



STANDING COMMITTEE ON THE ECONOMY

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**STANDING COMMITTEE ON THE ECONOMY
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Hon. Kevin Yates
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[The committee met at 09:04.]

Enquiry into the State of Internal Trade in Saskatchewan

Presenter: Canadian Labour Congress — Prairie Region

The Deputy Chair: — Good morning, everyone. Welcome to the committee meeting. We are taking representation from different groups concerning the state of internal trade in Saskatchewan and discussing the TILMA [Trade, Investment and Labour Mobility Agreement] agreement between Alberta and British Columbia. And our first presenter today is the Canadian Labour Congress, Prairie region, David Winter. And welcome, and please go ahead and make your presentation.

Mr. Winter: — Thank you. I'll take about 10 minutes and go through my presentation and then we can do question-and-answer or whatever beyond that.

My name is David Winter, Prairie regional director for the Canadian Labour Congress. The Prairie region encompasses Alberta, Saskatchewan, Manitoba, the northern territory, and Nunavut. This vast region includes four federations of labour, trade union affiliates, municipally based labour councils, along with five provincial and territorial governments. The geographical area we cover is as diverse as our political landscape.

Within these territories and provinces we're involved with issues at the municipal and community levels on behalf of our members. I'm here today speaking to the potential impact of implementing the Trade, Investment and Labour Mobility Agreement from the CLC [Canadian Labour Congress] Prairie regional perspective.

The country is losing tens of thousands of good-paying jobs, family-supporting incomes. The job loss numbers is devastating and is extremely tragic to those impacted by the reality underlying the statistics.

Canada's manufacturing sector is in a growing crisis. Since 2002, Canada as a whole has lost more than a quarter of a million manufacturing jobs, representing about 1 in 10 full-time positions in that sector, jobs that on average paid wages of \$20 per hour. Their disappearance is closely linked to Canada's deficit in the overall trade of manufactured goods.

The bottom line in the proposed TILMA agreement is contained in section 3 which states:

Each Party shall ensure that its measures do not operate or restrict or impair trade between or through the territory of the Parties, or investment or labour mobility between the Parties.

It goes on to say that the:

Parties shall not establish new standards or regulations that operate to restrict or impair trade, investment or labour mobility.

Any level of government attempting to introduce laws or

regulation that limit companies — something which almost all relevant laws or regulations do — is subject to the disputes panel provisions under TILMA. It's completely reasonable to expect these measures will bring changes leading to the lowest common denominator. In fact the voluntary nature of the agreement for internal trade has over time influenced deregulation in some interesting ways.

Under existing AIT [Agreement on Internal Trade] rules, the elimination of the requirement that beer be made in Saskatchewan resulted in several breweries leaving the province with resulting job losses. AIT provisions essentially removed local production, seen as a trade barrier resulting in the loss of well-paying jobs in Saskatchewan communities.

TILMA is clearly defined as a sharp instrument of deregulation. Ideologically based that regulation is a barrier, that regulation is a barrier to unfettered economic expansion and development. Proponents claim there will be an immense flow of economic benefit through the elimination of interprovincial trade barriers. April 3, 2007 Saskatchewan Party Leader Brad Wall stated, Saskatchewan has few trade barriers, "fewer trade barriers and restrictions — than either BC or Alberta."

Even the Conference Board of Canada grudgingly admits:

There has been little research to date on interprovincial barriers to competition in Canada . . . No comprehensive listing of these barriers seem to exist.

In fact there are very few obstacles to trade and investment between provinces and no evidence that such obstacles entail significant economic costs. The 1985 Macdonald Commission concluded that interprovincial barriers cost the economy no more than .05 per cent of GDP [gross domestic product]. Relative to distance and market size, Canadian provinces are far more likely to trade with each other than with the US [United States]. Interprovincial trade is in fact growing much faster than with current international trade partners.

There is no comprehensive list of what is included under TILMA. The agreement simply applies to all measures by all governments and regulatory bodies. All measures by all governments — that's very sweeping and I argue is unnecessarily intrusive.

Local and regionally elected bodies are closest to the community grassroots. Maintaining local decision making and regulation through electoral processes is essential to democratic governance, essential if you subscribe to that basic objective. Regrettably to date there has been limited consultation with these locally elected leaders.

This agreement will undermine local government authority, privileging private sector over the public good. It coerces governments to disregard demands for higher standards even if these are expressed by the majority of citizens. Therefore TILMA undermines the democratic process by restricting the legitimate objectives that governments can pursue and limits the means that can be used to achieve these objectives.

Cities, school boards, university boards, and health regions all

make democratic decisions in the interests of their constituents — accountable, elected community leaders and decision makers. Procurement decisions, zoning, water purity, employment standards, and the provision of services are all eventually subject to TILMA rules or review at a later date. Any province signing on may no longer be able to utilize local hiring or ethical purchasing preferences should they so choose. These provisions are in the interests of the very communities that have elected them. This agreement eliminates by stealth the accountable, democratic decision making in providing services and protections to the community.

Given the enormous impact this agreement is likely to have on every aspect of public policy and law, it would be unconscionable for any government to be considering TILMA-like obligations.

Municipalities across the Prairies and into the northern territories are raising concerns as awareness and public debate takes place. On April 10, 2007, with only one councillor opposed, the northern territory city of Yellowknife sent a clear message that its representatives are not impressed with the Trade, Investment and Labour Mobility Agreement through a motion presented to the Northwest Territories Association of Communities, urged the territorial government not to sign on such an agreement and should it do so anyway, that it negotiate a clear, permanent exemption from TILMA restrictions for NWT [Northwest Territories] municipalities and municipal organizations. The motion that passed through the city, the Yellowknife City Council reflects the growing concern municipalities have about the negative impact of TILMA should their respective provincial or territorial government sign the trade agreement.

Fast forward to May 3, 2007, in Edmonton, Alberta. A number of municipality groups from Alberta, Saskatchewan, and Manitoba met. Their annual meeting provides them with an opportunity for these provincially based organizations to share issues, concerns, and experiences related to municipal governments. On the agenda included the Trade, Investment and Labour Mobility Agreement. The Alberta Association of Municipal Districts and Counties took the following positions.

In decreasing procurement thresholds, municipalities will be required to tender a greater number of projects, an expensive and time-consuming process. The administrative costs to municipalities will increase through more tendering and will not be offset, in their view, by the limited potential for lower bids. They insist that the bidding requirement thresholds be maintained at the current and higher AIT levels. Further, sections be added allowing municipalities to award contracts to local companies.

Further, to seek clarification on the dispute resolution process, roles, and responsibilities, and include provisions that protect against illegitimate or unreasonable claims.

To establish a framework for penalties and enforcement. The TILMA agreement, however, does not explicitly state who will be liable for these penalties. Reconsideration of the maximum penalty to reflect the capacity of Alberta's rural communities.

The economic and social vulnerability of minimally regulated

foreign workers allows employers unmonitored and fundamentally unfettered reductions to wages and working conditions. The impact is placing downward pressure on employment conditions for all workers.

TILMA restrictions undercut efforts to maintain or strengthen Canadian apprenticeship training, interprovincial certification requirements, standards that are subject to the deregulatory pressures that TILMA generates in its objective to reduce standards to lower and lower denominators. TILMA dispute procedures could be invoked by corporate entities to challenge residency and other certification requirements that . . . [inaudible] . . . the ease with which temporary farm workers may be brought into Canada.

In conclusion, the trade and sound economic growth is important to working people and their families that I represent. TILMA represents a far-reaching and corrosive constraint on the capacity of governments to exercise good governance.

The Deputy Chair: — Thank you. Open it up for questions. Mr. Chisholm.

Mr. Chisholm: — Thank you. Good morning. My understanding of the agreement, the TILMA agreement, is that it was put in place by Alberta and BC [British Columbia] because they realized that the AIT agreement was not functioning in the way it was hoped to over the last 12 years. The reports that were done for the BC government indicate pretty impressive job growth numbers — 78,000 and an increase in BC's GDP. I'd just like your comments on that.

Mr. Winter: — I mean there's two things. One is that the beginning of this came from a First Ministers' Conference where the premiers across the country were looking at the trade agreement. It's my understanding that every premier was charged with elements of review and, you know, ultimately were to come back to the first premiers and have further discussions.

What seems to have happened is British Columbia and Alberta came up with an agreement that in my view is not properly considered and hasn't been done in an open and public way. But they came up with an agreement that they're now encouraging others basically to sign on. And that in my view undermines the important element which is to have that discussion which needed to take place.

Trade is something that, you know, as I indicated in my remarks, is important to my members and to economic health. I understand that, but it's the implementation of that. The numbers that you're referring to, I understand from economists that I've spoken with that those numbers can't be substantiated and that they're optimistic at best.

Mr. Chisholm: — Thank you. That's it for now.

The Deputy Chair: — Any other questions? Ms. Crofford.

Ms. Crofford: — Yes. I'm trying to, I think, answer the same question Brad Wall was trying to answer about a listing of the barriers so we could examine them one by one and say, okay is TILMA the solution to this, is TILMA the solution to that? Do

you know yet of any even partial list that's been constructed to answer that question?

Mr. Winter: — I haven't seen anything that's exhaustive. I mean I've heard anecdotally that, you know, out of Quebec they have an issue about the colour of margarine. The dairy lobby in Quebec is very strong and artificially coloured margarine has been prohibited there, and that that might be some kind of barrier to somebody.

Also — and you may have heard this example here as well — that the size of hay bales is restricted. And I understand that that's based on the size of the tunnels in British Columbia that won't take bigger bales and they have to be small enough to fit. They're not going to make bigger tunnels, you know. So any of the others seem to be fairly minor. I mean there are issues about qualifications on trades and, you know, but I have not seen a list.

Ms. Crofford: — You've probably looked into this more than I have. I came a bit late to this committee, and I'm trying to catch up. And certainly listening to people, we're learning a lot every day.

But one of the things I think that is concerning me most is the public policy aspect of it. I was actually just looking at a document where provided is some of the cases that have come forward under NAFTA [North American Free Trade Agreement]. And there's several items about things that affect things like protected natural areas, food quality, dumping of toxic waste. And I'm quite frankly a bit surprised. Is your understanding that there's anything in the exemptions that would firmly protect government policy related to stewardship of the land or public health and safety?

Mr. Winter: — Well in my remarks I refer to water. And I know that . . .

Ms. Crofford: — Water's in here too.

Mr. Winter: — Well and that water's clearly an exemption. Governance on-reserve, I understand, is an exemption, that those are areas that are exempt.

But if you look at the history around, you look at the language within the agreement that sets up an ongoing review, suggests to me that anything can be reviewed. There doesn't seem to be any sort of caveats on that.

And then going back into, you know, the biggest agreement that we deal with, the NAFTA agreement, that although there's exemptions there, that water is again there, that there are ongoing challenges relating to water, you know, water exports, log exports, postal services are being challenged — that there doesn't seem to be at the end of the day any ironclad protection that those things are truly exempt. And that's part of . . . I mean it's difficult to talk about the potential problem, right? You know, that something really bad is going to happen maybe. But if we go back to the other experiences around trade agreements, there is a continual pressure to open them up.

Ms. Crofford: — I'm quite frankly a bit . . . This is the first time I've seen a list like this of the kind of cases there's been

under NAFTA. But I mean there's everything from funeral homes to bottled water here. But I'm more concerned about claiming against a government for not allowing a toxic waste dump. I mean things like that are starting to get into pretty serious public policy ground.

And would you have a higher comfort level if there were some things that were in a category that was more untouchable? I think of it as some things that are too important to public policy to be subject to trade negotiation.

Mr. Winter: — Well I'd be somewhat more comforted. I mean I think that it's the broad nature of, you know, the all-encompassing nature of these agreements that, you know, my view is . . .

Ms. Crofford: — The unpredictability.

Mr. Winter: — Well it leaves it wide open as a rather . . . I'd rather see something that was quite specific that dealt with where you had an issue. If you had an issue about the colour of margarine.

Ms. Crofford: — Yes.

Mr. Winter: — Then let's deal with that. And I think that that's the process of evolving . . .

Ms. Crofford: — More of the incremental approach.

Mr. Winter: — Well because it doesn't, you know, you don't need to . . . I don't know. You don't need DDT [dichlorodiphenyltrichloroethane] to kill a fly. A fly swatter would work.

Ms. Crofford: — Yes. Yes.

Mr. Winter: — You know? And the implications of going in the bigger way, you know, you can't always anticipate the impacts of these things.

Ms. Crofford: — Yes.

Mr. Winter: — You know I specifically referred to the Alberta municipal organization as being, you know, in an area where free enterprise and less government is sort of the political culture — more so in Alberta. And even there the municipal organizations are saying, well we want a lot of these exemptions. And then you wonder what's left in NAFTA if you take out — as the northern territories did as well — if you take out any reference to municipal governance. Well I think that flies, you know, to a lot of what TILMA potentially does. It drills down into that level of governance.

Ms. Crofford: — Okay. Thank you. I think Kevin was . . .

The Deputy Chair: — Mr. Yates.

Hon. Mr. Yates: — Thank you very much, Mr. Chair. I have one question I've asked of all the presenters that have come forward and it has to do with the approach to agreements on trade in general. We see before us, with the TILMA agreement, a move towards regionalization of trade versus a national

approach or a pan-Canadian approach to dealing with issues that creates a level playing field for all Canadian provinces.

What I'm asking, I'd like your opinion on, is on issues like trade, in your opinion, is a pan-Canadian or a Canada-wide approach better than regional approaches? Because we're hearing of the possibilities of, you know, a Quebec-Ontario regional agreement as well.

Mr. Winter: — There's different levels of trade, right? I mean there are some . . . I think that there's a role for, you know, a national or international agreement. And I think that there's certainly a role within the provinces and within the regions to make, you know, to facilitate trade in a way that makes sense. But I think it should be about trade and not the broader question of governance on some of this. I can't imagine, you know, a comprehensive agreement that would drill down into the regions. There's just too much detail and too much nuance that I think can occur.

But I, you know, I mean the objective of the AIT and of this agreement in terms of managing trade is a good objective, but I don't think it gets addressed in this agreement. And I get nervous about an agreement that is, you know, done without that broader public consultation. It just makes me very nervous. And when there's apparently pressure it seems . . . At least I'm hearing anecdotally in different jurisdictions, sort of, get on the bus, right? And when you're running to get on the bus, you're not necessarily making sure that it's even got a driver, you know.

And I think that this has come too quickly and without enough consultation. So I'm quite pleased that the government here in Saskatchewan is undertaking to this. I know that that opportunity wasn't afforded in British Columbia and, you know, most of you won't know this but I come from British Columbia not too many years ago and I keep in touch with people there. And I'm hearing also in BC, although my focus was here on the Prairies, I'm hearing in BC communities there that are raising concerns. I'm hearing it in Alberta as well, which is part of my area now. You know, people haven't had that opportunity in those two areas, you know, which is strange. Doesn't work.

Hon. Mr. Yates: — Okay, thank you very much. That's all, Mr. Chair.

The Deputy Chair: — Mr. Winter, I'd like to ask a couple of questions before I go on to another member. We always look at other trade agreements, NAFTA as the example, as the large one that's in place, has been working, and after all the years we can look back and see what happened and there has been a tremendous increase in jobs and economic activity. And I know some say, well there's been job losses but . . . Yes, in some sectors, but there's been huge gains in others. And the net effect is job gains in the respective economies and increase in economic production and activity.

And the other thing about NAFTA that keeps coming up is the dispute mechanism. It's been compared to what's in TILMA. It seems to me that, first of all, doing away with trade restrictions is a good thing at the end of the day, from our experience in NAFTA. And also when we look at the AIT, without a dispute

mechanism with teeth, nothing ever gets done. It's been on the books for 12 years and it's just lumbering along. And I think from what I understand, the TILMA is a way to actually . . . well first a dispute mechanism that has teeth and it's going to enforce rules that are set out by all the jurisdictions that enter into the agreement. And if you could comment on that. I mean at the end of the day, I mean, I hope an agreement like TILMA is going to be like NAFTA where there's a net benefit to the economies of the respective jurisdictions. I take it you don't see it that way.

Mr. Winter: — You'd be right.

The Deputy Chair: — But why? But why would we look at NAFTA and then have benefits . . .

Mr. Winter: — I don't agree with the premise that it's been as rosy as what you're presenting. I look at the statistics of a quarter of a million people having lost their jobs in the manufacturing industry. That's like the city of Regina plus. Right? That's a lot of people and that's a lot of pain and suffering that's occurred by something that you're arguing was a good thing.

The congress nationally has just held in a culminating event in Ottawa on the Hill to lobby federal MPs [Member of Parliament] on the jobs crisis that's occurring in the manufacturing industry. You know, yes there's a shift into the service sector but I'm not so sure that those are the kinds of jobs that are family-supporting, good living wages. You know, I look at my own two daughters that have been struggling, you know, post-secondary and post-university service sector jobs, holding two or three of them down — quality of life of working 55 or 60 hours at lower-paying jobs than we've lost. You know, when we lost a quarter of a million jobs they were high-paying, permanent jobs and we have moved into a much more mobile economy. And I'm not so sure that has benefited quite in the same way.

As we went around the country, I was told things as we were developing the project. We're going into communities and saying, well tell us your story of what this meant in your life, right, to individuals. And I was told to stay out of Alberta because there's no job loss in Alberta. But I found out very quickly in talking to the union members there that there were plant closures. There were, you know, part of free trade that now it seems that more and more that we ship our raw materials out of the country, and that there was Petro-Canada plants in Alberta closing. I mean, that to me was a shock to hear that. You know, so I'm not so sure that . . . Well, you know that I don't agree with your premise.

I think that we need to have maybe a harder look at what we can do to maintain employment and provide a just and reasonable transition. There's, I mean it's a little bit off topic but, you know, there's 50-some-odd billion dollars that's come through payroll tax to the unemployment insurance fund that could be used to train and provide that transition that works in the communities that you represent, that you're elected from.

You know, we're seeing, I think, bad news in Prince Albert as a result of those jobs being lost, although it's been mitigated by the good social programs that we have in this country, by the

fact that tradespeople can be mobile. But it hasn't yet, I don't think it's translated down to the impact on those families when the husband's away in Fort McMurray for, you know, long periods of time. But that's not just Prince Albert, it's, you know, what's happened in Weyburn with job losses where companies have moved south and we've lost it there.

I think that those are real people and that it hasn't been all good. You know, we haven't done a very good job particularly in the transition. That's the part . . . We have the resources, we have the money, but we lack in political will.

The Deputy Chair: — Well I guess on the one plane I don't necessarily disagree. Yes, there's job losses. There's going to be job losses in the economy. I mean, with globalization and the way the economies are always changing in the world, sure there's going to be certain sectors that you can look to that there's going to be job losses. But there's been huge increases in employment in other sectors in the Canadian economy directly related to NAFTA. And I'm not quite sure what TILMA is intending to do is going to, why there's that fear of that net effect of why they think there's going to be those types of losses.

I mean, in talking to various groups this week and next week and groups outside the committee hearings, TILMA seems to be a relatively modest step, quite frankly, in trade liberalization and it's being internal it seems, I think most jurisdictions — foreign countries and foreign businesses — would find it odd that there isn't open internal trade within a country. And I think this is just something that is long overdue.

And when you talk about P.A. [Prince Albert], well people going to Fort McMurray to work, that's exactly what needs to happen. That's what we want to encourage. Wherever there's the economic activity we want to be able, Saskatchewan people want to be able to be part of that. But I'll leave it at that. And if you want to comment on that, go ahead.

Mr. Winter: — Just, you know, in terms of that, I mean I have yet to be persuaded that there's a need to, that there's a problem. I mean people are moving and they are mobile. It's the form of that transition that I think we pay a price for in our communities. But in that case, in those cases people are moving.

And so I'm still asking for the list. I heard the member to my right here asking for that list. Where is it? I haven't seen it. I haven't seen it. And I think that there's an obligation to provide. What are the barriers and where do they actually exist that we need . . . Otherwise we're changing for change sake on more of an ideological level.

And I, you know, you and I aren't going to agree on where we see the priorities for sure. I have a deep concern for what happens in the communities. I mean it's all well and good that people can flip around from one part of the country to another, but what is the cost? Is that something that is considered a good thing? I don't think so, you know. I mean not only do we have mobility in the country but we have foreign workers moving in. You know, it's highly mobile. There's no question about mobility. You know, people are doing that.

The Deputy Chair: — Thank you. That's a fair question about the list of restrictions. And we're going to be meeting with the Alberta and BC officials to talk about, you know, talk about TILMA, and certainly we'll be asking those questions. And there's other groups that will be making presentations this week and next week and those questions will be asked of them as well. And there will be a list. Thank you. I'd like to move on to Mr. Hart, please.

Mr. Hart: — Thank you, Mr. Chair. Good morning, Mr. Winter, and thank you for being here today to present your concerns. There's one or two questions that I would have. I guess, you know, I heard you talk about NAFTA and, you know, comparing the TILMA agreement to NAFTA and so on.

I'm not sure whether we're not, if we're comparing NAFTA to TILMA, whether we're not comparing apples to oranges whereby the TILMA agreement as it stands now is an agreement between two Canadian provinces — British Columbia and Alberta — and Saskatchewan is having a look at whether we want to become part of that. You know, we're part of the same country and there's many of the same regulations that apply across the piece and so on which I don't think we can say is the same for the countries involved in the NAFTA agreement.

And you know, I heard you talk about job losses and yes, you know, I too admit that, you know, there certainly has been job losses. I guess I haven't seen the evidence as to whether or not those job losses would have occurred or at least some of them would have occurred regardless of whether these trade agreements were in place or not.

I mean, there's certain rationalization. We see the growing emergence of China as an economic powerhouse and with their lower costs of production and those sorts of things, I would think that some of the losses that we've seen, particularly in manufacturing and labour-intensive jobs, I think we will see in those losses, you know, regardless of the trade agreements. In fact, China isn't part of NAFTA.

And you know, you hear some of the complaints from the US — you know, very similar to what we're hearing from Ontario and Quebec currently — you know, that we're not competitive. And we need to deal with those things and we need to have proper public policy to deal with these changing times.

But the question that I would have that piqued my interest in your presentation is on the last page when you talked about, and I'll just quote: "TILMA restrictions undercut efforts to maintain or strengthen Canadian apprenticeship, training and inter-provincial certification requirements." And I'd like you to explain that.

I guess my question would be, is it your opinion that Alberta and BC have lower standards than what Saskatchewan has? How do we compare? I have to admit I am not totally knowledgeable in those areas and I would certainly rely on your opinion and then I would like you to explain that particular statement that you made.

Mr. Winter: — Yes. I mean, the comment comes from discussions I've had with building trades representatives in a

number of areas. And there have been efforts, particularly notable I know in British Columbia out of the manufacturing sector, to challenge the idea of a Red Seal qualification which is, you know, transmittable anywhere across the country. I would describe it as almost an indenturing process of certifying somebody to do a particular task for a particular company. And there was enormous pressure to do that.

It's that reduction to the lowest denominator that is my concern. When you move to deregulate, what are you deregulating to? The history is not to a higher standard, it's to a lower standard. And you know, I also appreciate that current economics, tradespeople are in very short supply and that there seems to be a pulling back from that position about the Red Seal versus the, sort of, locally qualified person.

