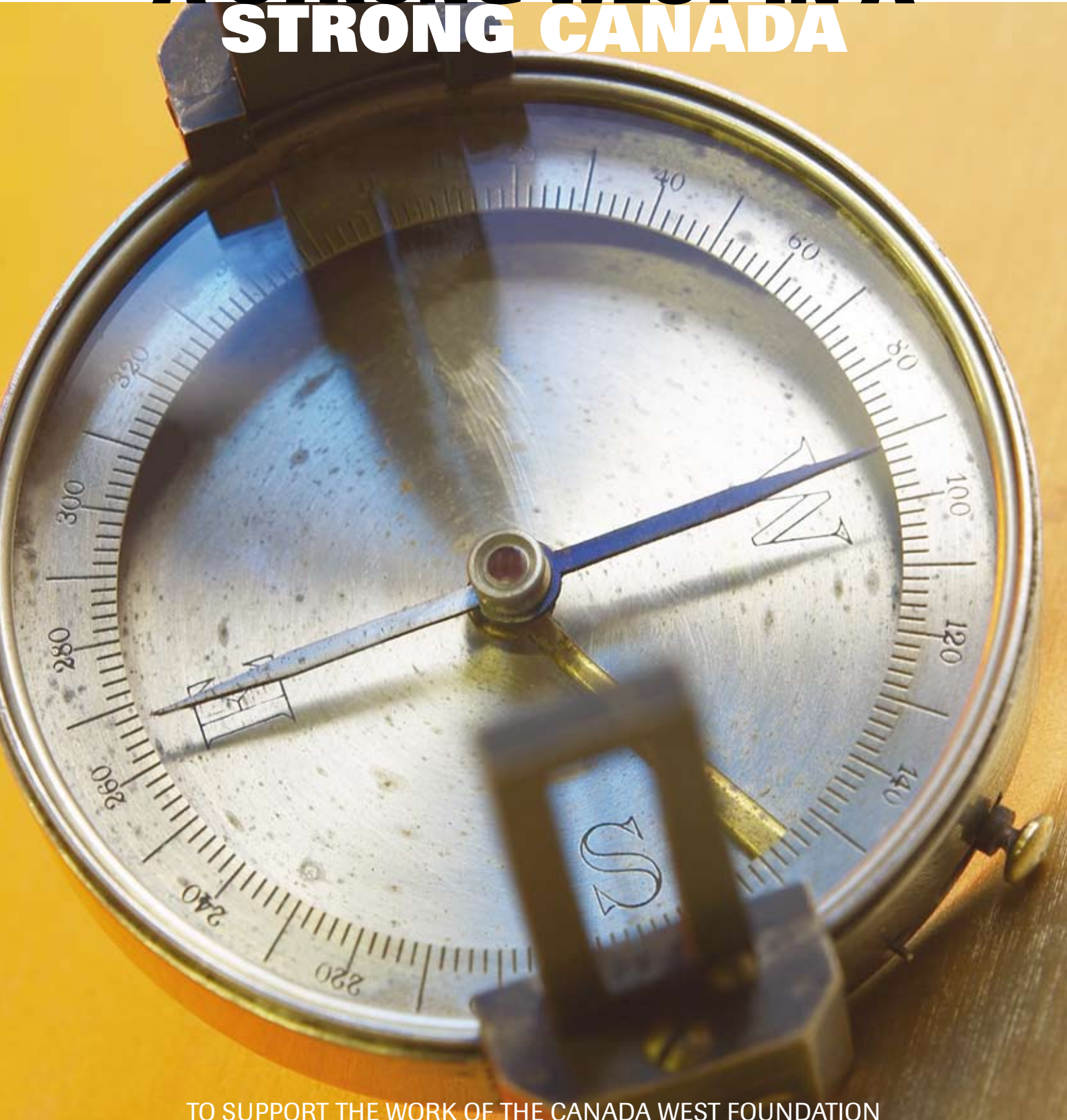
As an aside, it is worth noting the relative size of the western Canadian economy on the global stage. The combined population of the four western provinces is approximately equal to that of New York City (the five boroughs, not the greater New York area), and it is not much larger than a quarter of California's population. As a truly regional player, the West still carries very limited international weight; if our perspective is that of the individual provinces, we are talking about mice scurrying under the feet of stampeding elephants.

The fourth challenge is to ensure that an expanded TILMA is not a diluted TILMA. If TILMA expands to include Saskatchewan and/or Manitoba, this should take place without side deals and special exemptions. The two provinces should be invited to join, but not rewrite, the agreement that is already in place. Premier Campbell has made it clear that this is his stance.

BC and Alberta probably carry enough economic and political clout within the region to make sure that this happens. However, if the TILMA is pushed as the template for a truly national agreement, which I am hopeful will be the case, then the demands for special deals—for lowering the bar—will only increase. If the creators of TILMA are tempted to water their wine, we may simply end up back where we were a decade or two ago, with a tepid agreement that will have little positive impact on improving Canada's international competitiveness.

In the short term, the focus of the Alberta and British Columbia governments should be on consolidation, implementation, and natural expansion into Saskatchewan and Manitoba. There is an opportunity for national leadership by example, but hopefully national leadership that will resist dilution.

A STRONG WEST IN A STRONG CANADA



TO SUPPORT THE WORK OF THE CANADA WEST FOUNDATION
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