

UBCM 2007 -- TILMA

Hansen: Thank you very much for inviting me here today and to make this time in what I know is a very busy UBCM schedule, to make this time available for this particular topic, because it's one that I think deserves some discussion and some focus and an opportunity to answer some of the concerns and questions that people have.

I want to start.... You probably noticed there's three empty chairs up here, and they are going to get filled. So I'm just going to start off by introducing the three people that are going to come up and join us after Don finishes his remarks.

First of all Robert Musgrave is a person that some of you may already know. Robert is the director of trade initiatives in the Ministry of Economic Development, and he was B.C.'s chief negotiator for the TILMA agreement. He has been part, I think, of many of the consultations that have taken place with municipalities over this last period of time. I think Robert was telling me there's about 20 municipalities that have taken us up on our offer to send a member of our team into discuss TILMA and what its implications are.

Also I'd like you to meet Shawn Robbins, director of Internal Trade Alberta. Shawn is Robert's counterpart on the Alberta side. He was Alberta's chief negotiator, and he has been very much involved with their consultations with municipalities in Alberta and can help answer questions from an Alberta perspective.

Thirdly is Dave Collison. He is the deputy chief procurement officer for the province of B.C. based in the Ministry of Finance.

So I think the best way for me to begin today is to talk about why the TILMA agreement came about in the first place. Federal and provincial trade barriers cost Canadian businesses and consumers billions of dollars each year. For years businesses and citizens of Canada have called for more open trade and mobility between provinces, and our governments have explored the idea.

B.C. and Alberta agreed to make the removal of interprovincial trade, investment and mobility barriers a priority. It is our hope that TILMA stimulates a broader interest to more open markets across all of Canada.

TILMA is designed to address the things that the agreement on internal trade did not address. The AIT was an important step forward among all provinces in the mid-1990s. However, the AIT is widely seen as failing to meet its objective to eliminate internal barriers within Canada. TILMA addresses the shortcomings of the AIT.

TILMA is comprehensive. It establishes clear requirements. It contains specific timelines for implementation, and, most importantly, it includes an enforceable dispute resolution mechanism — something that all provinces and territories today admit is a failing of the agreement on internal trade.

We are a province that is more dependent on international trade than any other province in Canada, and we recognize the importance that we actually have an economy in Canada that is cohesive and not just provincial.

We've had a debate about expanding the scope of the agreement on internal trade for about 12 years now. B.C. and Alberta are actually providing some leadership and saying we're going to get on with it.

In fact, my counterpart in Alberta at the time that TILMA was signed, Gary Mar — he has an expression which I quite enjoy when he's talking about the progress or lack of progress around the agreement on internal trade at the many, many meetings that he attended. His expression is: "When all was said and done, more was said than done." I think with TILMA we have tried to get past that and actually take some action that's going to break down some of these barriers.

TILMA will give businesses and workers in both provinces seamless access to a larger range of opportunities across all sectors. TILMA will streamline business registrations and reporting requirements so that businesses registered in one province are deemed to be registered in the other province and do not need to go through a separate incorporation, with the cost and the time that that consumes.

It will enhance labour mobility by recognizing occupational certifications of both domestic and foreign workers in both provinces. In other words once a worker is certified in one province, that certification can be transferred to the other province, and vice versa.

It provides open and non-discriminatory access to government procurement. It creates a clear, comprehensive, and enforceable dispute avoidance and dispute resolution mechanism, and it's to be extended to cover financial services and financial institutions.

So let me give you an example of how this will affect business people in both provinces. Under TILMA a business established in either B.C. or Alberta will be able to operate in both jurisdictions without having to incorporate as an outside company. So this doesn't affect your municipal business licenses: that's another whole issue that TILMA does not affect. But we're talking about the actual incorporation in a province. So this means that there is no duplicate business registration, no duplicate annual reports, and no duplicate notification of changes, such as new boards of directors. All these duplicate procedures and associated costs will be eliminated.

Another example. I've heard of cases where goods being delivered by truck between Alberta and B.C. had to be unloaded and reloaded when the truck crosses the border between B.C. and Alberta, all because of differing regulations. Apparently, businesses could actually circumvent some of those regulations if they were to take their load south of the border into the United States and then back up into the other province. They would not actually have to go through this stacking and restacking process. This is exactly the kind of costly rigmarole that TILMA is designed to eliminate.

Our many consultations with local governments are a crucial part of the process. We understand that municipalities have had some concerns, and we are pleased to hear them and work with them.