So it's not just in the qualification area. But you know, I probably should have included a few more sentences. I was trying to keep it under four hours, you know, in terms of the subject. But it's health and safety. It's the kind of regulation on the health and safety. And there's been recently an example, I think, in the tar sands where there were two people killed that, two people that went into . . . They were foreign workers. There may have been language issues. There may have been lack of understanding in terms of our own standards. But there were workers, Canadian workers, that wouldn't go into that project at that time because it was unsafe. And not only did the tank fall that killed the two people; there was an additional tank collapsed the next day.

You know, I mention that in the context of the need for why we need standards. We have lots of areas, I think, of common public good that municipalities deal with. And I see largely this applying at the municipal level, issues like water purity. You know, who sets the standards and the requirements there?

Employment, you know, local hire. I mean I would think, you know . . . Again I'm looking at people that are all elected by communities, you know, that often a local-hire policy, procurement policy allows you to buy locally, supports the communities that you come from. And I think that that's a part that I think isn't really addressed in the overall impact of TILMA.

Mr. Hart: — Thank you for that. I must say that I certainly have some concerns in that whole area of local procurement and local hire, and I need to hear from the officials and people who have drafted these agreements as to, you know, exactly what those sections of the agreement mean and, you know, why they were drafted in such a fashion and so on too.

I guess the question that . . . Your reference to an accident in Alberta in the tar sands dealing with foreign workers, you know, I should state that, you know, I feel that foreign workers should be treated no different than our own, you know — our provincial or Canadian workers. And I guess the question and you know, I'm not familiar with, I'd heard about the case but just, you know, in the news media and that sort of stuff. I guess the question that comes to mind is, if this situation was in Saskatchewan, do we have occupational health and safety regulations that are stronger or different in Alberta that would have prevented the case? Or was that accident just one of those unfortunate things that we don't like to see but unfortunately

happen once in a while, you know, on large construction jobs and those sorts of things?

You know, I think there's a conscious effort I know in Saskatchewan — and I would assume in the other two provinces — to keep risks at a minimum. And I'm just wondering what's different in Saskatchewan that, in your view, may have prevented that very unfortunate incident in Alberta.

Mr. Winter: — Overall I think Saskatchewan has a good record on health and safety, and I refer to the mine incident where all 76 miners came out of the mine because of regulations that are here in Saskatchewan. And we're noted, you know, internationally as having made a difference in that. I don't want to say the wrong name. Is it Esterhazy?

A Member: — Esterhazy.

Mr. Winter: — Yes. So, you know, in a general way. But often health and safety inspections, worker compensation issues, are seen as barriers to businesses going ahead. It's certainly been, you know . . . Governments have lessened inspections and investigations in different areas and I think that that's an issue.

In the case in Fort McMurray, I mean yes, the overall provincial and, you know, other regulations apply. But the tendency is that when people don't understand the language that there's not a concerted effort made to orientate, to make aware. People that are coming into the country under permits, we're hearing increasingly horror stories of, you know, I use the term indentured. You know, somebody's holding their passport, somebody's . . . If the company that they are indentured to is unhappy with something that they're doing, they're gone, you know? That to pretend that they have the same rights as Canadian citizens is a misnomer.

They're often coming in and out of the country. They're flying into dedicated airports and they're going into camps that there's no regular inspections going on. And I'm told, I mean I don't have all of the details, but I'm told that by some of the trade unions that are on that site up in that area, that they had workers, they had people that wouldn't go in on the condition that those tanks were on. So they brought in a couple of Chinese workers.

The Deputy Chair: — Time is running out quickly. We have one more. Mr. Iwanchuk would like to ask a few questions.

Mr. Iwanchuk: — Yes, just a comment. I think we had the building trades talking about the Red Seal and British Columbia directly on that, that they were not, British Columbia was not using that. So that was yesterday's evidence, some of the evidence that was there.

And thank you very much for making the presentations. One of the things we haven't, we've touched on but specifically kind of I was interested in, you made the comments on the government trying to introduce laws or regulations. And then further on you pointed out, amongst other things, ethical purchasing preferences. And I raise this because I think it's . . . I'm not certain, but there have been comments made that perhaps, like how could this be anti-democratic? Or how could this impact on democracy? And isn't that going a bit over the top in terms of

saying that?

But I would think maybe you could speak to that. But I guess what I'm interested in is a bit more information around that because I think we've always struggled with having boards and local input on this. And it is sort of mentioned, yet . . . And I'll be interested to see when we meet with the Alberta and BC folks to see how others are dealing with this.

So I was very interested also in the municipalities and that article. So I thank you very much for that, for reporting that here.

But just sort of maybe a more direct on the ethical purchasing preferences and maybe why you put that in or what you saw that meant.

Mr. Winter: — Yes. I mean for me it's a specific reference to a serious amount of work that went in, in the city of Calgary through the labour community, to establish ethical purchasing at the city level for uniforms and whatever other sort of articles that they'd be purchasing, and it was about a four-year process.

And the way I see this TILMA agreement is that, you know, suddenly you have a barrier, right? If you're an American company, you know, and there was a local purchase, you wouldn't be able to . . . you know, local producers would have priority, and I think that that's a good thing. And that's really what the comment was in there is that where we have built and persuaded the local government that this was a good thing to do, I just see it as suddenly gone.

The same would apply to a \$10 minimum wage — that if somebody else is paying \$8 an hour, I guess the \$10-an-hour living wage is a barrier, you know.

Mr. Iwanchuk: — Maybe just a . . . I'm not sure where things like buses in Saskatoon or windmills fall under this as well because each are sort of attempts to deal with environment and . . .

Mr. Winter: — Yes. It's all governments in all ways, is the way I read this agreement. It's just way too encompassing. And it doesn't allow us to make decisions as they did in the city of Toronto to have buses built in Thunder Bay that kept Ontario workers working. They could have had them built in Korea. They could have had them built in Germany, but they made that choice. And that's the kind of . . . I would think under TILMA that maybe the city of Toronto would be sued because some other company — and \$5 million is a lot of change for anybody — because somebody else was prohibited. And you know, it's the concept when you apply it out there. So, thank you.

Mr. Iwanchuk: — Thank you very much.

The Deputy Chair: — We need to move on. Thank you very much, Mr. Winter, and I appreciate your taking the time to appear in front of the committee.

Presenter: Saskatchewan Federation of Labour

The Deputy Chair: — Our next presenter will be the ad hoc trade committee from the Saskatchewan Federation of Labour.

Thank you for being here today. Please introduce yourself and go ahead with your presentation.

Mr. Schoenfeldt: — Good morning. My name is Gary Schoenfeldt, and I'm the Chair of the trade committee for the Saskatchewan Federation of Labour. First of all I'd like to take the opportunity to thank the trade committee, or sorry, the trade committee would like to take the opportunity to thank the government and the committee, the standing committee for holding these public hearings.

As you may know, the governments of Alberta and British Columbia signed what's been called a very far-reaching trade, investment, and labour mobility agreement between those two provinces without any sort of widespread public consultation that one might expect prior to accession to such an agreement. And that apparent lack of consideration for the views of the public remains the most perplexing and alarming signal that we've seen coming out of Edmonton and Victoria since those two legislatures began to encourage Saskatchewan and other provinces to join them in the agreement known by its acronym as TILMA.

A meeting sponsored by the C.D. Howe Institute in Regina on April 20, 2007 promoting TILMA, with the help of Alberta and BC government officials, underlined those concerns when a request was made for the media to not report on the meeting. Interestingly enough there were members of the government and members of the official opposition present at that meeting as well so I don't know what this gag order was all about, what the secrecy was all about. But in any case we are certainly pleased that this government is not following in the footsteps of those two media-shy or two media-shy and non-consultative western neighbours.

It's the hope of the committee that I represent that the Saskatchewan government will tread with extreme caution as it traverses what we see as a potential minefield in its review of the implications of TILMA on our traditional democratic way of life in Saskatchewan.

Unless there be any doubt, I have to state right from the beginning that the trade committee is not opposed to labour mobility, to internal trade, or to investment. What we're opposed to is the Trade, Investment and Labour Mobility Agreement with its NAFTA-style enforcement mechanisms.

So what are the possible legislative impacts of TILMA on workers and in particular how will TILMA affect labour rates? The trade committee is concerned that TILMA will provide corporations with the ability to conduct attacks on workers' rights that have been up to now protected by The Trade Union Act, The Occupational Health and Safety Act, The Labour Standards Act, human rights codes and other legislations. The Trade Union Act is not listed in the exceptions in part V, exceptions to the TILMA between Alberta and British Columbia. Saskatchewan union members currently enjoy greater protections under the Saskatchewan trade union Act than what we feel are enjoyed by our sisters and brothers in other provinces.

If an Alberta company objected to Saskatchewan's labour laws on the grounds that they're, you know, more onerous or they're

costly, too costly than what's found in other jurisdictions, I guess the question is how would TILMA affect Saskatchewan's ability to protect the rights of unionized workers? There are any number of employees who would jump at the chance to force Saskatchewan to scrap its modestly progressive labour laws in favour of the US style legislation that is becoming popular in jurisdictions where workers' rights are seen as a hindrance to profit. We think that such an attack would be a certainty under TILMA.

Part V of TILMA grants exceptions to some legislation such as labour standards, occupational health and safety regulations, human rights codes, pension regulations, privacy laws and so on, but those exceptions appear to be temporary since TILMA prescribes that they be subject to annual review in processes that are to be conducted according to TILMA with a view to reducing their scope. So if exceptions such as human rights and labour laws are to be treated as something that should be diminished over time, it's obvious that there's no respect for those contained in TILMA. And that lack of respect, we submit, would follow its logical course if we signed TILMA, and eventually it would be extended to workers themselves.

The great efforts of generations of labouring people would be targeted by those with a financial interest in seeing that work destroyed. Hard won democratic rights that all workers enjoy could become the first casualty of the new trade initiatives. Labour laws that are seen as a barrier to trade could conceivably be weakened by the scope-reducing aspect of the annual review process prescribed by TILMA or by TILMA's dispute resolutions mechanisms. The motive for such an attack is not hard to imagine in a system in which government washes its hands of social responsibility and by means of a trade agreement allows investors' rights and market values to supersede human rights and social policy.

Recently business leaders and politicians have joined editorialists and talk show demagogues in demanding that Saskatchewan sign TILMA immediately. But it's not even known to the present government if these exceptions would be permanent or if they would be capped. And I'm referring to some articles that appeared in the newspapers recently, and as well there's been some correspondence between Larry Hubich and Minister Van Mulligen in which that seemed to be apparent. And I'll say more about that later.

Anyway we're concerned that a chill would descend upon any ideas of introducing new legislation favourable to workers or society in general, the result of TILMA's requirements that all measures must meet the agreement standards instead of the will of the people.

If amendments to existing legislation were contemplated, it seems clear from reading TILMA — the TILMA document signed by Alberta and BC — that such amendments would have to be filtered through the provisions of TILMA and that the better-than provisions in any regional legislation would have to be watered down and driven to the lowest common denominator, nullifying democratically enacted regulations.

Labour mobility. TILMA's foundation seems to rest on several myths, not the least of which is the so-called problem of labour mobility. Canadian workers are already very mobile. In fact

Saskatchewan workers are so mobile that the government has taken preventative measures to stop managers from leaving and to attract and retain nurses.

The Saskatchewan government recently held a young workers conference this year to address the concerns of youth, including trying to find out the reasons that they would either leave or stay in Saskatchewan. Governments at all levels have made recent attempts to lure expatriate workers back to Saskatchewan and have encouraged workers, especially young workers, to stay here.

Lawyer Steven Shrybman did a February 2007 study for the Ontario Federation of Labour in which he points out that the Canadian Institute of Chartered Accountants is but one professional body that stands opposed to TILMA being allowed to regulate professional standards. That study also points out that under the existing Agreement on Internal Trade, Saskatchewan is already dealing with labour mobility. And if in fact there are serious and unjustified impediments to labour mobility in Canada, there's little evidence to suggest that the problem is widespread.

Part VI of TILMA states that regulations already exist for labour mobility except for a number of listed professions. The SFL's [Saskatchewan Federation of Labour] trade committee can't understand why all professions can't be regulated without TILMA. There are many professions that adhere to uniform standards of the Red Seal apprenticeship certification program, and there are also numerous professional organizations in Canada that do similar types of thing.

So why, we ask, do we need a new and all-encompassing regulatory regime when such structures already exist? And why would we as citizens allow such sweeping regulatory changes to occur by allowing TILMA to become a blank cheque for what we see as a massive deregulation initiative?

We're concerned that under TILMA, in the rush to harmonize professional designations, training will focus on fulfilling the lowest common denominator. Saskatchewan residents may well find themselves being shortchanged by poor quality work as the lure of cheap labour eliminates skilled trades and professions. Saskatchewan workers are already mobile. We see no problem that needs to be addressed by TILMA. We say proper training, apprenticeship strengthening, and higher education, not deregulation, is the answer because there is no emergency.

And will public services remain viable under TILMA? Saskatchewan residents are very protective of their Crown corporations. This was illustrated in the last provincial election when some politicians, to their undoing, suggested that privatization may have been a possibility that the voters would like to entertain. The public however voted to retain Crown corporations to protect public services. Under TILMA it doesn't look like we're going to have to worry about those kinds of issues ever coming up at election time again since the decisions will be subject to trade rules, not to the will of the people.

TILMA says that there shall be no obstacles to trade or investment. One wonders how long publicly owned automobile insurance would survive under TILMA after private insurance companies demand the right to the same treatment as they enjoy

in provinces where the public interest is subservient to the profit imperative.

Alberta and British Columbia have agreed in TILMA to bring Crowns into the agreement by 2009. We see that as a repudiation of public ownership by the two provinces. If the comments of government representatives from Alberta and BC at the recent C.D. Howe sponsored meeting in Regina earlier this year are any indication, unrestrained trade is, at least in the minds of TILMA's promoters, synonymous with the public interest.

But we believe that TILMA is a way for moneyed interests from outside Saskatchewan to remove social policy legislation that some see as a barrier to trade and investment, and deny our society of the benefits that publicly owned enterprises endow upon their owners — the people of Saskatchewan — through infrastructure development, low-cost services, and the good-paying jobs that we enjoy here.

Saskatchewan's Crowns offer value that is embedded in our history, in our politics and culture. Unparalleled for their contribution to the quality of life, we wonder what their future would be like under a market-driven regime like TILMA. Perhaps we need look no further than the North American Free Trade Agreement, NAFTA, chapter 11 particularly, which also calls for no less favourable treatment to investors of another party — language that encourages what is known as investor-state litigation that the Romanow Commission has been told threatens Canadian medicare. We question why we would want to impose upon ourselves such a litigious system of deciding what is and what is not in the public interest.

In terms of local procurement, will TILMA allow governments and boards and other public institutions to support local employment and local business? The Saskatchewan government along with many municipal governments, school boards, health authorities, and publicly administered bodies give preference to local businesses. Local economic development and a local tax base provide local investors with incentives to expand within the communities in which they live and investors with incentives to expand within — I'm sorry, I'm reading things twice here; I'm sorry — and ensure that local people will have access to stable sources of employment.

To that end, procurement policies exist which are designed to keep local government institutions from spending too much of their constituents' tax dollars on goods and services that result in wealth leaving this region. TILMA will not allow this kind of protectionism unless the parties are willing to pay repeated penalties that could reach as high as \$5 million in each instance.

TILMA is all about capital mobility and the freedom to exploit markets and people without any responsibility to the communities in which they are located. If an out-of-province business bid lower on a Saskatchewan government contract as is prescribed by TILMA, would it have to hire locally? What would happen if it brought in workers from a jurisdiction with lower minimum wages? What if those workers decided to join a local union? Would local labour legislation be considered a barrier to trade? Analyst Ellen Gould's work indicates that TILMA's rules on procurement would apply despite a preference by a party.

In other words, local procurement and hiring preferences would be targeted under TILMA regardless of the will of the local citizens or those whom they had elected. TILMA seems designed to strip citizens and governments of their right to regulate in the public interest. A similar law in Oregon just dealing with land use alone has resulted in over 6,000 claims worth \$6 billion.

TILMA is an agreement that will use the language of trade and investment to usher in an era of deregulation that would be impossible otherwise due to the constraints of civil society and the institutions of democracy. It's part of an international attempt to harmonize every area of public policy across the Americas.

In correspondence between December 2006 and the beginning of 2007 between Saskatchewan Federation of Labour president, Larry Hubich, and Minister of Government Relations, the Hon. Harry Van Mulligen, President Hubich asked Minister Van Mulligen about this, and the minister's reply indicated that it was not entirely clear whether a preference for local hiring would likely be overruled under a TILMA challenge. This is really troubling to us, because it's a very important point that Saskatchewan workers and communities, government bodies, and related organizations and boards will want to know about prior to the signing of any such agreement.

Now just yesterday a Regina city councillor sent a letter to his constituents, one of whom is me, advising of a local hiring policy bylaw that he had introduced. It's doubtful whether such a measure would be able to stand up to a TILMA challenge.

As one Saskatchewan resident, University of Regina sessional lecturer and CCPA [Canadian Centre for Policy Alternatives] researcher Loretta Gerlach put it, "There must be a firm mandate from constituents," before any such sweeping agreement is made on behalf of the people of the province. The SFL trade committee concurs with this assessment and would venture to add that such a far-reaching decision affecting people's democratic institutions and the ability to govern in the interests of the people must only be done in complete agreement with the will of a majority of the citizenry.

Now we come to the part about the similarities to the North American Free Trade Agreement or NAFTA and its notorious chapter 11. And as I stated previously under the heading of public services, the similarities in TILMA to the investor-state provisions of NAFTA may be of concern to Saskatchewan residents including former Premier Romanow, who commissioned a study of NAFTA chapter 11, which revealed its potential to weaken Canadian medicare.

Why, we ask, should corporations or individuals, especially those from outside Saskatchewan, be allowed to claim damages for their definition of lost profits, extra costs, or unjustifiable regulations? Saskatchewan government institutions ought to be responsible for enacting regulations for the betterment of Saskatchewan residents. Let us not create the likes of another NAFTA in which Canada has been forced to respond to foreign litigation 15 times up to March 1, 2007.

And of those cases, we had six challenges to Canadian environmental protection regulations, in which Canada lost two

of them and had to pay damages. We had three involving our natural resources. Two challenges to our postal service are under way right now. One cultural policy challenge has been filed. An agricultural challenge and two other challenges have been filed. These cases resulted in \$27 million being awarded payable by the taxes of Canadians. Under NAFTA, Mexican taxpayers paid out 18.2 million in damages in 17 cases in which they were named as a respondent. But meanwhile the United States of America had 14 cases filed against it. The total cost of damages assessed? Zero.

As we believe will occur with TILMA, these lopsided decisions affecting governance of nations were heard in NAFTA tribunals — not open to the public. This in our view is a most anti-democratic way of removing regulations that have been imposed, not arbitrarily, but developed over many years, the result of democratic, parliamentary, and lawful processes. We believe that the secretive tribunals are not the way to deal with major policy-making nor would it be desirable if our tax dollars were spent to defend what we already have under our present form of governance.

And it's important to note that TILMA may give firms based in low-tax jurisdictions, such as Alberta, an added advantage — I guess they'd call that the Alberta advantage — over what they already enjoy when they're competing with Saskatchewan firms. Under TILMA the already considerable downward pressures on our corporate and personal taxes will increase irresistibly much like what has happened under NAFTA between Canada and the USA [United States of America]. While now this might be the true goal of proponents of TILMA, some Saskatchewan businesses may not survive such a reorganization of the economy.

Just as important to Saskatchewan workers is the economic impact of TILMA on our government budgeting. With its NAFTA-style dispute resolution mechanisms and its downward ratcheting effect on regulations, Saskatchewan is sure to find itself on the receiving end of litigation with the inevitable demands for damages. Why should Saskatchewan workers want to have their taxes diverted away from areas where they want them to be applied and have them handed over to outside interests as damages just because some corporate entity doesn't like the way we run our affairs? And how will the government be able to absorb the added budgetary pressures of having to set aside millions of our dollars for potential settlements under TILMA? It's our opinion that the money will have to be taken from somewhere, thereby adding to yet another dimension to the deregulatory pressures that seem to be the defining feature of TILMA.

If any government, board, or municipal council hopes to stay in power for any length of time, it must give the people something of value. And if that value to the people is seen as a barrier to trade, investment, or labour mobility, the only way that it will be able to be maintained under TILMA is if the party governing the jurisdiction where the regulation exists is willing to pay possible damages. This is unacceptable and yet there may be no way around it under TILMA.

No wonder that the Canadian Union of Public Employees calls TILMA a deregulation agenda disguised as a trade agreement. It will allow corporations to veto measures taken by provinces and

by local governments in the public interest. We see TILMA as a massive attack on democracy.

After months of study we've been unable to find any rational justification for TILMA. It represents to us and to others a reckless betrayal of the public trust and the public interest. The fact is there are very few barriers to interprovincial trade, investment, or labour mobility.

The trade committee has been studying this for many months and has not been able to find any substantial list of such barriers. All we found was a few tiresome anecdotes about this great scandal of uncoloured margarine in Quebec and the ridiculous — and I might say, unproven — assertion that truckers cannot haul bales of hay across provincial borders without stopping and restacking their loads. And when Erin Weir asked officials in BC and Alberta about the hay stacking issue, nobody had heard about it. One official suggested that maybe they're restacking the Saskatchewan trucks so they can get through the mountain tunnels that are too low.

And even beer, that quintessential Canadian elixir, can now be shipped across borders with little restriction. Most brands are found in retail outlets from coast to coast now that regulations have been scrapped requiring breweries to be located in the province where the beer is marketed. There are no significant barriers to interprovincial trade for beer and TILMA was not intended to eliminate the beer barrier, so why is it needed for anything else?

There exist no unreasonable barriers to trade, investment, or to labour mobility between the provinces. Canada is simply a free country. The idea that government can be replaced by a so-called treaty is, to our minds, the grossest abuse of and distortion of democracy. Accession to TILMA is not necessary.

As citizens of Saskatchewan, we reserve the right through the election of responsible government to do the kinds of things that TILMA's proponents hope to subvert to the service of their own narrow, market-driven, profit seeking interests. And in the most simple of terms, the best that we can say about TILMA is this: TILMA is bad; TILMA is a massive attack on democracy. Thank you.

The Deputy Chair: — Thank you for your presentation. I'll open it up to questions from members. Mr. Chisholm.

Mr. Chisholm: — Thank you. In your initial remarks you indicate that the SFL trade committee is not against interprovincial trade, investment and labour mobility. There's a fair amount of evidence to indicate that in BC and in Alberta this agreement will increase interprovincial trade; it will increase investment, and it definitely will provide more labour mobility within the jurisdictions.

Do you have any comments on some of the numbers that have been produced indicating the effect in BC of . . . the Conference Board of Canada came up with a figure of 78,000 additional jobs would be created as a result of the implementation once it's completed. And I'd just like your comments on that.

Mr. Schoenfeldt: — Well the Conference Board of Canada report that came out, as far as we're concerned, is flawed. They

surveyed — I think it was — 14 companies and government departments and only got something like four responses. Two of those responses were from outfits that are supposedly exempt from TILMA anyway, and there's a number of, almost all the major studies that we've seen have something . . . they don't have anything positive to say about that report. Statisticians don't agree with it, with the methodology that was taken. I mean, I'm not a statistician, and I'm not an economist, but that's what I've heard is that that report is completely flawed and has been well established as being discredited.

Mr. Chisholm: — Okay. So that report indicates from their research and albeit perhaps some economists don't agree with the procedures, but do you have any feeling for how many jobs the TILMA could create in Alberta and BC? If you don't agree with 78,000 jobs, do you have any evidence from your research as to the job creation potential of this agreement?

Mr. Schoenfeldt: — I don't know how many jobs TILMA could create, no. But from my understanding of the agreement, reading the agreement, I don't think it's a job creation agreement anyway. I don't think that's the purpose of it.

Mr. Chisholm: — That would be one of the effects of it. Perhaps it wasn't the sole purpose.

Mr. Schoenfeldt: — Well I mean, you might be able to create some jobs in Alberta if you keep pumping oil out of the tar sands. I'm not sure how you're going to be able to attribute it to TILMA. There's all sorts of different ways that you can create jobs in a economy. I guess you'll have to wait and see. I mean, sign the thing and find out — right.

But what we're suggesting is that it's too dangerous to sign because it's an attack on democracy. It takes away, it takes away the work that you folks are supposed to be doing. You're the elected government, and you're supposed to be doing the stuff that you want to outsource to TILMA. That's what it looks like to us, you know.

I'm not a trade lawyer. I'm just here giving a working-class analysis of this thing, and this is what I see as a working-class person. And the committee that I'm working with, we're all working-class people. This is the way we see it. We see that the governments at all levels are supposed to be dealing with these kinds of issues. We're not happy to have trade lawyers dealing with them. I mean, why even have a legislature? You won't have anything to discuss because all the rules are going to be written by a bunch of lawyers sitting around in some kind of, in a backroom some place in one of these closed door tribunals.

This is a really wide, a very wide all-encompassing agreement. And you know, when they studied NAFTA, it took years of study and consultation for NAFTA. This thing is going to be looked at for a month or something like this. There's a lot to this thing. I just don't believe and the people that I represent don't believe that we ought to just jump in and sign something just because everybody else is doing it. You know when I was a kid, my mom used to tell me don't go jumping off a bridge because everybody else is doing it. You're going to land in the water.

Mr. Chisholm: — Do you see this agreement as having an

impact on jobs in Saskatchewan?

Mr. Schoenfeldt: — Sure. There's several ways that it could impact jobs in Saskatchewan as far as we see. We could see the importation of foreign workers. We could see an increase of our Saskatchewan young people leaving for Alberta. If for instance Alberta decides that, you know, you don't need papers to be a carpenter, there are all kinds of young lads who'll head for Alberta — get good pay and jobs as a carpenter, don't even need papers.

From what we understand, British Columbia doesn't pay hardly any attention at all to Red Seal certification anymore, you know, in all sorts of trades.

So yes, we could . . . all the work that the government and the opposition and parents of kids in this province are doing trying to keep the young folks here could be all undone by, you know, somebody having the opportunity to go and work someplace where the standards are lower. They don't need to worry about papers.

So yes it could have an impact on us. We could be exchanging our kids for, you know, maybe foreign workers or something. I don't know if that's a great thing for the province.

The Deputy Chair: — Thank you. Just one . . . Could you supply the committee with any research or analysis of the impact on job creation, positive or negative, and economic growth in the province?

Mr. Schoenfeldt: — Not today I couldn't. But I could find something.

The Deputy Chair: — I'd appreciate that. Mr. Hart.

Mr. Hart: — Thank you, Mr. Chair. Good morning and thanks for being here and making your presentation and raising your concerns. I noted in your presentation you quite often refer to the lowest common denominator, and I'd like you to define that, keeping in mind that the TILMA agreement is an agreement between two Canadian provinces — British Columbia and Alberta — and Saskatchewan's looking at becoming part of it, and that's the purposes of these hearings.

Are you suggesting that Alberta and BC, on many levels, have much lower standards and a much lower standard of living and those sorts of things than what Saskatchewan has? Could you define what you mean by lowest common denominator and who, in your opinion, is that lowest common denominator?

Mr. Schoenfeldt: — Well I wasn't talking about standard of living. I think that it's fairly obvious if we had the oil and gas and so on that Alberta had and the mountains that attract tourists, we'd have a higher standard of living here in Saskatchewan as well.

What I was talking about were things like The Trade Union Act. Here we have a superior system of organizing trade unions than they have in other provinces, and I wouldn't like to see us have to lose what we've worked for over the many decades just because now we have to go by what they do in Alberta or BC. It just doesn't make any sense.

Mr. Hart: — Do you suggest that Alberta and BC have lower standards as far as occupational health and safety?

Mr. Schoenfeldt: — I'm not aware of that. But if that's the case, why would we want to go to that? That's my, that's my thing. And you know what? For them the same way. If our standards are lower, I don't know why anybody in Alberta would want to have their standards lowered to our standards. It just doesn't make any sense, but there's nothing in TILMA says we're going to a higher standard. And if we look at the pattern, you know, of these types of agreements all over the world, it's always lowest common denominator. It's happening in the European Union; it's happening over there.

Mr. Hart: — Well I guess, you know, I agree with you. Like why would Alberta and BC want to go to lower standards if Saskatchewan has lower standards? I don't think that's the purpose or the intent. And I believe that's a responsibility of the two jurisdictions. And if Saskatchewan becomes a partner to this agreement, the responsibility of the province of Saskatchewan to make sure that our occupational health and safety regulations are such that protect workers. Currently Saskatchewan has the second-highest workplace injury record in Canada, much higher than Alberta and BC. That would . . . Just looking at it you know very quickly, using that number, one would draw the conclusion that in fact they have stronger or more effective programs in those two provinces than what we do in Saskatchewan. And I'm sure it would be of concern to those two provinces if they had to drop their standards or redesign their programs that are working to mirror Saskatchewan's.

But I would suggest that if Saskatchewan becomes a partner to this agreement and if those, in fact those areas do fall under the agreement — which I'm not familiar enough with the agreement to suggest that they do — that we would need to improve the programs and the regulations in Saskatchewan to reflect the experiences in Alberta and British Columbia.

You also mentioned that TILMA, you see TILMA as an attack on human rights and labour laws and I guess the question I would have is: do you perceive British Columbia and Alberta as jurisdictions that are attacking human rights?

Mr. Schoenfeldt: — I'm not sure if I said that, that I see them as an attack on . . .

Mr. Hart: — You said if exceptions such as human rights and labour laws are treated as something that can be dismissed over time . . .

Mr. Schoenfeldt: — Oh okay.

Mr. Hart: — And you know . . . And that raised the question in my mind, do you see our two neighbouring provinces moving in that direction?

Mr. Schoenfeldt: — What I was talking about was the exceptions and the fact that in TILMA it says that exceptions are to be reviewed every year with a view to reducing their scope. And so that suggests to me that anything that could be deemed to be . . . or anything that's listed under the exceptions — which is occupational health and safety and all these other

things — are already seen as some sort of a problem that we have to meet every year to try to reduce their scope. Why do we want to do that?

Mr. Hart: — I guess the point and the question that I had for you, do you see Alberta and British Columbia as jurisdictions that are actively working to reduce the scope of occupational health and safety and attack on human rights? Personally I don't see that.

I mean we are talking about the possibility of signing an agreement with two of our neighbouring provinces. We're not talking about signing an agreement with a number of Third World countries who have much lower standards and us having to lower our standards to those much lower standards that we see unfortunately in many Third World countries of this world. We're talking about an agreement that an analysis such as the Conference Board of Canada, which I know you say you feel there may be some flaws in it, but nonetheless they are talking about increased opportunities for working men and women in our province. And I would think that, if their analysis is sound, that would be something that your organization would view favourably as many of us do.

Mr. Schoenfeldt: — Well we don't agree with that agreement or with that . . . I should say we don't agree with that analysis. We think that that analysis is very superficial, based on some four respondents. I don't know. For some reason or another you can go and talk to four different respondents and come to the conclusion that hundreds of thousands of jobs are going to be created. I'm not sure how that's . . .

The Deputy Chair: — Very quickly, Mr. Hart.

Mr. Hart: — I mean I'm not a trade expert, and I very briefly looked at the Conference Board of Canada, and I'm not going to defend their work. I will let them defend their own work.

But I guess the question I would have for you, has the federation undertaken or do you have access to an analysis that would show the opposite of the Conference Board or at least do you have any statistical, empirical data that would show that we would in fact see a net decrease in career opportunities for Saskatchewan people as a result of signing TILMA?

Mr. Schoenfeldt: — We have information on that, and I can make that information available to you. But also I think that from our review of TILMA, the fact that Alberta and BC signed it, I think that is evidence that they don't have any respect for the occupational health and safety legislation or the human rights legislation that's in force. Otherwise why would they list them in exceptions when those exceptions are supposed to be reviewed annually with a view to reducing their scope?

The Deputy Chair: — Mr. Yates.

Hon. Mr. Yates: — Thank you very much. In the interests of time . . . We have to move on to further presenters. I have just one question. It would seem that there's an underlying premise and concern that you have throughout your document, and that is that through the process of allowing an unelected, third party dispute mechanism to decide what is in essence today decided by elected representatives of the government, that we're

abdicated our responsibilities in moving down this road and allowing an unelected third party to determine the regulatory framework of the province as we move forward. Is that . . .

Mr. Schoenfeldt: — That's an accurate assessment of what we believe. We believe that we elect you people to do this type of thing — to look after our interests and to make legislation, modify legislation, enact regulations, enforce them, and all the rest of it. And we don't see any reason why some unaccountable tribunal can question those things and make changes to them or . . . Well you know, they may not be able to make changes to them but to assess damages to the government for having done something that after all they were elected to do in the first place.

You know, I don't believe that TILMA can change any of the regulations, but TILMA can sure as heck punish people for making regulations that they deem to be barriers to trade. And I mean the tribunals can do that. And those tribunals, where do they come from? Do they have any arbitral jurisprudence to fall back on? No because they haven't even been invented yet. And so they're going to just go with whatever they figure is a good thing to do and to heck with what governments have done so far and the reasons why they've done it.

We don't have regulations in place just for the fun of it. We have regulations in place for many, many, many very good reasons and we don't need some people sitting in a backroom to go over that and say — you know what? — that regulation is a problem; that government should pay \$5 million for that thing. You know we just don't see that that's right. That's not a good use of our tax dollars. We don't elect people into government so that they can go and outsource their work, I mean, to some tribunal somewhere. Your job, you guys, with all due respect, is to be in the legislature and working for the people that elected you.

Hon. Mr. Yates: — Thank you very much. Thank you very much, Mr. Chair. One quick follow up. The information you provided would also indicate that in trade agreements that have an enforcement mechanism that Canada has paid \$27 million as a result of challenges; Mexico has paid \$18.2 million; and the United States, who is the large player — and as in any agreement there is always a larger player — has paid absolutely nothing. So your assertion as well is that the big player always wins.

Mr. Schoenfeldt: — That's exactly what my assertion is, and that's what my fear of is if we get ourselves going on something similar like this with Alberta and British Columbia. And then what happens when Ontario jumps in? Little old Saskatchewan. Why is Confederation not good enough? What's the matter with Confederation that we have to invent some new thing, you know, where people can jockey for position and power? And how is Saskatchewan going to come out of such a wrangle like that?

Hon. Mr. Yates: — Thank you very much.

The Deputy Chair: — Ms. Crofford.

Ms. Crofford: — Yes. The reason I want to take us a minute past here our time is I think you've explored the democratic

element of this question more than some. I mean people have alluded to it. And I am noting, it is really interesting looking at these real NAFTA claims because in the one where Canada had to pay 13 million, that was a settlement regarding our ban of a gasoline additive which both automakers and health people did not wish to have included in our gasoline. And apparently we can't control that. We had to apologize and pay 13 million to the company. Another one here was on toxic PCB [polychlorinated biphenyl] waste disposal, and again having to award 5 million to a US waste disposal firm.

To me these are dramatic incursions into public policy. And I guess the question I would ask you, do you know of any country in the world where a reduction in democracy has improved the quality of life?

Mr. Schoenfeldt: — No, can't say that I do.

Ms. Crofford: — I'm actually going to check it out. I've asked for a little bit of research on a democratic index related to GDP.

Mr. Schoenfeldt: — I think that life, when democracy disappears I think that life does improve for some people. I think that it improves dramatically for some very small percentage of the people — at the expense of everybody else.

Ms. Crofford: — Well now I'm starting to see this. And I mean, I'm always open-minded about changing my point of view, but I'm seeing this as we are using taxpayers to backstop private profit and also giving up our right to set standards in some pretty important areas like health and safety, environment, workplace safety, quality of housing construction, you name it.

So thank you for provoking the democratic discussion and I'll think more about this. Thanks very much.

Mr. Schoenfeldt: — Thank you.

The Deputy Chair: — Thank you, Mr. Schoenfeldt for making your presentation. The committee would look forward to any studies or research analysis to back up your claims in your presentation. So thank you very much.

**Presenter: Public Service Alliance of Canada
Prairie Region**

The Deputy Chair: — The next order of business is the Public Service Alliance of Canada. Please introduce yourself and proceed with your presentation.

Ms. Hladun: — Thank you. My name is Marianne Hladun, and I'm a member of the Public Service Alliance of Canada and a member of the Prairie Region Council. And I'm going to say right at the beginning that this is the first time I've made a presentation, so hopefully you'll bear with me on that.

First of all, I want to thank you for inviting myself to participate in this hearing. The Public Service Alliance of Canada represents approximately 160,000 workers, the vast majority of whom work for the federal government in its departments and agencies. We also represent the vast majority of unionized workers in the three Canadian territories. There are approximately 3,000 PSAC [Public Service Alliance of Canada]

workers employed in the province of Saskatchewan.

As a union with 85 per cent of our membership employed in the broader federal public sector, PSAC is uniquely placed to promote the importance of public services. Our union is dedicated to building a just, inclusive, secure, prosperous, and sustainable society for workers and their families. Quality public services are essential to addressing social and economic inequities and improving social cohesion. For us, this means the public services need to be properly funded, universally accessible, and democratically accountable.

Quality public services are based on social objectives like the eradication of poverty. They respect Charter rights and are responsive to the needs of women and equity-seeking groups. They provide an infrastructure for a healthy economy and are responsive to the needs of communities.

I raise these goals with you because they are our benchmarks when we test whether the Trade, Investment and Labour Mobility Agreement will be good for the people of Saskatchewan or not. I'm not an expert in trade matters, but from the perspective of a union whose members are on the front lines of delivering services to the public, TILMA purposely fails to meet these standards.

PSAC members employed in the federal and territorial governments are involved in the design, implementation, and enforcement of regulations in a number of areas. These include fisheries, food inspection, transportation, consumer products, and health and safety.

As you know, regulation is one of the main tools governments have to promote and protect the interests of the public. Regulations set the terms and the extent to which the safety of the public is protected. They help to define quality public services as well as ensuring that public protection is effective.

The federal government's agenda is one of deregulation. We believe that they are complicit in encouraging provinces to take more aggressive stands in the deregulation of the areas for which they are responsible. The most recent federal budget promised to pursue regulation using market-based instruments wherever possible. The budget goes on to promise a reduction in unnecessary regulation and red tape. The basic premise of this line of thinking is that regulations are a burden and a barrier to economic competitiveness and that less regulation will enhance our economic performance. Ultimately public goals take a back seat to private profits. TILMA is a reflection of these market-based goals. The budget goes on to note that the federal government is committed to building on this momentum and will work with interested provinces and territories to examine how the TILMA provisions could be applied more broadly.

Supporters of TILMA readily admit that TILMA is about more deregulation. An editorial in the Saskatoon *StarPhoenix* points out that the agreement on interprovincial trade, AIT, didn't liberalize trade effectively because too much was excluded. The editor goes on to argue that: "TILMA's success is based on the notion of including everything unless there's a darn good reason to leave out a sector. And those exceptions are rare." And that, "There are some limited exceptions allowed for in the

agreement, such as water, but even these are to be reviewed annually to reduce their scope."

Todd Hirsch from the Canada West Foundation said that "Within the TILMA are the seeds of a true economic union, an erasing of the provincial boundary for all purposes except voting and the colour of the licence plate."

Maclean's magazine approvingly says the new deal will "effectively erase the border between the two provinces and by extension any other province that joins in."

In a brief prepared by the law firm of Sack Goldblatt and Mitchell, the chief investigator Steven Shrybman notes that:

... TILMA imposes a serious constraint on government policy, law and action, unless explicitly excepted from the application of the regime. By doing so, the Agreement exposes a vast array of government policies, laws and programs to private complaints, including claims for damages. In simple terms, TILMA is first and foremost a formidable instrument for de-regulation.

These concerns are replicated by municipal governments in BC where the agreement is already in place and municipalities are currently undergoing a transition period. The director of finance for the municipality of Burnaby notes in a brief to council that:

According to the provincial government, consultation on the implementation of TILMA has been limited to press releases from the joint cabinet meetings and consultations with ministries, business groups, academic institutions, and regulatory bodies.

The municipalities and public have not been engaged in the discussions and there has been no apparent analysis of the real impacts on the quality of life issues dealt with by municipal government regulation and bylaws.

The report goes on to advise that:

... Alberta and British Columbia are to undertake "consultations" to reconcile the differences in standards and regulations that govern about 60 occupations listed in the agreement. Also, municipalities are prohibited from establishing new, or amending existing, standards or regulations that may operate to restrict or impair trade, investment, or labour mobility.

It recommends that TILMA:

... has the potential to have far reaching negative impacts on municipal objectives; therefore it is recommended that Burnaby ask the Union of B.C. Municipalities to review the agreement and consult with the provincial government and municipalities, with the intent of making required changes, exempting municipalities, or having the province withdraw from the agreement in its entirety.

The municipality of Saskatoon has similar concerns. Legislative report no. 2-2007 from the office of the city solicitor has recommended to the council that:

If City Council is concerned about local choice, the safer course is to ask the Provincial Government, should it decide to sign TILMA, to exempt cities completely at the beginning. A process can then occur which identifies whether TILMA and local choice can co-exist, or whether cities must essentially pick between TILMA and local choice. This process can occur without pre-assumptions. It would also be possible to discuss options not considered in British Columbia and Alberta, such as whether individual cities would have the right to opt in or opt out of TILMA.

There is a precedent for opting out of trade agreements. Attorneys general of 29 United States wrote to the US trade representative in 2005 to say that their states opposed the negotiation of new WTO [World Trade Organization] restrictions on regulations because they would “unacceptably encroach upon our states’ regulatory authority.”

The states succeeded in getting the US to oppose the new restrictions. The new restrictions that were opposed are very similar to those included in TILMA. The most pressing concern of our century is without doubt the absolute requirement that we exercise public policy options that reinforce environmental sustainability. This is not a public policy choice but rather an irrefutable public policy obligation to future generations.

After engaging in a detailed analysis of the environmental implications of TILMA the Sierra Legal Defence Fund, while agreeing that some environmental protection measures are spelled out in the TILMA exceptions, concludes that environmental measures potentially subject to challenge under TILMA include those that relate to greenhouse gas containment, protected areas, air pollutants, urban land use planning, agricultural land reserve, mandatory eco-labelling, soil contamination, and limitations to the use of Crown land.

Alberta’s deregulated environment is a standard that all other provinces must conform to when signing on to TILMA. They will have to adopt Alberta’s lower standards and regulations. Any more stringent protection, leaving aside TILMA’s exceptions, could be challenged. Once provinces have deregulated to the same extent as Alberta, the text to the agreement states that signatory provinces will be prevented from introducing new standards or regulations that operate to restrict or impair trade, investment, or labour mobility. If a province does ever entertain the idea of raising its standards, TILMA legally obligates it to seek the opinion of the other provincial governments and to take their views into consideration.

TILMA goes further in many respects than other trade agreements than public policy must currently work within. While working in conjunction with the current agreement, the AIT, TILMA’s reach is much broader. The AIT is mostly voluntary, allowing governments to harmonize their regulations gradually if they believe it is in their interest to do so. If private investors think the agreement is being violated, they have to lobby their provincial governments which can choose to pursue or to not pursue complaints on their behalf. Dispute panels cannot award monetary compensation if a violation is deemed to have occurred.

TILMA expands the scope of foreign investor rights that can be

asserted under NAFTA to the US and Mexico without any reciprocal gains for Canadian investors in the US or Mexico. Shrybman notes that TILMA provides more constraints than those currently imposed by either NAFTA or GATS [General Agreement on Trade in Services]:

“For instance” he says, “NAFTA investment rules impose four basic constraints on government regulation concerning investment. These are: 1) to accord foreign investors and their investments nondiscriminatory treatment; 2) to accord foreign investors fair and equitable treatment; 3) to compensate foreign investors when their investments are expropriated; and 4) to not impose certain performance requirements, such as the obligation to procure goods and services locally as a condition of foreign investment.”

“In addition to proscribing discriminatory treatment,” Shrybman continues “TILMA prohibits all non-exempt government measures — past, present and future — that ‘operate to restrict or impair trade . . . investment or labour mobility . . .’”

Measures in this instance include any legislation, regulation, standard, directive, requirement, guideline, program, policy, administrative practice or other procedure made by — and it’s quite a long list — departments, ministries, agencies, boards, councils, committees, commissions, similar agencies of government, Crown corporations, government-owned commercial enterprises, and other entities that are owned or controlled by the government through ownership interest, regional, local, district or other forms of municipal government, school boards, publicly funded academic, health and social service entities, non-governmental bodies that exercise authority delegated by law including public hospitals, library boards, daycare centres, children’s aid societies, and all regulatory tribunals that are subject to TILMA disciplines.

Since many of the terms in TILMA are unique to the agreement, there’s no jurisprudence to indicate their scope, and it will be left to dispute resolution. Experience with the AIT and other trade agreements indicate that trade tribunals tend to be very narrow in their interpretation, resulting in seriously constrained public policy.

Shrybman notes that “it is difficult to conceive of a direction for de-regulation that would be more explicit or all encompassing than TILMA’s.” Thus he suggests that:

“it is apparent that few if any government actions, whether legislative or programmatic, would be safe from a complaint that . . . interferes with trade, investment or labour mobility. After all, virtually every government action affects the market in some manner; otherwise there would be no need for them . . . such measures affect the rights and opportunities of companies and individuals to conduct business, make investments, or provide services.”

As advocates of quality public services, we have to seriously question why the governments who employ us and who are elected to represent us would be willing to dramatically constrain our ability to influence the common good by signing TILMA.

Supporters of TILMA have exaggerated the benefits compared to the risks. Through TILMA, Western provinces will form an economic powerhouse second only to Ontario, while at the same time welcoming the Ontario government to sign on. While it is widely argued in business circles that there exist large barriers to trade within Canada, this has never been proven to be the case.

A study done for the BC government in the late 1990s pointed out that trade barriers among the provinces are actually very low, meaning that “efforts to liberalize interprovincial trade will have no effect on the interprovincial trade flows.” Yet the BC government says the agreement has the potential to add 4.8 billion to real GDP and create 78,000 new jobs in BC alone. Those estimates are not based on robust evaluation of the real cost of interprovincial trade barriers, which are in fact minimal. TILMA will most certainly not increase British Columbia GDP by the equivalent of 2.5 per cent of total GDP. Anticipation of similar benefits for Saskatchewan would seem to be equally unfounded.