Ministry officials have been consulting with municipalities individually over the past number of months, and these discussions have actually, I think, been going quite well and have been informative for all of us.

The reason for the two-year transition period that is in the TILMA agreement is to have an opportunity to address the kinds of concerns that get raised. We have always had an open invitation for consultation on any measure local governments wish to discuss, and in addition to those communities that have already taken advantage of that invitation, I extend it to those communities that have not yet requested such a session.

One of the most persistent misinterpretations of the agreement concerns its potential impacts on municipalities. There have been concerns about the impacts on municipal zoning and signage bylaws. But let's be clear; under TILMA there is no demand for changes to land use decisions, areas like sign bylaws, building height restrictions, zoning, agricultural land reserves or parks unless they are discriminatory. In other words, if your bylaws and your rules and your regulations are not biased in favour of an individual in British Columbia or an individual company in British Columbia versus a company in the other province, then they are not compromised by the TILMA agreement.

The objective of TILMA is to reconcile or mutually recognize these measures where there are any unnecessary differences, overlaps or duplication. Under TILMA, different standards and regulations may continue, and there is no requirement to deregulate or harmonize to Alberta's regulations or standards.

Furthermore, under TILMA, under TILMA's dispute resolution mechanism, municipalities are not required to defend their own measures or pay monetary awards. Only the provincial government, as a party to the agreement, is responsible for responding to the dispute settlement process. It has not been determined at this point what the province would do in the case of non-compliance by local governments, but actually, the same is true today of the agreement on internal trade, and we've actually seen municipalities comply with the agreement on internal trade, and we expect that the similar circumstance would be under the TILMA, which is really an extension of the principles that are contained in the AIT.

So when I attended a meeting... Or actually, when officials from my ministry attended a session with Vancouver city council in July, the issue of local incentives was brought up, and this could include things like lease subsidies, heritage incentives, revitalization, tax exemptions and tax abatements. We do not have the details on these programs, but as a general rule, subsidies are acceptable as long as they are not designed as one-offs in favour of a single business to the detriment of others, and I think any of you that are familiar with the Community Charter will know that that is currently the case, even prior to the signing of TILMA. And actually, interestingly, it is Alberta municipalities that are

able to provide direct subsidies to individual companies to entice a company away from locating in your municipality in favour of locating in an Alberta municipality, and that will be eliminated under TILMA.

Another one of the most common misreadings of the agreement has to do with the No Obstacles or Non-Discrimination clauses. Article 3 of TILMA has been mischaracterized as requiring the elimination of all government measures that might thwart any and all investment, and this simply is not the case. Under the general rules of TILMA, article 3, entitled "No Obstacles," reads as follows: "Each party" — that being the province of Alberta and the province of British Columbia — "shall ensure that its measures do not operate to impair or restrict trade between or through the territory of the Parties, or investment or labour mobility between the Parties." So article 3 addresses obstacles to the flow of trade, investment and workers across provincial borders. This does not extend to internal measures like domestic laws or regulations made by governments.

Another common misinterpretation of article 4, or what we commonly call the Non-Discrimination clause, is also something that we see, and TILMA's Non-Discrimination clause, article 4, requires regulations to apply equally to investors, workers or businesses from the other province, so if a government measure applies equally to trade, investors and workers in both B.C. and Alberta, then it is not contrary to the Non-Discrimination clauses. The TILMA agreement does not remove the right of governments to regulate, as long as they do so in a non-discriminatory manner, so governments who sign the agreement retain the responsibility to enact public policy in the best interest of their citizens, just as prior.

So once the TILMA is fully implemented, in April of 2009, it will also apply to local governments. It is important to note that this two-year transitional period is in place to provide a time to undertake further consultations and to negotiate any required special provisions or exclusions for local governments, and through this period, ministry officials will continue to consult with the UBCM and other interested local governments on TILMA implementation. Such discussions provide an opportunity to present a thorough and accurate overview of TILMA, explain and consult on appropriate procurement levels and provide an opportunity to discuss any required special provisions, exclusions and transitional provisions.

So I have formally invited UBCM to participate at the TILMA negotiating table, and this will provide an additional opportunity for local governments to give their input and expertise into this agreement so that its benefits can be maximized. The ministry has also finalized a formal consultation agreement with UBC on TILMA.

So we have an open invitation for consultation on any measure local governments wish to discuss. Ministry officials are willing to accommodate any council or municipal official wishing to seek information and to provide input into the negotiations.

So I look forward to Don's presentation and your questions and discussion. Thank you very much.