In addition to the very real risk of the Saskatchewan government’s ability to govern on behalf of the people of Saskatchewan, there’s the additional question around the prudent use of public monies. TILMA gives private investors new rights to challenge governments. Private investors can take the government to a TILMA dispute panel over any matter regarding its interpretation or application. TILMA allows courts to award monetary settlements of up to 5 million for a single case. But since there’s no restriction on the number of challenges that can be launched about the same program or regulation, governments can face continuous challenges if they keep doing anything that has been found to violate the agreement.

Moreover, governments are burdened with the extremely short timelines in which they must respond — 45 days to issue a report, 15 days to produce required clarifications. The costs of private investors are minimized; the pressures on government to make snap decisions on complex issues are maximized. In practice, these awards institute a whole new form of corporate welfare or, what will most likely be the case, completely paralyze the ability of the Saskatchewan government to make policy in the public interest.

This leaves us with the question of labour mobility. While it is possible that some workers in regulated occupations might benefit from TILMA, we believe that remaining impediments to labour mobility are better addressed through other means. In particular, the federal government should be working with the provinces to create a national labour market policy that addresses labour mobility along with supporting programs like literacy, workplace training, apprenticeship, foreign credential recognition, and genuine labour market development. Expanding current mutual recognition agreements among regulatory agencies and the Red Seal program would be a good first step.

TILMA by its deregulatory nature will weaken current training, apprenticeship, licensing, and certification standards by exerting strong pressures to reduce standards to the lowest common denominator. It is counter-intuitive to suggest that reducing the skills and training required by teachers, nurses, gas

fitters, investment brokers, and many other professional and skilled workers is consistent with protecting the public interest.

TILMA complements current federal and provincial initiatives to bring temporary foreign workers to Canada as a low-cost, quick-fix alternative to immigration, good wages and benefits, high labour standards, and workplace training. Although labour standards and related measures are explicitly included as general exceptions to TILMA, they may be limited to the labour mobility provisions of TILMA alone. If this ends up being the case, it could open the door to allow companies to challenge measures such as a ban on the use of replacement workers or any other labour standard as impairing or restricting their trade and investment rights.

To sum up, the Public Service Alliance of Canada believes that the people of Saskatchewan deserve better. We believe that they have a right to receive quality public services. Although more can be said about TILMA — and will have been said by others who share our concerns before your hearings are complete — we hope that we’ve been able to present you with some examples of why we view TILMA as a problem.

It seems to us that TILMA provides little or no benefit to ordinary Canadians. Instead TILMA encourages deregulation. It undermines the ability of governments and its employees to do the work that they are elected and employed to do. Nor does TILMA significantly improve labour mobility. We believe that TILMA will only increase the economic and social inequality gaps that have been growing over recent years in Canada. TILMA does not meet the test of contributing to quality public services. Instead from the evidence we have seen, it is decidedly not in the public interest.

We encourage this committee to carefully consider the concerns that we have brought forward today, and we urge the committee to recommend that Saskatchewan play a leading role in advocating for real labour market improvements that benefit all citizens of Saskatchewan. We further urge this committee to recommend to the Government of Saskatchewan that it not sign the Trade, Investment and Labour Mobility Agreement. Thank you.

The Deputy Chair: — Thank you very much for your presentation. I’ll open up questions to the members. Mr. Iwanchuk.

Mr. Iwanchuk: — Okay. Thank you very much. And to me it would seem you’ve been doing these sort of presentations for quite some time.

I thank you for bringing forward the city of Saskatoon and the report of the city solicitor for that.

One of the things that I don’t think that we have heard — and again I thank you for that — was the federal government, where you mention that “The budget goes on to note that ‘the federal government is committed to building on this momentum and will work with interested provinces and territories to examine how the TILMA provisions could be applied more broadly.’” Can you expand on that?

I mean that’s very interesting, is that the federal government

would be at this time interested in it as opposed to being more interested in the mobility questions and some of the barriers that we've heard about, that all of a sudden that they would put this in the budget on TILMA and not be working under the AIT for example to do that. So I'm kind of interested. If you can expand on this or get us more information on this, I would be surely interested in that.

Ms. Hladun: — Actually the issue of TILMA showed up in the 2007 budget put out by the Conservative government and it actually was a surprise. We weren't expecting to see that, to see an actual statement saying that this is the way they wanted to go. But it fits in with the . . . And as a federal public sector worker, one thing that we're concerned about is deregulation and that seems to be the course that we're going is deregulation. So it's a top-down and a bottom-up approach.

So what's happening is the federal government is, from the top down, deregulating many services and they're encouraging provinces to do it from the ground up. So you know, we're seeing a massive assault on regulation and enforcement at the federal level. And you know, while it was a surprise to see it there, it does fit in with the overall plan.

Mr. Iwanchuk: — And you hadn't heard anything of why they wouldn't be promoting the AIT or something or doing more work on that or anything in terms of . . . And I'm just, I guess I'm wondering because we have had questions around which approaches might be better: more, you know, a Canadian approach to this issue of mobility or, you know, sort of one province at a time. And I guess I find this very interesting that the federal government, in fact, is encouraging the provinces to do this about . . . They're sort of abdicating their responsibilities.

So I'm not sure what they're doing here. So I guess we'll be asking maybe our researcher or whatever to find out a bit more about this. This is very interesting, and thank you very much for bringing this forward.

The Deputy Chair: — Thank you. Mr. Chisholm.

Mr. Chisholm: — Well thank you. You obviously have some concern with the Conference Board of Canada's numbers. Do you have some numbers that you would like to share with us, as to the effect of the agreement that's proposed for Alberta and BC and the number of jobs that are anticipated to be created? I'd like to know what your . . .

Ms. Hladun: — As the previous speaker said . . . And I don't have those numbers; however, the question is . . . I mean, I'm not a trade expert. I'm not an economist. You know, I've read through the information. I personally cannot understand how this agreement could create 70,000 jobs — 78,000.

If you think about it, the problem right now with labour mobility is that, in my mind, BC and Alberta can't get enough workers so they're basically trying to get more workers. So it's not a matter of creating jobs, it's a matter of filling jobs that are already there.

The issue in my mind is that we don't have enough workers. So it's not necessarily mobility. They're looking for a way to steal

workers more easily from other provinces. I don't have those numbers. However I do know the previous speaker, and I will work with him and we'll see what numbers we can get forwarded to the committee.

Mr. Chisholm: — I would suggest that the reason there would be more new jobs is there would be increased growth within the area as a result of increased trade. And that's where . . . It's the increase in the activity within the area that creates the additional jobs. And it's that, I think, is the key to why there would be more jobs.

Maybe I can just go on to something else on labour mobility. You kind of indicate you don't think that's all that big a problem. In the TILMA agreement they identified over 60 occupations just in Alberta and BC that it is a problem for people to be able to move back and forth, that they are now working out. Do you see that this agreement has some potential in having people have the ability to move from area to area and have their credentials accepted?

Ms. Hladun: — My opinion on that would be that this is the wrong instrument for that. There is benefit to looking at, to making sure that the requirements and the certification and all the credentials can coexist. But through the use of the mutual recognition agreements or expansion of the Red Seal program, that to me those specifically address labour mobility. And that would be the better instrument for it. Why does there need to be the ability for a financial penalty on the issue of credentials for a trade?

So it's not that it's not an issue. It is an issue, you know, but to bring it down to the lowest common denominator also brings up an issue. Are we comparing apples to oranges? We don't know. So I think there's something to be said that we could do labour mobility. There could be some issues addressed, but in our mind this isn't the instrument to do it.

Mr. Chisholm: — My understanding of the agreement is that it's not to reduce standards to the lowest denominator. In fact the tendency is to choose the highest common denominator and to work towards that. And that's what these 60 occupations have been asked to do. So I think this mention of the lowest common denominator is perhaps being overstated. I don't think that's the intention of the two parties.

Ms. Hladun: — I think part of the problem is, is that there's nothing has been tested in this agreement. You know, from the perspective of an organization that represents workers, we're not opposed, and I know the Saskatchewan Federation of Labour has come out and said, we're not opposed to trade or investment. You know, we want to encourage it. The problem is, is we're going into an unknown and we're tying ourselves into the unknown. And maybe the trade panels would uphold what you believe would happen. We don't believe so. The trade dispute panels are very narrow in their scope. They're not able to look outside the picture.

You know, one thing that concerns me is BC and Alberta have, I won't say a reputation, but the way they conduct business does not necessarily translate well to Saskatchewan. To say that we need to conform to it, it would be easy for a company in . . . I'll give you an example. I'll give you an example.

Recently the federal government decided that for procurement purposes all telecommunication services — cellular services — was going to a national contract. So departments and agencies were advised that Rogers and Telus had been awarded the contract. Now nothing against those companies. However, what happens is if you look at the map of network coverage in Saskatchewan, they afford no coverage whatsoever for the reality of my employment and I spend a lot of time in the country.

Now under the federal policy, we have no choice. Is it the best thing for us in Saskatchewan? No. Is it suitable for, you know, Toronto, for Ontario where there's a lot of coverage? Yes. Is it suitable for Alberta? Yes. Huge coverage in Alberta; huge potential. They're going to be upgrading their service. Are they looking at doing it here? No. But because of a national contract, a procurement strategy that says it has to go out that way, we don't have the option of using a local provider that can actually provide us coverage for when we break our leg in a field in southern Saskatchewan.

So I guess that's where I come in with some concern is that what's good for Alberta is not necessarily good for Saskatchewan. And this agreement doesn't really allow for comparison, and I don't believe that the trade panels will be able to take a lot of those factors into account.

The Deputy Chair: — Ms. Crofford.

Ms. Crofford: — Yes. I'm trying to, I guess, narrow down what this agreement is going to solve now and I think the standards question too. On the labour mobility . . . We've got trade, investment, and labour mobility. On the labour mobility side of things, the deadline under AIT and under TILMA is the same for having final resolution on integrated or interchangeable recognized standards across Canada.

Now we do know that BC is not following the Red Seal. Do you think that will ultimately result in eroding the Red Seal program?

Ms. Hladun: — Absolutely. Any time that . . . Part of regulation is the enforcement of those regulations and any time that regulations are not enforced to their entirety, then the argument is made that it's not needed or it's not working so let's get rid of it and redo it.

So you know, as in the previous speaker, there was a question about occupational health and safety and us having a very high injury rate. I believe — and I haven't done, you know, a thorough analysis — that our health and safety legislation in this province is very good and, in many cases, better than BC and Alberta. Where we fall short is on the enforcement. That's where we fall short. And I think with, you know, if a province is allowed to go around the Red Seal program and to purposely violate it, then there should be problems. And yes, it could spell the end of the program.

Ms. Crofford: — So you would have less skilled workers working in a less supervised environment.

Ms. Hladun: — Absolutely.

Ms. Crofford: — Essentially would be what it would be.

Ms. Hladun: — Absolutely.

Ms. Crofford: — I thought one of the most provocative things here — I'm going a little bit today on the democratic elements of this agreement — and on page 4, it says if private investors think the agreement is being violated, they have to lobby their provincial governments. Well I think . . . And the democratic process, that is the way that policy is made and that is the way that tax changes are made, it is the way that business tax structure is made.

So I just want to be clear. So under this agreement, what would happen is people would no longer talk to their elected legislators about these changes in policy. They would now talk to this trade tribunal.

Ms. Hladun: — I believe . . . Yes. It would probably be through a department.

I'm again not an expert on that. But the point to make here is that the provinces, the provincial authorities are the signatories to this, so they are considered the party. So the government will find itself under pressure from corporate entities, from . . . I mean it could be small business. You know, we don't want to say all . . .

Ms. Crofford: — Or it can be an individual entity that can launch it.

Ms. Hladun: — Absolutely.

Ms. Crofford: — It doesn't have to be a representative entity.

Ms. Hladun: — Absolutely.

Ms. Crofford: — Or a anything else. It can be an individual entity.

Ms. Hladun: — Absolutely, yes. And you know, for example one thing I looked when I read . . . And I have read through the agreement. I'm not a lawyer or, you know. But I couldn't find anything in there to stop me from saying, okay, I don't have a business right now, but you know what, they've got this going on in Alberta. If I say I want to start a business but their practice is a barrier to be investing in this business, to starting one, I can sue them and I haven't done a darn thing yet. I couldn't find anything to say that that's not allowed. And that scares me because once people find out that it's . . . Basically it could be a money pit. We don't know.

And another question that was raised last night that I attended an event, is currently in the agreement the trade dispute panel consists of five people from Alberta and five from BC. And my understanding is — and I stand to be corrected if there's information I don't have — is that if Saskatchewan were to sign on they have to sign on to the agreement as is, which means there's no provision for having any Saskatchewan people on the trade dispute panel.

Ms. Crofford: — You know, the matter you raised to the specific case of the procurement that took place at the national

level regarding telecommunications, that is troubling because in that kind of an environment, only the big survive. And that means a complete wipeout of smaller business, because you can't compete if your only criteria is lowest cost and broadest service.

I'll just share our experience in northern Saskatchewan, that when the mining first developed in the North, the local people weren't really benefiting. And what was happening was the contracts were too big for small companies to handle. That happens in construction quite often. A contract is too big for . . . Or roadwork. It's too big. So one of the things that was done was the contracts were carved into smaller units so that a smaller company could appeal to it.

Now it looks under NAFTA at least and that that kind of thing isn't allowed, to have a local preference. It says clause 4, it . . . And I know this isn't NAFTA but they're saying the dispute resolution will be NAFTA-like. So I have to assume that that's one of the things that's on the table. But I do know it had a big impact on small businesses.

And do you know whether small businesses are weighing in on this deal, how they think it will affect them?

Ms. Hladun: — Unfortunately I don't know if there's been a lot of discussion on it. I know that if you're able to have a one-on-one discussion . . . I was speaking to someone the other day, just a couple of days ago, who is self-employed, runs several little businesses out of her home, makes a decent living at it, and we are probably on opposite ends of the political spectrum, shall I say.

And so we've always had some really good discussions on this. So I said to her, well I have to go to Regina to do this presentation. So she said, well what is it? So first of all I'm thinking here's someone who reads the newspaper, reads the news, has no real clue as to what this agreement is. So we start going into it. And once we had the discussion on, you know, how restrictive it is and how it takes away local choice and how the potential is there for abuse, she completely disagreed with any decision to sign on to this agreement.

She understood. She, you know, again is in favour of trade and investment — as most people are. We want to have a thriving economy, but you know, it doesn't necessarily need to be at someone's expense.

Seventy-eight thousand jobs is a great thing. What kind of jobs are they? Are they good? You know, do they provide a living wage? Is it permanent employment where you can go to work from 9 to 5, Monday to Friday, and support your family? Do you have to have four part-time jobs to rent an apartment, never mind buy a house? So that's the other question is, what type of jobs? The Conference Board is saying it will create all these jobs. What type of jobs?

Ms. Crofford: — Well I know, I guess sometimes you don't really look at something till it hits your radar screen. But when I was looking at these NAFTA chapter rulings and thinking through, okay, how would these rulings create more jobs, it seems like the ones that would, would be in the areas where for example someone's allowed to sell a banned gasoline additive.

A lot of them are in the lumber area. So you know, you can imagine that with more exploitation of lumber, there might be more jobs would come along with that.

But you have to actually look at these to think okay, how would that create a job, or how would that change the job environment in terms of these rulings? And so that's an interesting thing to look at, is the actual cases themselves.

So thank you very much. I thought you had a well-prepared brief, and thank you for coming.

The Deputy Chair: — Mr. Hart.

Mr. Hart: — Well thank you, Mr. Chair. Good morning and thanks for coming in and presenting your views on the trade agreement.

I heard in your presentation, as I did from the earlier presenters, talking about the lowest common denominator. And that's something that troubles me because I don't know where or who this lowest common denominator is. And I wonder if you could explain what you mean by the . . . Or I know we don't have to explain what you mean by lowest common denominator, but is Alberta the lowest common denominator? Is British Columbia the lowest common denominator, or perhaps is Saskatchewan? Could you explain what you mean or who you feel or where you feel the lowest common denominator exists.

Ms. Hladun: — I think it could be any signatory to this agreement. You know, Saskatchewan has stronger legislation, I think, in some areas than other provinces, you know, because different things are important to different people in different places. So we may have policies that support rural citizens more so than in Alberta or in British Columbia.

So to me the lowest common denominator, depending on what regulation you're looking at and, you know, looking from the regulatory standpoint it could be any province. It could be, you know, the minimum wage in Alberta. It could be the, you know, the speed limit in Saskatchewan, you know. You can drive faster in Calgary on the highways, which means your truck can get there faster, which means you make more money because you saved an hour on your trip. So I mean everything is up for challenge.

So I wouldn't say . . . You know, we talk about Alberta because they have openly said they're trying to go to deregulated state, to deregulate as much as possible. But in my mind that not necessarily will they always be the lowest common denominator.

Mr. Hart: — Well if we can use — and I'm not sure if it's a fair comparison, but I'll throw it out there anyway — the amalgamation of school divisions that took place across this province here in the last year or so, where we saw the formation of large school divisions and amalgamation of up to three, four, five school divisions, board members tell me that in most cases the standard for the new supersized school division was the highest standard of the parts, and very rarely did they accept or put in place the lowest common denominator.

Now as I said, I'm not sure if that's a fair comparison, but it is

an example of where you see a number of entities joining to form a larger entity which in fact, I guess, just on the larger scale this agreement would at least partially put in place. We're not talking about wiping out provincial boundaries, although some, you know, one of the previous presenters said that could perhaps be a possibility. You know, I don't want to get into that because I'm not so sure and I'm not, you know, I don't think that's an issue right at the moment and I don't know if it'll be an issue down the road.

You know, I don't necessarily accept the fact, and I don't understand why you and other presenters would naturally assume that the regulations and practices that would be put in place would be to the lowest common denominator. Governments do have the ability to adjust things, deal with things like occupational health and safety regulations, minimum wages, those sorts of things. I'm not so sure that, I don't think that this agreement abdicates government from their responsibilities in these areas.

And also, you know, recognizing that if in fact Saskatchewan should sign on to this agreement, we're signing on with our two sister provinces in the West. We're not signing on with two or three third world countries who have, you know, in many areas much lower standards than we enjoy here in Saskatchewan. So you know I'm just not so sure that this lowest common denominator would be a fact of life if Saskatchewan should move in this direction.

Ms. Hladun: — I think where the lowest common denominator comes in is, you know . . . And all the credit to the members that were working with the school board issue that they went to the higher level.

However, I mean, directly in the agreement it says, you know, parties “. . . shall ensure that . . . measures do not operate to restrict or impair trade . . .” You know, that's a direct quote from the agreement. The problem is the people at the dispute panels are limited to the wording in here. So they can't recognize that, you know, a provincial government introduced legislation or, you know, city council introduced legislation that was for the good and they had a reason for it and it was the absolute best thing for that body. They can't take that into account. They have to look at it. Does it restrict trade? So if it's in place in Saskatchewan and not in Alberta, there's a restriction and a barrier to investment.

A good example is in the city of Burnaby who, you know, has opposed TILMA. They decided to ban junk food in their public schools. You know, they said with all the health issues going on, let's get rid of the vending machines. It's going to be, you know, no more soda, no more junk food, no more snacks. They went to the provincial government. Provincial government said, yes we're with you; this is, this is the right thing to do for these kids. The school boards passed it. The provincial government said it. But then somebody in government said, oh wait a minute. Remember that TILMA thing we signed? It's not allowed.

And what happened was the ruling that came back is that the school, the school board was not allowed to ban junk food from that school because that's a barrier for investment for the soda companies, for the junk food companies. It's a barrier to their

investment over and above . . . because they can go to the next school and sell it. And if they can't sell it at that school, that's a barrier. So they said all they could do was ask these companies to voluntarily remove their product, and that was the ruling from, I believe, the lawyers for the city of Burnaby that said you can't do, or the provincial government in BC, that you can't do that.

The Deputy Chair: — We're quickly running out of time. Mr. Iwanchuk will have the last question.

Mr. Iwanchuk: — Yes, I'm just trying to . . . Or maybe a comment first and then a question. I just wasn't clear if Mr. Hart was now saying the NAFTA perhaps wasn't the best deal when he was trying to compare to third world countries. And I'm not sure if he was talking about that, but I'll just point that out.

But actually the question that I was after was the local question of where the city of Saskatoon was . . . I'm just trying to find the article. There was a request made for a report and in that, in the report back to city council, it was said the . . . If I could just read out here:

The right of the cities to local choice has been considerably strengthened in recent years by both the courts and by legislation. For example, in 2001, the Supreme Court of Canada in *Spray Tech v. Town of Hudson* upheld the town's right to set higher standards for the use of pesticides than those set by provincial and federal governments. In Saskatchewan, *The Cities Act* was passed . . . [and again] *The Cities Act* was [passed] to recognize and strengthen the right . . . [of] local choice.

It ends off by saying, the authors of this report back to city council, that “There is, in our view, a fundamental problem in trying to reconcile local choice with the TILMA concept of standardization and harmonization.”

I was very glad you brought forward the Burnaby thing but I'm just . . . Have you heard of any other examples or have you heard of any response in terms from the people who are, you know, proponents of TILMA of how you basically . . . Because I think that was the city of Saskatoon's question — how do, how do you square this thing? I mean how do, how do you deal with this, or is it just simply what is being said here? It is you cannot reconcile the local choice with TILMA.

Ms. Hladun: — I don't think at this point there is a way to reconcile it with the issue of local choice. You know, we elect representatives to municipal government, to provincial, and to federal. And at each different level they're tasked with different things.

So you know, the issue of local choice is, you know, if we have a part of town that's suffering, why can't we do something extra there? If we have certain issues, if we want to invite an industry in and not invite another industry, as a citizen should we not be able to?

So you know, the previous speaker was very strong on democratic right, and that fits in with local choice; that, you know, as a citizen of Saskatoon or, you know, wherever you're

from, whatever town, that you should have the right to talk to the people you elected. Because if they don't have the authority to do anything, then why are they there?

We become, as the one article said, you know, one big area with just a different colour licence plate. And in Saskatchewan, we're unique. You know, we do things for the benefit of our citizens, and we shouldn't be bound by other provinces.

Mr. Chisholm: — Thank you.

The Deputy Chair: — Thank you very much for your presentation, and the committee would look forward to any studies or research and analysis that your group has done concerning your presentation. So thank you very much.

The committee will recess till 1:30 this afternoon.

[The committee recessed for a period of time.]

**Presenter: Saskatchewan Liquor and Gaming Authority
Local #6080**

The Deputy Chair: — Thank you. I'd like to reconvene the committee. The first presenter will be the Saskatchewan Liquor and Gaming Authority Local 6080. Welcome and please introduce yourself and proceed with your presentation.

Mr. Emery: — Thank you. My name is Kenton Emery. I'm the Chair of Local 6080. Along with SGEU [Saskatchewan Government and General Employees' Union] we represent the roughly 1,000 liquor employees that work for Saskatchewan Liquor and Gaming.

Mr. Bidochka: — My name is Pat Bidochka. I'm the Vice-Chair of the local.

Mr. Emery: — Thank you for your time this afternoon. We appreciate the opportunity to come and present our thoughts and what we see regarding the possibility of the TILMA agreement being signed between our provinces — Alberta, Saskatchewan, and BC.

Saskatchewan government employees' general union represents roughly 22,000 people working in a wide range of diverse sectors across the province, including health care, education, community services, the provincial public service, Crown corporations, and the retail regulatory industry — which obviously that's what I'm here to talk about.

The 1,000 or so members of Saskatchewan Liquor and Gaming, obviously we work on the retail side of liquor. That is what we're responsible for is the sale of liquor in this province. Saskatchewan already has a mix of private and public liquor outlets. There's roughly 80 liquor stores that are run by Saskatchewan Liquor and Gaming. There are 465 off-sale outlets and 189 franchisee outlets which are mostly in the rural Saskatchewan centres already.

SGEU is, as I've said already, pleased to have this opportunity. As I've also said, we have some concerns, and we would like to take this opportunity to express our concerns regarding the Trade, Investment and Labour Mobility Agreement, TILMA as

it's abbreviated to. SGEU does urge the Saskatchewan government not to sign the TILMA agreement. We have three principal objections to this agreement.

First of all, we see TILMA possesses a fundamental threat to public policy and public services through its far-reaching, unprecedented provisions. While the extreme restrictions TILMA places on government are clear, the exemptions to protect valued public policies and institutions are weak, badly worded, and likely to be of little use in the event the Saskatchewan government is challenged.

The second objection is that TILMA's dispute process creates new, enforceable rights for private interests to challenge governments and get compensation, but TILMA excludes the right to appeal panel decisions in any truly meaningful way.

Third, last but not least, TILMA is a disproportionate response to a problem that is relatively minor. I'll speak a little more on all three points.

First of all, TILMA's threat to public service and Crown corporations. TILMA asserts unequivocally that no government measure, whether it is a program delivered in the public sector or a regulation or anything else government does, can pose obstacles to investment. This is a broadside challenge to government without any parallel in existing investment agreements.

The NAFTA and WTO agreements already reach far into domestic policy, enabling governments to be successfully challenged even when they are applying the same rules to foreign and local businesses, and even when they're regulating activities that have nothing to do with their cross-border trade. But TILMA's article 3, no obstacles rules, goes much farther than these agreements in creating grounds for government programs and regulations to be challenged.

NAFTA says the governments cannot . . .

A Member: — Expropriate.

Mr. Emery: — Thank you. I struggled with that word all day . . . an investment unless they pay compensation. NAFTA panels have interpreted expropriation . . . I got it that time.

A Member: — Expropriation.

Mr. Emery: — Thank you. There we go. I think it's the last time it's in the letter so that's good. To me governments have to substantially deprive someone of their property. But TILMA's article 3 states that all government has to do to violate the agreement is to impair or restrict an investment. Virtually everything governments do could be challenged using the TILMA article.

Provincial regulations to curtail private health businesses are by definition restrictions on investment in the health care sector. Local government bylaws preventing the establishment of big box stores are restrictions on investment. Saskatchewan's Crown corporations, which would be at risk if the province signed TILMA.

SGEU has taken a strong stand against the privatization of liquor sales in Saskatchewan. However a TILMA panel could rule the publicly run liquor stores create an obstacle to BC and Alberta private investment in violation of article 3. The recent consolidation of Alberta's large private liquor retailers with their increased corporate power means there is an even greater likelihood that the Saskatchewan Liquor and Gaming Authority, SLGA, could face a TILMA challenge.

TILMA provides multiple grounds for challenges to Crown corporations. In addition to TILMA's no obstacle to investment rule, the agreement's requirement that investors from BC and Alberta be granted the best treatment accorded to the province's own business could also be used to challenge Crown corporations. TILMA's exemption for public monopolies could not protect SLGA in the event of a challenge since it does not enjoy a complete monopoly in the retail distribution of liquor. As stated already, we have a substantial amount of private liquor stores already in this province.

Other highly valued Crown corporations — SGI, SaskPower, and SaskTel — are also at risk under TILMA. They do not exercise full monopolies over the services they provide and they could be challenged, both because they pose obstacles to further private investment in violation of article 3, and because Saskatchewan could be seen as giving them preferential treatment in violation of article 4.

TILMA's threat to public interest. TILMA requires that no new standard to regulation can be introduced if it restricts or impairs investment, effectively closing the door on future government regulatory initiatives. For example, regulations introduced to improve the quality of child care could be challenged as a restriction of the investment of the private child care operator seeking to become established in Saskatchewan.

While TILMA currently allows an exemption for social policy, all the agreement's exemptions are subject to an annual negotiation with a view to reduce their scope. TILMA's negotiators also left it up to the dispute panels to determine whether critical policies regarding child care, health care, and education can be defined as social policies.

Saskatchewan's democratic process would also be hamstrung by TILMA. If the province wanted to introduce new regulations, signing on to TILMA would mean Saskatchewan would have to consult with BC and Alberta in advance of any proposed regulation that would affect investment, trade, or labour mobility — which would cover most regulations. BC and Alberta's views on proposed regulations would have to be taken into consideration.

This TILMA requirement is no mere formality. Using a similar provision, the existing Agreement on Internal Trade, AIT, Alberta has already challenged and won a case against the federal government for not consulting with it before introducing banking regulations. Unlike the AIT, however, TILMA creates a dispute process where panel decisions are binding and monetary penalties can be imposed. So if Saskatchewan's government did not give Alberta and BC advance notice of proposed regulations and take their views into account, it could be taken to a TILMA dispute panel and be forced to pay a monetary reward.

TILMA would require that Saskatchewan reconcile its regulations with those of Alberta and British Columbia or else opt for mutual recognition, which would mean businesses from the other provinces could operate under whatever regulatory system suited their interests.

The federal Minister of Trade, Maxime Bernier, has praised TILMA for its mutual recognition provisions. He sees mutual recognition as creating a competition among regulators for the most business-friendly regulations since business can pick and choose which province's regulations they want to apply. In other words the federal minister has endorsed TILMA because it will create a regulatory race to the bottom. As the city of Vancouver's report on TILMA states, "The Agreement provides an incentive for reconciliation at the lower of the two standards in question."

Enabling private interests to take complaints to dispute panels guarantees TILMA will result in deregulation. TILMA's negotiators also made sure the agreement would result in deregulation by eliminating the wording in the Agreement on Internal Trade that prevents downward harmonization of regulations.

TILMA's weak, badly worded exceptions. TILMA provides no general exemption for governments that are acting in the public interest, nor for providing services in the public sector. Misleading statements have been made that suggest that as long as the governments have what would be considered legitimate objectives, they are safe from a TILMA challenge. This is a fundamental mistake, one that seriously undermines the legal jeopardy governments expose themselves to when they sign.

Governments can try to defend their actions using TILMA — TILMA's legitimate objectives clause — but their objective has to fit one of those explicitly defined by TILMA as legitimate. For example, TILMA does not define the provision of a service in the public sector as a legitimate objective of governments. So this objective cannot be used by the government to justify publicly delivered programs if they are challenged under TILMA. And even if a government's objectives matches one of those defined by TILMA as legitimate, it is obligated to pursue this objective in the way that is the least restrictive to investment.

Taking the case of public health care as an example, TILMA does define provisions of social services and health services as a legitimate objective for governments. But is Saskatchewan delivering these services in ways that are unnecessarily restrictive to business? In the event of a challenge it would up to a panel to decide whether Saskatchewan should provide social, health services in less restrictive ways, such as by contracting with for-profit health suppliers.

TILMA does list areas in part V that are carved out of the agreement, but these are subject to ongoing negotiations to reduce their scope. So year after year Saskatchewan will have to debate with Alberta and BC trade ministers whether critical areas like water, Aboriginal policies should be covered by the agreement.

TILMA's drafters have also left it up to the panels to determine what is meant by key exemptions, such as exemption for social

policy. The examples listed of social policy do not include health, education, or child care.

Other exemptions in TILMA are so qualified that they basically would be worthless in the event of a challenge. The exemptions for procurement, for example, say that TILMA's non-discriminatory requirement, article 4, does not apply when governments purchase goods and services from a public body or a non-profit organization. But the exemption undercuts itself by stating "procurement procedures . . . [cannot be used] to avoid competition, discriminate between suppliers, or protect its suppliers." So the Saskatchewan government preferences for purchases from non-profit agencies or public bodies could be challenged as avoiding competition, discriminating between suppliers, and/or protecting its own suppliers.

TILMA's dispute process. The main reason why TILMA was created, according to its supporters, was that government was not complying with the Agreement on Internal Trade decisions. There have only been eight cases that have been decided by the AIT panel, almost all dealing with dairy and accounting issues against the Atlantic provinces, Ontario, and Quebec.

In response to the reluctance of the eastern provinces to change their policies in these areas, should Saskatchewan burden itself with a new quasi-judicial process that allows private investors to take complaints and be heard by an independent panel whose decisions are binding and enforceable through the Saskatchewan court system, makes governments liable up to \$5 million in penalties as well as the court costs, has virtually no appeal process — review of TILMA panel decisions is extremely restricted by provincial commercial arbitration Acts which do not allow decisions to be overturned even if panels have made errors in fact or law — enforces the position that acting legally under domestic law and according to a province's constitution authority is no defence?

BC and Alberta's decision to create TILMA stands in stark contrast to the position that the US and county governments have taken. These have declared they are completely opposed to new trade agreements that include provisions for investors to sue government. TILMA eliminates the AIT screening process which was designed to prevent frivolous and vexatious complaints from being launched to harass governments.

One such AIT complaint against Saskatchewan was screened out when an Alberta firm, the Gimbel Eye Centre, tried to challenge Saskatchewan restrictions on paying for eye surgery done by the firm in Alberta. Under TILMA though, this case would have gone forward.

Lack of a demonstrated need for TILMA. There is no evidence that there are huge barriers to trade between Saskatchewan, Alberta and BC. Supporters of TILMA have difficulty naming any concrete examples of such barriers. In his report on TILMA for the Saskatchewan government, Professor John Helliwell has noted that trade is essentially unfettered already among provinces. Restrictions on trade or labour mobility that do exist can and have been resolved through voluntary negotiation among the provinces. There are no pressing problems for Saskatchewan that TILMA provides an answer to.

On the other hand, the agreement will put many provinces'

most valuable, most valued policies at risk and expose the government to virtually unlimited risk for litigation.

In addition to the potential litigation risks, there are concerns regarding the erosion of the government's social responsibility for promoting the responsible use of alcohol. The national alcohol strategy has recently released and defines alcohol as a "legal psychoactive drug." There is an attached document that was handed out, *Reducing Alcohol-Related Harm in Canada*. This was released in, I believe, mid-April of this year. This report has outlined a number of recommendations outlined on page 27 of their report. We'd like to highlight a couple of these recommendations that, in our view, would be very difficult to implement within a government that has adopted an agreement similar to the TILMA agreement:

[Recommendation] 16. Maintain current systems of control over alcohol sales . . . Under these systems, it will be important to:

Require liquor control boards to maintain a social-responsibility frame of reference for all matters pertaining to their operations . . . governance, and to maintain or increase their spending and programming in this area;

Enhance staff training [to] . . . outlets and implement ongoing enforcement compliance programs to ensure that alcohol is consistently sold in a socially responsible way . . . in accordance with the law; and,

Encourage the systematic re-examination and analysis of hours and days of alcohol sales and outlet density, recognizing that increased physical availability of alcohol can lead to increased harm.

There are many other recommendations that, in our view, would be impossible or very nearly impossible to implement under TILMA agreements. The other provincial jurisdictions that have privatized liquor sales have all but admitted that a mixture between government and private is the best system to satisfy the majority of concerns. This is what we currently have in place in Saskatchewan, as I stated at the start. For these reasons, SGEU strongly urges the Saskatchewan government to reject the signing of TILMA.

The Deputy Chair: — Thank you very much for your presentation. I will open up questioning from the members of the committee. Ms. Crofford.

Ms. Crofford: — I'll jump in first. When we were given this assignment to listen to people about TILMA and reflect back what we've heard, there was two elements that were, I guess, highlighted. One is, is there a problem with trade, investment, and labour mobility, and is TILMA the right tool to solve it? And I think in the presentations we've heard, things would mostly be coming down in the area of there's not really labour mobility problems within Canada other than shortage of qualified workers, that the trade relationships are quite good both west and east. And it seems to then come down to an investment issue.

Now what I'm wondering, if I could characterize your major

concerns about TILMA, would they be around the incursion into public decision making, or would it be about the structure of the dispute resolution process and the ability perhaps for intervenor status and the right to intervene? What I'm saying is, are you really talking about an improved TILMA or no TILMA?

Mr. Emery: — The concern we're raising is TILMA, on its face, appears to be the crack in the door for a government that wants to look at privatizing liquor sales in this province. It takes away the ability for the legislation and the legislators to say this is not what we want to do. It will not take long for a government facing \$5 million lawsuits for liquor stores that want to open up in this province to basically say our hands are tied. Because of this legislation we now have to, whether we want to or not, privatize liquor sales because we're facing \$5 million lawsuits by not doing it. And that is where our concern lies. That TILMA . . . whether it's a smaller version of TILMA, I don't believe the liquor sales would be protected.

Ms. Crofford: — So that's compelling change in public policy in Saskatchewan?

Mr. Emery: — Absolutely.

Ms. Crofford: — My second question is, I was wondering about the whole area of how a government would ever introduce new laws in this environment because every new law you introduce would be enhancing the standard and thereby perhaps creating more cost. For example let's say the non-smoking law.

Mr. Emery: — Yes.

Ms. Crofford: — I'm kind of wondering, do you think that would've been subject to a TILMA challenge — the smoking law?

Mr. Emery: — I would believe it would be and . . .

Ms. Crofford: — See it's hard to know because we're sort of guessing.

Mr. Emery: — Yes, that's right. And I mean my opinion is yes; it would be. I'm not a lawyer, but my opinion of what I know of it is that, yes indeed, that would've been challenged. Even social responsibility campaigns that talk about curtailing the abuse of alcohol, I'm not sure that would actually be allowed through TILMA because it would be a government-run initiative trying to curtail the sale of what would be an open substance. Whether or not it's a psychoactive drug or not, I would see that as a possible threat.

Ms. Crofford: — Yes. I could think of one difference between ourselves and Alberta. Our drinking age is 19, and theirs is 18.

Mr. Emery: — Absolutely.

Ms. Crofford: — So someone who owned a hotel could say I could be making a lot more revenue if the age limit was the same.

Mr. Emery: — Absolutely.

Ms. Crofford: — Okay. I'm just trying to explore these things because at first you don't think there's that much that might apply, but then when you start thinking about it these other questions of . . . And smoking and drinking are probably two simple ones to understand.

Mr. Emery: — Yes.

The Deputy Chair: — Thank you. Mr. Chisholm.

Mr. Chisholm: — Thank you. There's been a number of reports done on the positive effects of TILMA for Alberta and BC and also for Saskatchewan's participation. I'm just wondering, we've seen numbers of \$4.8 billion increase in the GDP for the province of British Columbia alone, and 78,000 additional jobs. Numbers in Saskatchewan of \$291 million increase to the GDP and 4,400 additional jobs. I'm just wondering, has your organization considered the positive effects of increased population, increased GDP, increased jobs in the province in looking at this TILMA agreement?

Mr. Emery: — Thank you. And yes, obviously there's two sides to both arguments. And I've also heard that those numbers are probably drastically overstated, that there are numbers that are saying — you know what? — the 4.8 billion is probably pretty optimistic. And whether or not that'll actually be seen in BC and Alberta over the next year or two I think is open for debate and time may tell, but right now we've looked at that.

But we're also being told that those numbers are pretty unrealistic numbers to be expecting to get out of an agreement that really changes very little for supposed barriers or takes away supposed barriers when really all it will probably end up doing is opening up new industries that probably should still be regulated within government.

Mr. Chisholm: — Okay. One thing that you've pointed out as a weakness to the TILMA agreement is the fact that legitimate objectives aren't, you know, specifically defined. Like I'm . . . just as an example in your last point where you're talking about the problem that could be run into where you're trying to maintain current systems of control over alcohol sales and the . . . Now to my mind that would be the type of thing that would fall under a legitimate objective, that the purpose is clear. It's commonly accepted. And like to my mind, that's the kind of thing that would be solved by the legitimate objective clauses that are in the agreement. Do you want to comment on that?

Mr. Bidochka: — Yes. My position with Liquor and Gaming is inspector, compliance coordinator.

Mr. Chisholm: — Right.

Mr. Bidochka: — So I deal with all the police in the province about tickets that are issued to minors, about violations of the Act and the regulations. So I have continuous contact with other jurisdictions across the country. I do surveys with them on under pouring, a variety of different issues, and I supply that data to the authority. And the data I'm getting out of Alberta is when they went into the privatization system — from their inspectors and regulators — is that it increased their workload many times over, and they're finding that they're having way

too many problems because their regulations have been cut. You know, they've taken away controls that we have and they no longer have, and you have a distinct criminal record increase in regarding to alcohol sales.

We are fairly prudent, and the RCMP [Royal Canadian Mounted Police] and the police do an excellent job in this province of informing us when people are charged. As a matter of fact all that information comes directly to me from Saskatchewan Justice automated intelligence network, and I filter through all of that stuff to determine whether the permittee needs to be sanctioned or not. And over the years that I've been doing this, it's steadily decreasing year by year because of enforcement, because of regulations, because of the co-operation we get with the majority of the permittees and the inspectors, investigators that are going out and doing that type of work, you know.

So we're bringing those numbers down. If you look at some of the numbers, of the number of inspections and investigations that are being done, like 4,600, you know, for the inspection side alone, you know, that's a lot of interaction with the permittees. And I'll tell you 95 per cent plus of those permittees give us no grief at all. You know, the odd time somebody will come in and they'll get caught with a minor in that situation, and it's the first time that they've been caught in 20 years — shouldn't say caught — first time that we sanctioned them.

And they're really . . . You know, these people are telling us we don't want a whole group of corporate entities coming in here, like the Liquor Barn or world liquor, and popping up liquor stores all over the place and the regulations disappear, and that's their biggest fear. And that's the fear coming out of some of the other jurisdictions across Canada too.

I mean TILMA is fairly new, but it's starting to spread, you know, what people are thinking about it. And the regulation in my aspect is very true to my heart. I mean that's my job, you know, and if you don't have regulations or somebody's undercutting you, then it makes it very difficult to do that type of job.

Mr. Emery: — Sorry. Could I just clarify if I understood correctly, you feel that the sale of liquor would be protected under TILMA as a legislative exception. Is that what I . . .

Mr. Chisholm: — No, no.

Mr. Emery: — Okay.

Mr. Chisholm: — I was specifically referring to your potential problem regarding the social responsibility of advertising type of campaign, that would in effect or could in effect reduce the sale of alcohol. I mean that's the purpose, to reduce the sale of excessive alcohol, whatever. That to me would be the type of thing that I would say would be, I would think, would fall under a legitimate objective and be allowed under TILMA.

Mr. Emery: — Sir, I understand. Thank you.

The Deputy Chair: — Thank you. Mr. Iwanchuk.

Mr. Iwanchuk: — I guess my questions are similar to that in

terms of the last part of your presentation under recommendation 16. And I guess I was just wanting to know if you could explain the last part of your . . . the a), b), and c), a little more in terms of that so that I could understand that.

Mr. Emery: — Okay. Recommendation 16 out of the recommendation paper, I guess, is what it's called from the think tank:

- a) [is talking about requiring] . . . liquor control boards to maintain a social-responsibility frame of reference for all matters pertaining to their operations and governance, and to maintain or increase their spending and programming in this area;
- b) Enhance staff training at outlets and implement ongoing enforcement compliance programs to ensure that alcohol is consistently sold in a socially responsible way and in accordance with the law, and,
- c) Encourage the systematic re-examination and analysis of hours and days of alcohol sales and outlet density, recognizing that increased physical availability of alcohol can lead to . . .

If you are in and working under a legislative agreement, the controls you put on the amount of liquor outlets you can have — whether it's municipally, provincially, whatever — would be in a direct violation. You would not be able to . . . As the city of Regina say, you cannot have an off-sale within five blocks of each other. Those would be the type of restriction that this agreement would say is not allowable. So that would become problematic.

I do believe the social responsibility aspect of the sale of a psychoactive drug does need to be protected and does need to have some form of controls that are accessible. And by maintaining the liquor sale system that we have, the province maintains the ability to put out social programs knowing that they're getting out to the people they need to get out to — the customers walking in the door.

Mr. Iwanchuk: — Now you mentioned municipal. It's provincial and municipal regulations in terms of the number of outlets? I'm sorry, it's . . .

Mr. Emery: — No. And that's fine and that, I do believe . . .

Mr. Bidochka: — Currently now, if you want an off-sale endorsement with a hotel, there's a requirement that for every off-sale, you have to have 5,000 people. So with TILMA around, you know, you would lose that. I mean, they would challenge that and say why can't I . . . you know, you've got 4,500. Why can't I have a licence? Franchisees, there's no franchisees in the major cities. Franchisees are designated to the rural, and that's part of the agreement, you know, that the government makes with the stakeholders, you know, the hoteliers, the bars, and that — those type of things.

What's another example? Oh I just had it and it just left me. The 2.25 for liquor, that's the minimum price for liquor. The authority — Liquor and Gaming Authority — doesn't set that price. That price is requested by the hotel association, and they

say that is the minimum that you will sell that drink for. That's what they want. We put it into legislation, and then we monitor and make sure that there's compliance to it. So that would be another thing that the government would have to abandon. You know, regardless of, you know, the number of . . . the 600 hotels that want this and the restaurants that want a minimum price, that would go out the window.

Mr. Iwanchuk: — In Alberta were there restrictions in terms of the numbers of outlets that they can have?

Mr. Bidochka: — Not any more.

Mr. Iwanchuk: — So if somebody from Alberta — and I don't know if there's companies that own or if each liquor outlet is individually owned — if they came to Saskatchewan, I guess the question would be whether there would be any limitations in terms of numbers. You could have six on one street if . . .

Mr. Bidochka: — I think the Liquor Barn has 80.

Mr. Emery: — The Liquor Barn just won a hostile takeover bid by, I believe, it's Liquor Stores dot com. They're the two major liquor outlets in Alberta. There's your mom-and-pop stores, but most of them are getting squeezed out of the market. So what you see in Alberta is one major liquor supplier and outlet now.

So if they came into Saskatchewan and wanted to open up stores wherever, TILMA would be their way to do that, and TILMA would be their way to get around legislation that says you can only have one per every 5,000 people. That legislation would be in violation of TILMA.

Mr. Iwanchuk: — Okay. Thank you very much.

The Deputy Chair: — Mr. Hart.

Mr. Hart: — Thank you, Mr. Chair. Good afternoon and thank you for being here and making your presentation. For information purposes, how is alcohol retailed in British Columbia? I know Alberta has privatized it. But it seems to me if I recall — it's been some time since I've been to British Columbia and had occasion to observe how it's retailed — I believe they have a system similar to Saskatchewan?

Mr. Emery: — The Campbell government in BC I believe three years ago now announced wholesale privatization in all of BC. There was a public outcry. The Campbell government reneged on that, but not after they sold off half of their liquor stores, which they sold to private enterprise that then reopened it with the same signage that the government-run liquor store had on it. There is still a mixture, but the mixture in BC is dwindling. I know talking to my counterparts in BC the push for privatized liquor sales is still on and is still on the forefront of their concerns.

I'll be frank. I think the fact that the Olympics are going to be there in 2010, and the fact that Alberta went through a real problem getting alcohol to their retail outlets last summer, has sent a bit of a wave through the privatization segments of BC. I think they would like to be able to show the world that you can come to BC and have fun in 2010. And I think they were a little

concerned that the privatized liquor sale system that Alberta has may not be able to supply that, based on last summer's fiasco in Alberta.

Mr. Hart: — Thank you for that information. You mentioned recommendation 16 from the report reducing alcohol-related harm in Canada. And section (b) of that recommendation talks about enhanced staff training at outlets and implementing ongoing enforcement compliances and so on.

Earlier at the beginning of your presentation, you had indicated that there are 80 government-run liquor stores and 189 franchisees. I can understand how I guess enhanced staff training can happen at the 80 government liquor stores, but how do we accomplish more staff training at the franchisees? Is there some of that happening now and this recommendation would build on that? What is the status of this staff training and awareness at the local . . .

In my community it's the druggist that happens to have the little corner just at the back of his store and that sort of thing, and it would have a whole variety of small businesses in rural Saskatchewan that retail liquor. How do you see that working? What's in place now and how do you see that recommendation working? I certainly don't disagree with the recommendation. I think, you know, we need to look at these things. I'd just like to get a better understanding of what the current situation is and how you envision seeing that going forward, this enhanced training.

Mr. Bidochka: — You're right. The authority does train their own employees and continuously. Saskatchewan Tourism Education Council run programs; they have for 10, 12 years, maybe longer. I know I sat on that board for a while, for a number of years. And they run a program called It's Good Business, and the hotel association promote it. Some of their franchisee people go and attend their seminars. I think they're \$25 a person and \$50 for a manager's course. One is, I think two days, and the other is three or something of that nature. So that's one of the educational tools.

The authority also uses it in regards that, and this is voluntary in this province where Ontario and Nova Scotia and a variety of other jurisdictions make it mandatory to take these courses if you work in the industry. We make it . . . it's voluntary here except if you misbehave, and then we will instruct that particular permittee and their staff to attend the training course if we've got problems with minors or over-serving or that type of thing.

So there is training out there — most of it done. The good people that run the good businesses, they jump all over training. You know, they're there.

The Deputy Chair: — Thank you. Just a comment and a question before we wrap up. I think most of your concerns can be alleviated in the agreement, Part V, exceptions to the agreement, general exceptions:

- 1 (f) Social policy, including labour standards and codes, minimum wages, employment insurance, social assistance benefits and worker's compensation.

As one example. The exemptions for Crowns is the second example. And also the legislature passed a Bill, which was supported by the opposition, which stated which Crowns could not be privatized and Liquor and Gaming was one of them. My question to you is: how many of your members actually work for the Saskatchewan Liquor and Gaming Authority in the province?

Mr. Emery: — Sorry, how many members work for SLGA?

The Deputy Chair: — Yes.

Mr. Emery: — Out of SGEU, you mean?

The Deputy Chair: — Well, the question is: how many total employees are there that work for SLGA?

Mr. Emery: — 940.

Mr. Bidochka: — In and out of scope.

Mr. Emery: — Yes. On Appendix F, sorry, the fact sheet on Appendix F does have our total employees on it and it's based on the March 31, '06 accounting period end. So there's 940.

The Deputy Chair: — Okay. Thank you very much for your presentation.

Presenter: Canadian Federation of Independent Business

The Deputy Chair: — The next order of business will be a presentation by the Canadian Federation of Independent Businesses. Welcome. And please introduce yourself and proceed with your presentation.

Ms. Braun-Pollon: — Good afternoon, committee members. My name is Marilyn Braun-Pollon. I am the vice-president for CFIB [Canadian Federation of Independent Businesses] Saskatchewan and our agri-business national file for the CFIB. We welcome the opportunity to present to you this afternoon on behalf of 5,250 small- and medium-size firms that are members of the CFIB. And we do appreciate the opportunity to present our views to you this afternoon to talk about the TILMA and what our members' views are of the TILMA and why we believe it is important that the province of Saskatchewan move forward and join the TILMA agreement.

Also it's important to note that CFIB . . . As representing CFIB today I'm not just one voice. I am representing close to 5,300 small- and medium-size business owners across this province, many of which would have like to have taken the time to present to you personally, but that's why they joined CFIB — to have their voice put forward by the CFIB.

Just to get you a bit of background on the CFIB, our members are representing a broad range of industry sectors: retail, hospitality, manufacturing, business services, construction, wholesale, agriculture, finance, transportation, and education. And as you know we go to our members at a fairly regular basis to provide them an opportunity to give us their views on important issues. And we have done that with this government as we do across governments across the country on important issues that are of concern to small business.

We believe TILMA is Canada's most comprehensive internal trade agreement and will remove barriers to trade, investment, and labour mobility between the two provinces.

I should mention that we do have a formal submission that we will be providing to the committee by the deadline on Friday, however I will be picking and choosing just some of the highlights of that presentation that we're finalizing for the committee on Friday.

When we surveyed our members we found out that 83 per cent of them agree that Saskatchewan should join TILMA. And I'll go into more detail of that, of how many responded to that and the makeup of their views.

Small business owners support the agreement that would reduce the duplication and registration, permitting and reporting. Additionally they view, the small business owner views eliminating requirements for many, many workers to have to redo examinations and duplicate training would make it easier to attract workers.

We know that Saskatchewan is scrambling for workers. Presently it's one of the highest priorities issues of our membership. When we've asked them, will you have difficulty finding workers in the next five years, 83 per cent of our members have said, yes there will be difficulty in finding workers. The highest concern in the country.

From our perspective when you look at eliminating requirements for workers to have to redo examinations and duplicate training, you make it easier for the province to attract those workers. And you look at the number of campaigns that this government has undertaken over the years — and most recently looking at aiming at attracting Alberta workers to the province — we believe this could be made much easier if we have, if we don't have those restrictions to workers in Saskatchewan.

I will go into the disappointment that we have with many organizations that have come forward that are fighting this agreement. A lot of it is based on fearmongering and not on fact and we would hope that your committee would look at the facts and not the fearmongering.

This agreement doesn't mean that provinces are going to have to sweep away reams of regulations that will put workers' safety and the environment at risk, as critics would have the public to believe. Under TILMA, governments can still pass legitimate laws to protect workers, consumers, and the environment, and so we question why many groups have come forward defending the unnecessary regulations that are there. So we believe if TILMA helps unnecessary rules and red tape, so much the better. Rather than continuing to sit on the sidelines, we believe Saskatchewan should step up to the plate and join TILMA.

And why do we say that? I'll go into a few sections of our report that we believe is proof positive of why we should be moving forward. CFIB does a lot of surveying. One of the surveys we do is the quarterly business barometer, and it is proven to be an accurate indicator of economic performance at the national level. And it's used by a number of financial

institutions in Canada including Bloomberg, Bank of Canada, and Scotiabank as an indicator of the Canadian economy. Our latest quarterly survey — which we provide to you, the decision makers, the province and the opposition, and all elected officials — we found that our latest quarterly survey reveals our members' views and their level of optimism has improved since the last quarter, but it does lag behind other Western provinces. But we have seen the level of optimism from previous years much more positive than it has been, and that's a testament to good policy but also a testament to business owners having the level of optimism to go and grow and expand their business.

So we do continue to lag behind the optimism levels found in BC, but the point is, is that we are on . . . The economy is rolling along. And so while the level of optimism has improved from the previous quarter we must remember, and you as a committee need to remember, that your policies and your decisions can either fuel or dampen that optimism. And we believe by ignoring TILMA and not removing those overlapping regulations or multiple licensing agreements or restrictive procurement policies, we will continue to have an unnecessary drag on the economy.

And just to quote the Canada West Foundation in an article of March 30, they say, quote:

Saskatchewan's economy is chugging along fairly well, with its gross domestic product and employment growth out-performing the national average in the past few years . . .

But there is always room for improvement. One way to keep the prosperity train rolling is to get in on [the] British Columbia and Alberta's Trade, Investment and Labour Mobility Agreement.

The impact on regulation and small business, I wanted to just comment on that. Even though the constitution prohibits explicit internal barriers to trade, a network of implicit trade barriers has developed nonetheless. These barriers have taken the form of excessive regulation which mires in red tape the flows of goods, money, and workers.

And regulation affects businesses in much the same way as taxation, when you look at reducing the resources available to a small business to invest and expand in their business and paying their employees. And CFIB released a national report in 2005 entitled, *Rated R: Prosperity Restricted by Red Tape*. And we estimated the total cost of regulation to Canadian businesses at about \$33 billion.

In Saskatchewan, businesses pay about 876 million. When you look at a small-business owner, they don't have large departments to deal with these regulations. And I've got some examples from our members that have said some of these regulations are pretty onerous. So at the end of the day you look at the amount of regulation and is there a way to streamline some of that. We're not saying get rid of regulations; that's not what we're, that's not what we're here today to say. But we are saying that there are a myriad of regulations that vary between the provinces.

The example that I'd like to raise today is we were recently

contacted by a member who has to pay repeated brand inspections. Our member owns land on both sides of Alberta and Saskatchewan border and moves his cattle back and forth from the pasture, from pasture to pasture. Every time he moves them he has to pay for a brand inspection — a buck sixty-five in Saskatchewan, and 50 cents in Alberta.

So you add it up. If he's moving 500 cattle, which he just recently did, or 1,200 cattle, which he did a few months in the fall, that adds up to thousands and thousands of dollars. Our member is not selling the cattle. He's simply moving them. Cattle are moving from one pasture to another pasture. And our member is very frustrated with being charged continuously for the same cattle and it does amount to thousands and thousands of dollars.

He gave an example of a cow-calf. He had four — two cows and two calves, so two pair — to move, and he had to call for a brand inspector to drive out from Saskatoon for the total of \$7 or around that amount to move it to Alberta. But when you get into the larger amounts it does add up.

When you look at the small-business support of TILMA, we did a survey, as we typically do. We ask our members a lot of these important policy questions that you are debating and considering as decision makers. And last year we surveyed our members on whether Saskatchewan should join the recently signed BC-Alberta agreement to remove interprovincial barriers for trade, investment, and labour mobility.

We got 447 Saskatchewan business owners who took the time to respond. A strong majority — 83 per cent — of Saskatchewan respondents agreed that Saskatchewan should join TILMA and many of them believed that removing trade barriers would enhance investment and employment opportunities. Only 3 per cent opposed it while the remaining 14 per cent were undecided or had no interest in the issue.

We have surveyed our members in Western Canada. And for your interest, 84 per cent of our BC members support TILMA, 79 per cent in Manitoba, and 75 per cent in Alberta.

When you look at the TILMA impact on business, I've got three categories here: TILMA impact on business, the TILMA impact on labour, and the TILMA impact on procurement.

TILMA will remove the duplicate registration, permitting, and reporting requirements, eliminating residency requirements and making transportation easier and extinguishing unfair subsidies. So if you have a business that will operate in both provinces, you won't have that added cost of establishing of another office. And that residency requirement is also eliminated.

You look at the impact on labour. Currently workers in many occupations face additional exams and training requirements if they want to work outside of their home province, while with TILMA, workers in an occupation that is regulated in one province will be recognized as qualified to practise in the other.

We understand that they started out with 60 occupations that had to reconcile their standards over the next two years. I've just spoken to my colleagues out in British Columbia and they're still counting those number of occupations and they're

well over 100 and counting. And I will be meeting with the director in British Columbia on Friday to talk about TILMA and the impact that it will have on their economy. But the point is, is that there's wide-ranging occupations such as funeral salespeople, water well drillers, they'll be able to move more seamlessly between jobs in those provinces.

An example was given recently at a speech by the Minister of Alberta Intergovernmental and Aboriginal Relations. And in his speech the minister noted, I quote:

An Alberta accountant had a chance at a major promotion in the next province. But the accountant is married to a teacher, who would need additional courses to be certified in British Columbia. So does one spouse lose an opportunity, because the family has one income until the teacher re-certifies?

That is an example.

I guess if Saskatchewan is looking at the shortage that we have — and we do have people that are looking at the cost of living in Saskatchewan and such as an attractive feature of the province — so if we want to bring people back, why not make it easier for them to come home? And I think that the occupation list and such and the work that TILMA will do on labour is pretty significant.

Then the impact on procurement. Under new government procurement rules, small- and medium-sized firms from both provinces — if you look at the Alberta and BC agreement — will be able to compete on a wider range of contracts. So in the previous trade agreements the threshold for open bids on contracts was about 100,000 for goods and services and 250,000 for construction. Under TILMA the new thresholds are 10,000 for goods, 75,000 for services, and 100,000 for construction.

CFIB in the past . . . and will continue to be very vocal on the ability for businesses to compete on a fair and level playing field. When we've asked our members in the past what are the top economic strategies or what should be the government's focus on economic strategy, the top two are typically infrastructure and a competitive tax base. And we've seen this government look at the tax base and are beginning to look at the infrastructure. The least effective way to grow the economy is picking winners and losers and direct investment in the economy. So our members very much support the changes and the opportunities that will be brought with the procurement changes.

The other section I'd like to talk about is the importance of trade to Saskatchewan. And I agreed with . . . There was a quote I just recently heard in a debate — and we've heard many debates on this issue, very heated debates — and the quote that I thought put it into context very quickly was, "You could almost take the whole NAFTA debate and just put the TILMA in instead."

Saskatchewan is strategically and economically positioned as the most trade-dependent province in the most trade-dependent nation in the world. In fact a joint report by the Saskatchewan Trade and Export Partnership and the government of

Saskatchewan and Canada entitled *Saskatchewan's State of Trade* stated that "26% of jobs [in the province] are directly or indirectly related to the export of goods and services" compared to the national average of 20 per cent.

So not unlike the free trade agreements known as Canada-US or the North American Free Trade Agreement, NAFTA, much of the current debate emanating from opponents is essentially therefore founded in fearmongering rather than based on fact. It is clear in the experience of NAFTA that among beneficiaries under the agreement Saskatchewan has certainly seen its market share of export product to the US and Mexico increase at levels not experienced before ratification of those accords.

So those that you will hear predict doom and gloom, and they predicted it for NAFTA, they should look at the facts. I mean I would hope the committee would also look at the facts. What have those agreements, those trade agreements meant for Saskatchewan? Since the beginning of the Canada-US Free Trade Agreement, Saskatchewan's trade with the US has increased, going from about 2.5 billion in 1990 to 6.6 billion in 2003 — significant trade. Since the signing of NAFTA in 1994, Saskatchewan's trade to Mexico has increased, exporting 178 million and importing 7 million in 1994 and exporting 230 million and importing 35 million in 2003. So the same voices predicting doom then are doing the same for TILMA today.

Over the past 10 years, international exports have been the most important contributor to the province's growth. In fact it is because of global trade that Saskatchewan is today experiencing unprecedented growth. Saskatchewan is the world's largest exporter of potash, durum, flax, peas, lentils, mustard, and canary seed and we also are the world's largest supplier of uranium. In fact international exports of goods and services increased from 5.6 billion in 1990 to 2.1 billion in 2003.

Why is the province reluctant to pursue freer trade among provinces? The Conference Board of Canada states, I quote:

Joining TILMA has the potential to improve interprovincial trade flows and add to Saskatchewan's economic growth. It also has the potential to add 291 million to its real GDP and create an additional 4,400 new jobs in the province.

If you look at what Eric Howe from the University of Saskatchewan — Eric Howe the economist from the U of S — he says, I quote:

According to the Saskatchewan Bureau of Statistics, Saskatchewan exported \$12.8 billion to other Canadian provinces in 2005. Over 40 percent of [those] interprovincial exports went to Alberta and BC. If Saskatchewan does not sign TILMA, our businesses will have a competitive disadvantage in continuing to make their multi-billion dollar sales into those markets.

So unlike those who want Saskatchewan to sit on the sidelines — which we haven't done on a lot of these markets and interprovincially or globally — but for those that want us to sit on the sidelines, we believe TILMA will build on the momentum and will result in a number of things: more investment, more business, more workers, and more

opportunity.

Now focusing on the facts and not fearmongering, another quote I'll take from a group, the Canada West Foundation, in an article they did in March. Actually, I'll correct that. That's from the minister rather of government relations in Alberta: "It is said, if Edison invented the light bulb today, some people would see it as putting the candle industry at risk." And "we saw that principle when NAFTA was negotiated."

So it's pretty tough to have a meaningful debate on TILMA when many groups resort to not getting the facts straight. Given the high level of rhetoric coming from various groups, it's not surprising some would come up with such ludicrous comments that if Saskatchewan signs TILMA, it would be the end of the Saskatchewan Roughriders. That's what it's come to.

Many labour groups and other social activist organizations are labelling TILMA as a pro-business deal that will undermine the authority of local governments. I've got a few myths that I'd like to just raise and then I will turn it over for any questions that you may have.

Myth no. 1. This agreement gives exclusive privileges to business at the expense of every other sector of society, so it's been called the corporate bill of rights. The fact is that TILMA's benefits will be realized by individuals who work, wanting to move across provinces, invest, or own their business. And TILMA is not simply an investment agreement. It is also looking at trade and labour mobility as well.

TILMA will limit a government's ability to do what is right. And we believe this is also misleading. TILMA does not require either of the provinces that are signed right now to get rid of measures that would protect consumers, the environment, or which would address other legitimate public policy objectives. And those objectives that are outside of the agreement include — as you have heard — taxation, royalties, public safety, security, water and the environment, consumer protection, social policy, and Aboriginal policies, labour standards, and worker health and safety.

Myth no. 3. TILMA will harmonize regulations and standards to the lowest common denominator. And those in the professional and trades in the province should frankly be quite insulted by that comment. We look at occupational standards that have been developed independently but there are differences often that are minor and unnecessary. And TILMA will negotiate with regulatory bodies specifically to remove only the difference and duplication that present unnecessary obstacles but to respect situations that require specific scopes of practice.

Myth no. 4. TILMA will provide another barrier to the efforts being made by local governments to be more in control of their own affairs. And I see on the list that you have many, or a few I should say, municipal politicians coming forward. TILMA is not intended to constrain local governments' ability to establish or maintain bona fide non-discriminatory measures such as zoning bylaws, height restrictions, or rules applying to signage.

Myth no. 6. We really don't need a TILMA. And the fact is that non-tariff barriers are real and they do cost money. As I

mentioned, we did a national report on the cost of regulation — \$33 billion a year for the Canadian economy, hundreds and hundreds of millions of dollars for the province of Saskatchewan. And as a result of our report we now have governments looking at the number of regulations that they do have and the cost of that to business. We see the federal government has now committed to a 20 per cent reduction in regulation by 2008. So we are working with various departments to look at the number of regulations. But non-tariff barriers are real and they do cost money.

Labour mobility is a problem, which is why there are 60-odd occupations. And now, as I talked to my colleague just before I came over, the list continues to grow and it's well over the 100 mark now. And they still need requirements to obtain full labour mobility. There's been many studies that have been noted — and I've noted a number of them today — that have pointed to the cost of impediments to internal trade.

And then also I guess finally — and I mentioned it in my comments of this section — is that signing TILMA, you can kiss the Roughriders goodbye. And TILMA exempts non-profit corporations such as the Riders. And I think comments like that do not push the debate forward.

And then finally I will just comment that we believe allowing goods and services, capital, and labour to flow more freely across the borders will expand trade, lower costs for business and taxpayers, and support the development of a more productive regional economy.

So if TILMA does help eliminate unnecessary rules and red tape, so much the better. And so we believe rather than sitting on the sidelines we should move forward as this province is moving forward and sign and join the TILMA agreement.

Thank you so much for your attention today and I'll be open for any questions that you may have.

The Deputy Chair: — Thank you for your presentation. I'll open it up to questions from the committee members. Mr. Yates.

Hon. Mr. Yates: — Thank you very much, Mr. Chair. There's a number of things that you've raised that I'd like to ask questions about. But first off, currently today we have the AIT which is a trade agreement between all the jurisdictions in Canada. We have TILMA being brought forward by Alberta and British Columbia. There have been rumours or discussions about a Quebec and Ontario agreement.

I guess one of the questions I have and part of the concern is, are we better or worse off with regionalized agreements than a national, pan-Canadian agreement on trade? Yes, 40 per cent of our trade goes west. But the other 60 per cent goes east, and where we lose perhaps on — if we're not part of TILMA — what goes west, what's the counterbalance with the trade that goes east, if we have regional agreements? And those types of things at this point we don't know or understand because they are unknowns. So I'll start there, for your opinion on that.

Ms. Braun-Pollon: — Okay. Well I guess just first off, the notion of freer trade is something that our members support and

we would hope that through TILMA and getting, you know, the Western provinces outside would push the other provinces to think about moving in that direction as well. And we've got the data that shows the amount of regulation and paperwork and red tape that business owners right across this country deal with, and so it's not just, as you noted, it's not just a Western Canadian issue. It's an interprovincial or a Canadian-wide issue. But I think that the point that . . . You know, we can't wait for them to decide what they're going to be doing. There's a lot of different competing interests and such.

I think that we need to move forward and at least get . . . The part of the economy in Canada that's moving very quickly and growing very quickly is the West, and how can we differentiate ourselves better than getting freer trade and labour mobility moving? Because we have, you know, the shortage of qualified labour issue is not high on the radar screen as much as it is in Alberta, BC, in Manitoba, in Saskatchewan as it is in other provinces. Yes, they're dealing with shortage of qualified labour but we've got issues that are staring us in the face that we are turning away business because we can't fill the requirements.

Hon. Mr. Yates: — Thank you. My next question really has to do with labour mobility and qualifications. We have TILMA moving forward with a 2009 objective to reconcile the differences on labour mobility. We have the AIT with the same time frame to move forward with the issue of reconciliation of those differences in mobility across the country. So our, you know from that, strictly that element of it, do you think that, do you have confidence that the AIT will in fact move forward with this issue and a different level of confidence with TILMA or it . . . The objective is the same I guess and the time frame's the same. And one's national and one's not.

Ms. Braun-Pollon: — Right. Well AIT has been in my readings — and I should say I could've brought my TILMA binder; I'm sure your binder might be as thick as mine, but my TILMA is about this thick now with all the various studies and such that have been done — and AIT hasn't been effective for a number of reasons. But I think that we need to look at TILMA as a way that's being aggressive and actually identifying the differences between those occupations.

And as I mentioned we're at 60 now. They started out with 60 but they're well, well above that and if we are looking at, you know, wanting to have welcome arms for those that are coming back to Saskatchewan or are considering Saskatchewan as a place to live, why not make it easier for those professions to move as freely as possible?

Hon. Mr. Yates: — Thank you. My next question is your opinion on the dispute resolution process and the procedures. When we look at NAFTA and the various challenges that have gone before NAFTA, we see Canada having paid \$27 million, we see Mexico having paid \$18 million, and we see the United States having paid nothing. There are some concerns that trade agreements like this often favour the more powerful or more influential jurisdiction involved in those trade agreements, and I think to some degree NAFTA would point in that direction with the numbers. So what would your comments be on that in that in this particular agreement, if we were to enter, we'd be the small player and what impact, negative impact that may have on

the province?

Ms. Braun-Pollon: — Now to just correct my understanding of your comment. You said that panels typically favour business, is that what you said?

Hon. Mr. Yates: — No, what I'm saying the panels have, if you look at NAFTA as an example . . .

Ms. Braun-Pollon: — Yes.

Hon. Mr. Yates: — And the number of challenges under NAFTA, they tend to favour the bigger player.

Ms. Braun-Pollon: — Okay.

Hon. Mr. Yates: — In the case of the numbers, Canada has paid \$27 million roughly out in penalties, Mexico roughly \$18 million, and the United States, nothing — even though there have been significant challenges against the United States. So just to look at those numbers it would seem to be that the biggest player, the largest economy has done better.

Ms. Braun-Pollon: — Well, you know, I can't comment specifically on whether those panels do favour or not. I know in my research in putting this submission together, I have talked with trade lawyers. And one of the things is to look at all the comments made against TILMA and then to call those that have actually negotiated the agreement and talk to them about some of those issues that have come forward, and one of them is this whole dispute resolution and dispute panels. And one of the trade lawyers that I did talk to did mention that from their understanding even with AIT — and I'm not sure how many cases have gone forward — but that they have been fair in the sense of how they look at the information. But I don't know if I'll comment much more than that at this point.

One of the things I know that with the dispute resolution is that the hearing, decision, report, and appeal would be completed within about 105 days of each complaint — making it, you know, not caught up in years and years of hearings. But I can't say that I have much more knowledge on the dispute mechanism at this point.

Hon. Mr. Yates: — Thank you. And we are going to have a considerable period of time later on to deal with officials from both Alberta and British Columbia on this and ask many, many questions. Because today what we're hearing is, I guess, impressions or opinions of what the agreement may or may not mean. We have to ask the actual people.

But the next issue I'd like to question, I guess, is we've had a difficult time getting people to actually articulate for us what the real barriers are that we're trying to deal with here. And of course we have the Macdonald Commission that at one point said it was half of 1 per cent of GDP 25 years ago or so and that today it would be less than that. So it would be relatively small as a cost and in fact Canada was one of the most free and open nations for trade.

So are we tackling a minor problem with a major approach and is this the best mechanism to tackle the obvious issues? And it leaves out, in my opinion — just to take this point further, I'd

like you to comment on this — probably one of the most significant issues which is security regulation, which a single national security regulator would certainly improve Canada's investment potential and capabilities and I think significantly Saskatchewan's. If you could comment on those items.

Ms. Braun-Pollon: — Well I guess I'll go back to the notion that before we released our national report on the cost of regulation, there were many that said paperwork and red tape and reporting to government and that's just what you do — it doesn't cost the economy anything. And we had our economist do the number crunching and it's \$33 billion a year; in Saskatchewan \$876 million; federally, provincial, and municipal, the time, the effort, you know, all of that.

I think when you look at though the barriers are real, when you talk to a business owner that now will only need to register in one jurisdiction rather than, you know, having this duplicate reporting back and forth and with the residency as well. You look at the commercial truckers in Alberta and BC no longer will have that duplicate registration requirements. There are reams and reams and reams of duplication. And you think of the rancher that I just spoke to you in the last week about the thousands of dollars that he spends to move his cattle from Alberta to Saskatchewan. And we're not talking about safety of beef. We're talking about he's just moving them from one pasture to another pasture and why is it a buck 65 in Saskatchewan and 50 cents in Alberta?

I think the other point too when you look at procurement, I mean, I know this is a lightning rod issue for many groups, but for us we look at it as opening up the opportunities for our members, for business owners to bid on jobs. And Saskatchewan has never been afraid of competition. You look at our trade numbers and we can compete with the best. And so why we would shy away with looking at opening that up for our business owners to compete on even a larger market I think that could only be good news.

So looking at the agreement, how it impact workers, right now all the regulations, the additional exams and training if they want to work outside the home province, I think that is one that's being underplayed the number of occupations that are there being reconciled. We're not saying stripping them of their, of going to the lowest common denominator. We're saying why is it that an acupuncturist can't go and work in Alberta or vice versa? Why is that they have to retrain themselves or be re-examined? And if we are scrambling for qualified labour, let's be on the same page.

I don't know if I answered all those. You had a couple of questions in there as well. But we believe there are . . . I mean you look at the Conference Board of Canada report and in that it had a trade survey, and one of the selected comments which I thought was interesting, and this is again just an example, but one respondent said, and I quote:

There are a myriad of regulations that vary between provinces that not only create indirect barriers but also increase our costs of doing business, reduces profitability of a business. These varying regulations impact our company and our industry in general. As an example last year we encountered difficulties transporting certified seed

from Saskatchewan to Alberta.

And that's just another example. There's lots of them out there. But the point that there's duplicate of registrations, duplicate of reporting requirements, how can we eliminate those or at least streamline those?

Hon. Mr. Yates: — Okay. Thank you very much. In the interest of time, Mr. Chair, I'll . . . move on to the next.

The Deputy Chair: — Mr. Chisholm.

Mr. Chisholm: — Thank you. And thank you for your presentation, Marilyn. What I found positive and a little uplifting with your presentation compared to some of the ones we've had is that you actually represent the people that trade and invest, and that's what this agreement, that's what this agreement is all about.

And the two things that have been coming across are, one, that there's minimal barriers. That's one point of view that's been expressed, that they're almost insignificant, they almost don't exist; and secondly, that labour mobility is not a problem in this country. And I think you've certainly brought out some facts regarding both of those items that I think are important.

The labour mobility in particular, it was interesting that when Alberta and BC came out with the original agreement, they only identified 60 and that as soon as people started to look at the agreement and realize what the problem was, all of a sudden that 60 grew to 100. And I understand, the last communication I had, that they have since April 1 when it came in already satisfied about 12 or 13 of that original 60. So it shows that if there's a will there's a way, and a time frame. And that's just my comments. Thanks.

Ms. Braun-Pollon: — Okay. Thank you.

The Deputy Chair: — Ms. Crofford.

Ms. Crofford: — It was very thoughtful of you to be so brief. I'll just start out by saying, as someone who's stuck maybe one toe in the starting a personal business world, I can certainly appreciate the desire for less red tape. I wasn't even sure which of all those books at the tax centre to look at, and I was happy to see BizPaL come out because I think that'll be a big improvement.

But I also want to go back to this fearmongering or fact because I don't think we should be fearmongering either, but I do think we should look at real concerns. And what I have in front of me here, Marilyn, is it's a newspaper article saying "Canada lowers [its] standards on pesticide use on fruits [and] vegetables to match U.S. limits." And this was partially under NAFTA but also under this agreement for prosperity.

Now we have a society that's moving towards more environmental awareness, the effect of food quality on cancer, on other illnesses. And it troubles me a lot to think that the Canadian government could have had to compensate US growers who are allowed to have a lower standard — and by the way, most people who work in the area of food quality think the standards are way too low already — to further lower

Canadian standards. And so when people say, is there going to be a race to the bottom, I don't think it's totally unfounded because this is a real example that affects food safety and food quality for all Canadians.

The other one is the threat of a NAFTA case kills Canada's MMT [methylcyclopentadienyl manganese tricarbonyl] ban challenge over gasoline additive that would've cost Ottawa millions. And this is actually, I think, the current . . . Oh no. This was the Liberal government there. They had put in a ban on the additive MMT about the manganese used in the octane enhancer causing nervous system problems, but also causing problems for the cars themselves. They were challenged by the company that produces it and had to withdraw the regulation because it would've cost them \$1 million to uphold the regulation. And I think these are the kind of real things that people are worried about.

So what I think that I want to go back to is what the minister put in front of us. First of all, what are the specific problems, and is TILMA the solution? Because I think you've mentioned some good examples, the cattle example . . . I'm not sure that TILMA will solve red tape. Red tape's a different kind of problem. But I think the kind of things that are envisioned under TILMA have more to do with regulations that might protect an area of real estate, regulations that might . . . and the specific example I'll use is the Red Seal program because this is a program that every government in Canada, except for BC and Quebec, has signed on to a high standard of trade so that people know that tradespeople have the same level.

Now does this mean now that a tradesperson from BC, which has actually a lower level of training, can go anywhere in Canada if TILMA's adopted? And is that a good thing when every other province thought the Red Seal program was a good thing?

Ms. Braun-Pollon: — Well I don't believe it is. And I guess the race to the bottom . . . You know, one of the things that we . . . And I don't use fearmongering lightly. I don't, because I read the blogs every day, and I don't particularly like to be called, business crowd resorts to blackmail. I don't particularly think that's a productive debate, you know.

Ms. Crofford: — I don't think anyone here said that.

Ms. Braun-Pollon: — No. No, no. No, this is a blog that I went to. It wasn't a government. I mean, no. But you know, when you've got . . . You know, scare tactics are being used by, you know, corporate types who are attempting to blackmail Saskatchewan into signing. We're not doing that. We're just saying, what makes good common sense? It's almost like the NAFTA bogeyman though.

I mean, you look at what NAFTA's meant for Saskatchewan. I mean, we are benefiting from export of our major resources to all parts of the world, and we're good at it.

Ms. Crofford: — And I think we've introduced a number of initiatives. Just because of time I do have one particular question I want to ask. Now when it comes to procurement and when the concerns exist over whether there's going to be the ability for buy-local or what not . . . and I think governments

across Canada have had varying success in pretending they're following the rules and having ways of getting around it. But all that aside, do you not think that that kind of a policy favours big business over small business? Because they can always achieve the economies of scale and they have the better lawyers, the better efficiencies. I mean does the small guy really have a chance in that environment?

Ms. Braun-Pollon: — I guess our members — Saskatchewan members particularly because I think we're one of the few provinces that have direct competition from government on a regular basis — so they are very well aware of businesses picking winners and losers, and they'd rather not have that. So they're . . . out of, I think, of all the provinces they, our members, believe that government should be providing the best, effective, most efficient service at the best price possible. And municipal governments that have, you know, are favouring one business over another. You know, I mean our members have been very, very, very clear and we've been very clear in our public comments that we, you know, investing . . . direct investment in the economy is something that is not supported by small business. And are they afraid to compete? Not at all.

Ms. Crofford: — Well let me give you this example. Earlier today someone from a health provider union talked about the federal government moving to a cross-Canada procurement of telecommunication system for the federal government. And what she talked about was how they've gone to two phone companies that don't actually provide good service in Saskatchewan. So when she's out doing her field work, she's going to be compelled to use the phone service that does not have the same coverage in Saskatchewan that SaskTel does. And this is because a big corporation has been chosen to do all of Canada.

I am not sure quite how that serves the interests of the service requirement of what a telecommunications device is all about which is about communicating. And so I worry again; I'm sure one of the reasons why those big companies won that contract is partly because they're very big. But that doesn't mean that their service penetration is the same.

And so I just raise these things because I tell you, I came into this thing thinking, oh, another trade deal, you know, what the heck, eh? But I tell you, the more I listen to people and hear some of these specific examples and see stuff like the pesticide things and the removing of the gas additive, it really makes me start to wonder whether before you sign a contract, any business person would read the fine print. And I don't think we have the fine print on TILMA because AIT was a fine print process where all the governments in Canada were involved.

And so I'm hoping that, aside from all the positioning that's going on, that people are from the point of view of whatever kind of agreements, whatever kind of trade agreements we have, people are really looking at these kind of things because I'd hate to end up in a situation where we could never have an improvement in environmental law because it would damage someone's business activity.

Ms. Braun-Pollon: — Well and again, I mean, the agreement when you look at environment at risk and I mean some of the comments talking about . . . I'm just trying to look here if I had

it here. You know, some of the comments talking about that, you know, school boards losing their ability to mandate healthy lunch programs. I mean, we're not talking about that. We're talking about what makes sense to move labour . . . people working. What makes sense to have a business not have to register in one province or the other. They can register once and be done with it. It's making it easier to flow, have free flow of trade.

And we heard all of the arguments during NAFTA, during the free trade agreement of why the sky was falling. It was going to be doom and gloom. And at the end of the day, we have seen Saskatchewan do very well from both of those agreements.

Now should you not ask questions? I'm not saying that at all. I think the point is, is that you will hear from various groups coming forward. And many of those groups have the time to come forward here. My members don't. They would love to, but they just don't. I mean, the rancher that I talked to, I caught him in the pasture on his cellphone, and he said, please raise this issue on my behalf which I hope I did thoroughly for him.

But you know, we're not going to say water sold only to the highest bidder. We're not saying the end of all regulation, but we're saying what makes good, common sense here. And we believe it makes common sense to move forward and have freer trade.

And we would hope that the voices that you are hearing that this will be the end of Crown corporations or end of this or end of that, we would hope that you would caution your taking those views in and filter them so that we know that at the end of the day, does this make us more competitive.

And let's not forget, Saskatchewan. There will be an agreement. There is an agreement. By 2009 and it will be fully implemented. Saskatchewan can decide to sit on the sidelines or be part of this. And we would hope that they would be part of this, part of this agreement.

Ms. Crofford: — I think just as a final thing. Being involved in a lot of community things and being involved in the music industry review recently, I think a lot of people like the Jazz Festival, the Folk Festival, and others, they're really concerned. Is Rogers Communications going to sponsor the Saskatchewan Jazz Festival? I mean, that's why they care about whether . . .

Ms. Braun-Pollon: — And what if they did?

Ms. Crofford: — Well because they won't. They won't.

Ms. Braun-Pollon: — But what if we have another corporation come in and sponsor an event? I mean SaskTel . . .

Ms. Crofford: — Well that hasn't been our experience. Our experience has been that outside corporations don't sponsor local events. That's our experience. So I'm just saying that there's levels of issues here. There's not just one issue.

Ms. Braun-Pollon: — But I can also show you that small business is, you know, 90 per cent of our members, 95 per cent of our members . . . As one member showed me on his wall as he was leaving Saskatchewan a few years back before the tax

system changed and such, he said, look at that wall, Marilyn, the Little League and the hockey teams and all that. It won't be.

Ms. Crofford: — Well I think we'll just have to leave it at that. But I'm yet to be convinced of a few more facts here.

The Deputy Chair: — Mr. Iwanchuk.

Mr. Iwanchuk: — Thank you. And thank you for bearing with us and staying a bit longer. I guess being somewhat, serving my first term here, one thing I have learned is that when the economy isn't doing well, the government bears a fair share of the criticism of the economy not doing well. It's good to hear that the business people in Saskatchewan think the economy is doing well.

But anyway, I think you just talked about it and I only have one concern and one question, and is that . . . Because we have to look at, we do have the Canadian agreement which we are looking at, and I take it that there has been some criticism of it. And one of the main things — and I know you attempted to answer this but — is the panel, the dispute settlement panel because . . . And I know we've been talking about NAFTA. And I'm just going to read you a quote and then just it would, I guess, the best that you may make some comments on that.

Because I think some of the things that we have to deal with, I think we can all agree with what you're saying in terms of restrictions and not wanting to duplicate and all the rest. I think we're all in line with that. In fact we've asked for a list of barriers and things, and I think somebody is trying to get those for us. But here's the quote. It's in terms of the chapter 11 in NAFTA:

There are ongoing challenges related to water exports, log export controls, public postal services, Canada's agriculture supply management system, Canadian cultural policy, and other matters which are supposedly excluded.

And those are supposedly excluded from NAFTA. And one of the things we keep hearing is that somehow this panel will, you know, include all these things. And I know you said to that, you said, you know — and I believe what you were saying — that you don't mean all of those things. But as legislators we will be taken to task for those if the panel decides to. And that would not be under your control; it would not be under our control. Somebody can do that.

But I think we have a responsibility to the people of this province to make or to get into an agreement that we would know what that would be. So even though NAFTA excluded those things we have, of course, all of these things being dealt with under NAFTA. And again, and I think I have to say that under this dispute resolution and the ability to . . . The fines and the 5 million that you can ask for, and anyone can do this, that that is a concern of mine. So I think it's not so much . . . We can focus on and argue about restrictions and duplication, and I don't think anybody wants that. I mean we all have . . . Whether we have agriculture in our backgrounds or family in business or whatever, we can go to that and hear about that. And I do on a continual basis.

So we're not . . . I think we're online with that, and we're

online with mobility of labour. But why would you have to buy into something, why not the NAFTA or some other dispute resolution mechanism, and why this particular mechanism which allows for a panel to make these decisions? I think it's crucial because . . . for me it is anyways.

Ms. Braun-Pollon: — Well I guess the point on the panel is that fines are routinely written into regulations to motivate compliance and deter rule breaking for businesses and individuals, and we only see it reasonable that governments would also face fines to ensure compliance to its own rules. And that's where we believe that that should be part of the package, and it does have some teeth. And it also says it needs to be resolved in a timely fashion, so it's not caught up with years and years and years of negotiations.

Mr. Iwanchuk: — But in terms of the panel saying that . . . so you would sort of err on the side that they would go positive and in terms of what the scope of what this panel could deal with. Do you have any concerns with that?

Ms. Braun-Pollon: — Well I think that we . . . I mean again, I'm not as intimately knowledgeable on the panel structure per se so I'm not going to comment specifically on what should the panel look like. I'd have to look at that and maybe provide some more written comment in my submission to the panel.

Mr. Iwanchuk: — But you understand our concern?

Ms. Braun-Pollon: — Yes.

Mr. Iwanchuk: — Okay. Well thank you very much.

Ms. Braun-Pollon: — I just want to make one final comment if I could, is that one of the comments that was made by the committee members about corporations not giving back. I think we need to look just down the street here at Mosaic with the stadium, and they make millions of dollars to our health care system as well. So I think corporations are doing their fair share.

The Deputy Chair: — Mr. Hart. One question please.

Mr. Hart: — Thank you, Mr. Chair. Ms. Braun-Pollon, we've heard municipal governments raising concerns about loss of some of their autonomy and those sorts of things, and one of the areas that is raised by urban municipal governments and also rural municipal governments is control over local procurement. Article 14 talks about procurement values over \$10,000 will be affected by, you know, by this agreement and so on. Are you hearing, you know — and I think we can all, we can find examples where local business, small businesses are given sort of preferential treatments to provide goods or services — are you hearing from your members any concern about that particular issue? Have any of your members raised that issue with you and expressing their fear of this particular article in the agreement?

Ms. Braun-Pollon: — Not current with respect to TILMA. But I should go back to the survey that we did on economic development strategies — it was a few years back — of what should be the priorities for the government to look at for economic development strategy. And we had 80 per cent of our,

you know, a majority of our members saying that the government shouldn't have direct investment in the economy. But on the flip side, then you have about 20 per cent of them saying we should have that. So there will be the minority. But as you know CFIB's member driven. We take the majority vote. If it's a strong vote, we go forward with that.

So there will be those that say that well I quite like being protected from competition. It's a good deal for me. It's a good deal for those involved, so they think. But is it a good deal for taxpayers are the end of the day? Are they getting the best value? And you may find that that individual who was under the agreement that they had, the buy-local, may be just as competitive and just as cost-efficient as anyone else. And so I think it gets back to the business owner knowing what they're good at and competing, and they're not afraid to compete.

Mr. Hart: — So you haven't had any of your members pounding on your door or sending you e-mails or telephone calls saying this is something we need to deal with and get some changes in this area or that . . .

Ms. Braun-Pollon: — No, we have not.

Mr. Hart: — Good. Thank you for that.

The Deputy Chair: — Thank you very much for your presentation, Ms. Braun-Pollon. I appreciated it very much, and the committee looks forward to your written submission later.

Ms. Braun-Pollon: — Thank you. And I will ensure that there is some . . . If there was some more questions that I could've more thoroughly answered, I'll try to address those within my written comments as well. Thank you.

The Deputy Chair: — Thank you very much.

Ms. Crofford: — Can I just make a comment about the written submission. I'm hoping, Marilyn, in that submission you'll really try to identify in concrete ways some of the barriers because what we're having trouble with is we're hearing a lot of generalities from all the presenters, and to me this presentation felt a bit general too because your brief isn't here. But if there could be some specific examples of the barriers it would be helpful.

Ms. Braun-Pollon: — Yes. And I did raise that one that I had, and also I think our red tape report is pretty clear on the impact of regulation as well. I mean I don't know . . . I guess I'm missing the point with respect to labour mobility. I mean they've already identified 60; they're up to over 100. I think that is enough of a reason to move forward if we're so short-staffed and half of our members are turning away business right now because they can't find labour. Why would we not want to welcome those individuals, those workers to our . . . I mean I see that as a compelling reason enough, I guess, but I do take your comment and will do my best to incorporate those to a degree.

Ms. Crofford: — Yes, I think it would be helpful in that particular example to know which occupations aren't able to move now, and are they people who would move?

Ms. Braun-Pollon: — Well I guess my question would be back to you as legislators. You tell me how easy it is for workers to get back and forth and show me that it isn't a problem.

Ms. Crofford: — Well we heard from everyone who has presented so far that it isn't. So I don't know.

Presenter: Wes Norheim

The Deputy Chair: — Thank you very much. We'll move on to the next order of business. We will receive a presentation from Wes Norheim. Thank you, Mr. Norheim, for making a presentation. We're running a little late, but we will give you all the time that has been allotted for you. So please proceed with your presentation.

Mr. Norheim: — Okay. Well I want to thank the committee and our government and the opposition for this opportunity to provide my views regarding the trade, investment and labour mobility Act. My perspective is that of a citizen, now retired, but still connected with the workers with whom I've had the privilege of working for over 30 years.

My first word of TILMA came from initial announcements of the British Columbia and Alberta pending merger, via the press. This was also brought to my sharp attention by my next-door neighbour. We're the best of friends and agree on almost everything except politics, and we don't waste each other's time on political matters unless there's a sting or a poke where the recipient may not have an instant response.

I don't know why our government isn't getting in step and joining Alberta and BC in this Western provincial structure, my neighbour wondered out loud. He had me. I didn't know why. But then I'd only just learned that it existed. I hadn't heard about any voting, discussion, or anything, and I thought I would have considering that I have family and friends, contacts, all over both Alberta and British Columbia. I thought to myself, shut up, Wes, and don't say anything to them because at this point you can't. But I immediately made a point to find out.

Of course there is the first fleeting thought of — given our experience here — now that it's the West's turn recalling all the ill will that we have learned from being shortchanged by Central Canada. But then you catch yourself; marking Canadian winners and losers has never been that simple.

I phoned around in BC and Alberta to family and organizations that regularly lobbied provincial government. They'd read about it in the paper, the same as us in Saskatchewan. Alberta was no surprise. Ralph has an aversion for democratic processes, but I thought that BC's style of government would have been different. Maybe the changes were insignificant and an order in council is all that is required. Yet it sounded bigger than that.

I went back into something that led to this. The provinces meet from time to time, of course, to discuss problems between themselves — common problems of course — common causes which they wish federal participation or assistance with. And as you know there's the premiers' Council of the Federation, which along with the Government of Canada, maintain an Agreement on Internal Trade — the AIT.

It seemed that a continuing dissatisfaction with current resolution methods on interprovincial trade disputes saw the AIT strike a sub-committee to try to come up with ideas for a better dispute resolution system. BC Premiers Campbell and Alberta's Klein were the premiers empowered to head the sub-committee. What they returned with was TILMA.

If they placed their recommendations before their peers for consideration, I as a citizen have no knowledge of it. It looked like they'd forthwith adopted it, believing their peers were bound to follow, considering it brilliant, but wanting someone else to test the water; or they forthwith adopted it with no regard for what their peers representing the rest of Canada would do; or alternatively they decided to expose colleagues' hesitation to illustrate a division.

Whatever the motive, it smacked on the face of it of a western style of separation, that it was awkward and undemocratic in its presentation and shameful in the message it sent. It presents an impression of a cowboy swaggering into a bar without a heel on one of his boots. The viewer is struck that something was wrong.

From what I've been able to learn, there was no public notice of intention or subject content, public hearings, opportunity for public input into this agreement. The public was and continues to be almost entirely unaware of its terms and affects. And I'm talking about those in British Columbia and Alberta as well as the rest of us.

The terms are clearly more significant than a simple order in council type of change — not very good procedure in a democracy. And I much prefer the initiative that has been taken by your committee, for better or for worse. It highlights the wisdom of fair play and attempts to have a level field of understanding that this government is attempting, of which your committee will form a critical role in ensuring that no one is buying a pig in a poke.

I've found a number of things wrong with TILMA. And time doesn't permit me to cover all of them, but I'll try to cover those that affect me and my successors most directly.

First of all, TILMA stakes out a bias against provincial government entities. In the first instance it flows onto the entities, such as our cities and towns and municipalities. In Saskatchewan it has a particular effect since we value doing things collectively through public ownership, from our town halls and curling rinks to a variety of Crown corporations, both wholly owned collectively or sometimes in joint venture with private firms. Even our health services are delivered by publicly owned institutions, and even here there is a strong sense that TILMA's bias may apply in the future. No such intention is described concerning private endeavours however invasive they may be in what has historically been government.

Secondly, within the federal system, provinces have very important powers to exercise on behalf of their citizens. TILMA constrains those powers by making commercial interests the paramount consideration in policy making. TILMA attempts to coerce governments to disregard demands for higher standards even if these are expressed by a majority of citizens. This erases not only borders but also the powers of government — any

government — provincial or municipal.

For instance a city or town wants to build some public building. It may be a new curling rink or a maintenance shed. Traditionally our tenders have been let, but the hope is that a local contractor is successful in the bidding. The work will be good because he has a reputation to protect. It keeps money and families in the community, and yes, a local business is successful.

But wait — there's a dispute. How is the tender advertised? Province-wide as always. There are complaints of unfair tendering and claims for damages — one from Chicago, one from Mexico City, another from Vancouver. Under TILMA, there are strong hints that one must tender in US and Mexico as well as Canada. So they refuse to pay some rip-off artist. We'll see you in court. Not so, it will be a panel.

The local government can be sued not once or twice, but several times for up to \$5 million each time. Of note, TILMA's dispute procedures are adopted from those out of chapter 11 out of NAFTA. It would be described as a chill effect. Its intent is to replace public effort with private enterprise by discouraging public holdings by fear.

TILMA presently pretends to be an interprovincial, Canadian solution to interprovincial trade differences. In reality, it's the extension and teeth of NAFTA. So that patrons of private business can prosper in Canada's sizeable, public activities, there is no such reciprocal proposal offered; that is, other provinces in North America and countries are not obliged to publish their tenders in Canada and Saskatchewan.

To the extent that the Calvert and Klein subcommittee touched on their assigned mission of providing solutions to interprovincial irritants real or imaginary, their solution seems to be to merge all of the regulations, so that that which least offends investment, business decisions, making and conduct.

This is back to our old debates of deregulation, that if business cannot get rid of a regulation entirely, this process gives business the next best thing to reducing them. The downward spiral of the regulation rationalization system creates its own pressure to always press for less until one reaches zero. In industrial relations law, which I'm familiar with, leaves the field open to the industrial bully who gains advantage over competitors by ignoring fair employment practices, cutting corners on health and safety, and keeps a higher percentage of immigrant employees because he believes they feel more vulnerable, etc. Perhaps other industries have bullies of their own sorts, so much so that past governments were lobbied for regulations to level the field to ensure more fair competition.

Is there differences between a tradesperson who is an apprentice, one who is very good at what they do, and one who not only excels in all aspects of their trade but also is a very good teacher? My impression is that the last two categories would be considered equal under TILMA, under the TILMA rationalization procedure. I'm advised that those within the compulsory trades such as those directly affecting health and safety, examples would be electrical and refrigeration, would go to a lower standard of training in Saskatchewan under TILMA. Of course the committee also recommended that the fines be

increased from the existing system.

To stand back and look at trade, investment, and labour mobility and to say this is something that we can fix by disarming provincial government of their ability to make regulations, however awkward they may be from time to time, is not a problem that demands such radicalism nor will it fulfill its title.

Saskatchewan's trade is at an all-time high with exports mostly of a foreign nature, expansion of our steel mill and potash, to increasing of our farm products mostly exported, gold and diamonds coming on, with petroleum high and increasing. If we have a weak spot, it's perhaps in our forest products, but that's general throughout most of Canada's economy. Investment money is like water and will flow where it's comfortable, and it finds plenty of comfort in Saskatchewan these days. Even in spite of the farm sector, monies are being spent there in the fields with new machinery. Farm land is bringing high prices. If we have one good year, again, we would feed the world. And to have a good year with our vast real estate is not easy. Real estate is going so fast and at such prices it is, almost be dangerously inflationary. The province, I am told, enjoys a AA credit rating.

Labour. Labour has wheels and wings now, and they will and are trying new places if the net quality of life seems to be better elsewhere. Some will come back but not yet in the droves that have left. Employers in some of our sectors are still playing the role of an 18th century mill owner.

In the second last budget, government cut taxes to the pleadings of business that they needed, I thought, to help in initiatives in retaining and improving work places in order to stop the exodus. So most of them pocketed the money. To the credit of some, they put it to work in training and into higher wages and salary. Some now, I believe, reach to new incomes as a source of — I feel — cheap labour and infill, but these people will catch on as well. Some employers and industries, to their credit, are catching on and improving the workers' purse but not enough of them. More Saskatchewan employers must take a cue from the West when it comes to providing higher wages and salaries.

Mobility. In this economy, capital and labour and investment can and will go where all of them can prosper. The difference is that labour is also mobile now. Saskatchewan employers have some catching up to do. The foregoing cannot be controlled by this thing called an agreement of TILMA. It is in the hands of the bankers and the entrepreneurs and the workers who are going to build and run these enterprises. TILMA appears like a bulldozer pulling a harrow.

It would be very helpful if your committee would identify the actual interprovincial trade disputes that Saskatchewan has with other provinces and the estimated cost of each trade dispute so we can be clear about the issues and the target. If your committee can find common ground in your report and clearly state the reasons where you have differences — if you have any — I believe the resulting report would be very helpful and enlightening to Saskatchewan people about a matter that is of critical importance both now and in our future. Thank you.

The Deputy Chair: — Thank you very much for your presentation. I open it up to questions from our committee members. Ms. Crofford.

Ms. Crofford: — Well I'm tempted to ask if you've had this deeper discussion with your neighbour now that you know what it's all about.

Mr. Norheim: — You know what, he happened to get very sick, have a serious operation, and he's currently stuck in the hospital . . .

Ms. Crofford: — Oh it wouldn't be fair then.

Mr. Norheim: — And I didn't want to stir him up at this point. I'm waiting for him to get over to a scan on rehab. And when he needs some exercise, kicking me with his left leg, then I'm going to start it again.

Ms. Crofford: — Okay.

Mr. Norheim: — He'll get going real good just when I tell him that I've been here and he wasn't.

Ms. Crofford: — Well that's good that you can see beyond the differences to the common ground you share in your neighbourhood.

I thought you raised an interesting point about how, you know, people quite often think that it's only the Crown corporations that are publicly owned. But we do have in our communities a lot of public facility, and I think people would like to have more if they had the infrastructure funding.

The one thing I want to particularly talk about is the labour mobility because one of the things that the minister asked us to do was to not only identify the actual trade issues we're solving, or potentially solving, but also whether TILMA's the right tool to solve it with. And I note here that it's your view that labour mobility is more affected by other factors than the ones that this agreement would solve. Do you care to talk any further about that or . . .

Mr. Norheim: — Well I had an experience in my other world in work when I was director for the Prairies and Northwest Territories, and that was to go up to the Alberta tar sands and see why so many people were pouring in there from other parts of Canada. And in this case it was mostly people coming from Newfoundland, and they were pouring into the tar sands and working. Of course we know that folks from the Newfie certainly needed the money. And we wanted to know if we could organize them into a union.

And the majority at that time were people coming from the Rock, and they were going in there and working for . . . I forget what the turnaround time was; it was two week . . . I don't remember. They were there for quite a stretch before they went home again. And that they had a job with . . . certainly by their standard was pretty good wages. They were delighted. They hadn't had this before, that generation. And I talked to a lot of them and I went away and I wrote a report. And I said I don't see in the foreseeable future at all that these people are going to belong to a union. They've come right across Canada to work

here. They're very happy in the sort of job they've got. When they come this distance and stay over, sometimes they won't take their leave and go home; they'll take extra work. So I don't see that happening.

About, I guess it would have been, about 15 years later, a book was published about how these people had organized themselves into a union. And what had happened is that some of the classical slips or mistakes, I guess, that employers make occurred. And that dissatisfaction button was pushed by enough people that they decided to have a union. They even had to do the work stoppage in some cases to get it there.

But even here, after all that, they decided to have a union here in the tar sands of Alberta in spite of those wages. Now it's not entirely unusual because as a percentage of the labour force when you think about it, the highest percentage of people in a union in Canada is in Newfoundland because the people who have unions in Newfoundland are the only ones . . . are fishermen, are working in the public sector or in the hospitals, and they all have unions. They were the only ones that have jobs.

Ms. Crofford: — So did you notice what the other issues were? Like aside from the wages, what other things were they looking for in terms of their mobility to those tar sands? Was it safety issues? Was it benefits? What . . .

Mr. Norheim: — Oh of course. Safety . . . Well the things that come, safety issues was one, and that was certainly an issue there. And other worker benefits — decent clothing and leave to go back to their families — that become more and more important to them, all of the things that come with a decent lifestyle.

Ms. Crofford: — So you don't think we could have TILMA'd them to go there?

Mr. Norheim: — Oh no, no, no.

Ms. Crofford: — Okay. Thanks.

The Deputy Chair: — Any other questions? Seeing none, thank you, Mr. Norheim. I appreciate your time you've taken to make your presentation. The committee shall recess now till 3:45.

Mr. Norheim: — Thank you very much, committee members.

[The committee recessed for a period of time.]

Presenter: Saskatchewan Association of Health Organizations

The Deputy Chair: — Thank you. We will continue on with our hearings. The next group that we will take presentation from is the Saskatchewan Association of Health Organizations. I welcome you. And please introduce yourself and proceed with your presentation.

Mr. Taylor: — Thank you, Chair. My name is Alex Taylor, and I'm the Chair of the board of directors of the Saskatchewan Association of Health Organizations. And I have with me Susan

Antosh who is the president and CEO [chief executive officer] of SAHO [Saskatchewan Association of Health Organizations].

On behalf of our members I'd like first to say how pleased we were that a decision was made to hold public hearings on this topic. We think the issue could have significant implications for the future of health care and healthy public policy in Saskatchewan, so we are pleased to have the opportunity to speak.

As you'll read in our printed submission, SAHO represents the province's 12 regional health authorities, the Saskatchewan Cancer Agency and more than 130 other health-related organizations. These other members include independent hospitals, special care homes, a variety of other agencies and associations that provide health services, education and/or regulation. SAHO is primarily accountable to the board members and trustees of these health organizations who in turn represent the public interest.

We do have several concerns with the Trade, Investment and Labour Mobility Agreement that the government is presently studying. We're also concerned that health sector boards and administrators haven't had enough time to fully analyze and discuss this agreement. Nevertheless from discussions and research we have conducted to date, SAHO has noted several concerns, and Susan will speak to the first one.

Ms. Antosh: — The first is with the proposed procurement requirements. Under the Agreement on Internal Trade, AIT, health organizations may purchase up to 100,000 worth of goods or services without the same open and non-discriminatory tendering process that larger purchases require. TILMA proposes lowering the limit for goods procurement to just \$10,000 and for services to \$75,000 which would require substantially more work and documentation for many purchases. We are concerned that this increased work would bring uncertain, if any, benefits.

We would be in favour of establishing a separate set of procurement values for the MASH [municipalities, academic institutions, schools, hospitals] sector as was done with the Agreement on Internal Trade. We are also in favour of such negotiations being carried out before any decision on signing takes place.

We are also concerned that it is unclear whether TILMA would allow requirements that are now included in health care procurements such as clinical standards to exist. Clinical standards are established when health sector groups work together to determine specific performance standards for products which they deem to provide the quality they see as necessary. We have clinical standards in place on items such as masks where we require specific filtration levels and on needleless IV [intravenous] systems where we have specified the method of functioning that is the most successful in our view. Many of these standards are unique to Saskatchewan at the moment and therefore could be perceived as impairing trade, investment, or labour mobility and subject to TILMA scrutiny and challenge.

A review of the decisions by AIT dispute panels who have considered similar provisions show that satisfying the burden of

proof may often be a significant challenge. It's also unclear to us whether standardization of products, in particular those that seek to improve the quality of care, could stand without challenge.

As one example, Saskatchewan has recently developed provincial skin and wound protocols. Among its recommendations, this protocol makes specific requirements for products of higher quality and higher costs. Results of a year-long pilot project show that the long-term care homes that implemented the new guidelines found a 97 per cent decrease in the number of new pressure ulcers and a 58 per cent decrease in the total number of new and existing ulcers. Although we would anticipate that ultimately the requirements related to the skin and wound protocols would be allowed, it is possible that a significant amount of administrative effort and legal cost might be necessary to defend this initiative.

We would therefore request that exemptions in these areas be negotiated prior to any decision on signing. We would point out however that it is clear that proponents of TILMA, such as the Conference Board of Canada, are in favour of reducing the opportunity for exemptions in the long run. SAHO would also point out that, from our experience, trade barriers do not appear to be a significant problem in house sector procurement. SAHO's not hearing from its vendors in our provincial procurement process that interprovincial regulations and standards are an issue as most products are required to meet standards currently set by federal regulating agencies. I'll turn it back to Alex again.

Mr. Taylor: — Our second major concern is TILMA's possible impact on public policy standards. SAHO members believe that health promotion and disease and injury prevention are as high a priority as strong systems of treatment. We've been consciously trying to increase our ability to work upstream to prevent health problems before they become more serious and costly. That's been a goal of the health districts and regions since regionalization took place — the first districts in 1993.

One of the main challenges however of agreeing to invest in preventative policies, programs, and regulations is the difficulty in proving what won't happen as a result. It's problematic to prove for example how many people wouldn't develop diabetes or diabetes complications because of a strong diabetes prevention program. Or how does one prove how many children would be spared heart disease as adults because of a ban on trans fats in prepared foods? The need to prove a negative is what makes it very difficult to build a case, and yet we know this kind of work must be done.

TILMA adds on the burden of proving another negative — that there is no other measure that is less restrictive to trade, investment, and labour mobility that could achieve the same objective. SAHO would argue that good public policy requires experimentation over time and that this practice might be threatened under TILMA by the potential of lawsuits and unreasonable burdens of proof. Even if regulations such as non-smoking could be permitted to protect the health of the public or the safety of workers, it's possible that we would see a negative effect on innovation and creativity in preventative, regulatory action and other policy work aimed at long-term health promotion.

We also feel that the province of Saskatchewan and its elected representatives should not be required to justify regulatory decisions in this area, much less be subject to penalties. This authority falls under the province's jurisdictional powers as set out in the Canadian Constitution.

In summary, SAHO's major concerns at this time are TILMA's potential impact on the health sector procurement process and administrative costs resulting from it; its possible long-term effect on health-related policy, standards, and regulations in Saskatchewan; and the limited time that has been provided for study, discussion, and negotiation of any needed change in the proposed agreement.

We would therefore recommend first that the Government of Saskatchewan work with health organizations and other affected parties on an agreement or process that improves interprovincial trade, investment, and labour mobility possibly through a case-by-case analysis of existing barriers but that also reflects the needs and the values of Saskatchewan citizens; and second, that the Government of Saskatchewan refrain from making a decision on TILMA until affected parties have had sufficient opportunity to thoroughly analyze and discuss its implications and negotiate any special provisions and exemptions that are needed.

In conclusion, we would ask that TILMA be judged on its long-term impact on the health and well-being of all Saskatchewan citizens. Thank you again for the opportunity.

The Deputy Chair: — Thank you very much for your presentation. I will open it up to questions from committee members. Ms. Crofford.

Ms. Crofford: — I think I just have one simple question. In your research of this or your looking at it, did you find any examples of trade barriers in the area that you worked in first of all? And second of all if there were, would they be resolved by the TILMA proposal?

Mr. Taylor: — I think the answer is we didn't find any. For instance in terms of labour mobility, we know that doctors move quite easily to Alberta and nurses move quite easily across the border. And so in labour mobility, no, and I don't think we did in any of the other areas.

The Deputy Chair: — Mr. Chisholm.

Mr. Chisholm: — Yes. Just regarding labour mobility, Alberta and BC identified 60 different occupations where there were incompatibilities, where labour mobility was a problem. And just looking at them quickly as far as from a medical point of view there are, I would say, a number: combined laboratory and x-ray technologists, chiropractors, acupuncturists — if they are considered that — dental hygienists, dental technicians, dentists, denturists, dieticians. They did identify a number of people that will be hopefully positively affected by having their standards and their movement be made more easy for them.

Mr. Taylor: — I can't speak for Alberta and British Columbia. There may have been more there than there is between us and Alberta — more differences. But even there, we would say these are the kind of mobility issues that could be agreed upon

as individual cases rather than put into the TILMA agreement as a total thing.

Mr. Chisholm: — Well I think that's exactly what the Agreement on Internal Trade has been trying to do. And in 12 years of existence we've still got, you know, Alberta and BC were able to identify actually 100 occupations that we haven't moved in that. And I think one of the reasons that that's happened is there was never a high level of government commitment to actually making the Agreement on Internal Trade work, and there was no teeth in the agreement as far as that forced people to actually move on it. So probably one occupation, if they realized they had a problem and got together they solved their problem and then that's fine. But there certainly was a number of people, and in the medical profession, that do appear to be affected that could be assisted I think.

Ms. Antosh: — We haven't heard from our members that there have been a lot of difficulties in mobility from other jurisdictions, like Alberta or BC, into Saskatchewan. So if they've managed to recruit someone, then they've gone through the processes. There are steps that need to be followed because of licensing and regulatory bodies and some of those kind of things, but I haven't heard from any of the people who actually are doing the operations of the organizations that they've been significant issues.

Coming from other countries can sometimes be more of an issue, but I haven't heard a lot of difficulty in our employers being able to get people licensed here if they've been appropriately trained. We likely would have lost more the other way, I would say, in the past with individuals leaving Saskatchewan to go to Alberta or BC.

Mr. Taylor: — I think there's certainly examples in all the individual cases you mentioned, chiropractors — I don't know about acupunctures — but the lab, combined lab X-ray technologists, there's certainly been cases of us losing people to BC or to Alberta, so they've had a way of accepting them.

Mr. Chisholm: — Somehow they're mobile.

Mr. Taylor: — Yes.

Mr. Chisholm: — A second question just regarding procurement. Do you know what the policy is in — let's say — a hospital in the province regarding their own procurement? I would assume each health region would probably have their own procurement guidelines and when things have to be publicly tendered and all that type of thing.

Ms. Antosh: — I did speak with the directors of materials management from all the health regions last week. We do have a number of things that we procure on a provincial basis, and so any of those items we would generally follow the rules of AIT and put out through some kind of a competitive process, usually national process using either bid Navigator or Merck.

Most of the regions do tender almost any goods and services that they provide. But if it's under the \$100,000 limit, particularly in cases where they know that there are only a limited number of suppliers that can provide the product, they

wouldn't normally go through a competitive national tender process. They might well just go to the five or ten suppliers that they know that can provide the service or the goods and ask them to then give them back bids, and then they'd of course choose, based on all of their criteria.

So it's not that the goods and services are not being procured using competitive processes. It's the paperwork and all of the other processes involved with doing a competitive national tender process on all goods and services.

Maybe an example would be helpful. Generally a health region will have a specific kind of manufacturing type of equipment, diagnostic equipment, or of beds or some of those kinds of things. The reasons why they do that relate to being able to standardize the service, being able to service the supplies. Sometimes it has to do with training the employees. And so if you know that a particular electric bed is only available from these six places, then there wouldn't be a lot of value to putting it on a competitive national tender process because you're likely to get tenders back from the same individuals if you had just contacted them directly. So most things are being tendered, but they're not always being tendered on an open national process. If they're above the \$100,000 limit, they're being tendered — nationally, sorry.

Mr. Chisholm: — Okay. Thank you.

The Deputy Chair: — Mr. Yates.

Hon. Mr. Yates: — Thank you very much, Mr. Chair. The first question I have goes back to the whole issue of labour mobility again. My understanding is that today we have various standards and qualifications for our nursing schools across the country, ranging from a two-year program — I believe in Manitoba — to a four-year program and three-year programs in between in some jurisdictions. Is there any difficulty under the current rules of the AIT or with mobility of nurses or other health care professionals that may have a variety of training periods laid out in the various jurisdictions in Canada coming to Saskatchewan? Is there any difficulty?

Ms. Antosh: — I'm not aware of any. Certainly it's not an issue that comes up regularly when I'm talking with human resource people from within the regions, so that there may well be some issues of where, if the training was not the same, where they would require some additional orientation or some additional training. I think in the case of nurses the lowest requirement currently is a three-year program, and I thought that was in Alberta, but it may also be in Manitoba.

But generally they've been able to still go through the regulatory process. If they've written the national exam, for example, then there may be some hoops they have to go through, some additional orientation. But I'm not aware that they haven't been able to get through that relatively easy.

Hon. Mr. Yates: — And my second question again goes back to your concern about procurement and the ability to access goods. Of course we're not sure, any of us at this point, exactly what the TILMA implications will be on these issues. We have a framework today in which we're going to have an opportunity, of course, to speak to officials, the architects of

that TILMA agreement later on in this process.

But if these levels were changed, do you have any idea what the cost would be? You indicate there would be an increased cost. Any idea what that cost would be to the public purse or to the taxpayers of Saskatchewan?

Ms. Antosh: — Not at this time. Part of the difficulty is that it's not entirely clear how these would impact the health regions or the health agencies at this time, given that it's difficult to make an estimate of what the costs would be in order to actually meet the burden required by it. So in order to do that I think we would need significantly more time to work with our members directly.

Mr. Taylor: — It's also a good part of the cost, of the administrative costs, not the actual purchasing cost, but the administration of handling.

Hon. Mr. Yates: — Which could result in increased costs to additional people.

Mr. Taylor: — Oh yes.

Hon. Mr. Yates: — Our difficulty is, like you, it's a framework. It's not entirely clear to any of us what the impacts will be. So we're trying to get the best information we can as we look at this issue. So thank you very much.

The Deputy Chair: — Mr. Iwanchuk.

Mr. Iwanchuk: — I've just some questions. We had someone come before us and mention that the recruitment in health care, somehow that it was directly related to barriers or certifications and that, and that we needed people. We shouldn't have any of these. We should try and eliminate these. Has that been your experience?

Mr. Taylor: — No, that hasn't really been our experience. There's other barriers other than recruitment — sometimes it's financial — or other than the certification. Most of the places that we've had to deal with — in terms of nurses, for instance, coming — the certification has not been a problem. They've been able to register in Saskatchewan or leave Saskatchewan and register in Alberta.

Mr. Iwanchuk: — So anybody who said anything like that, at least in your experience . . .

Mr. Taylor: — Well that doesn't mean that there is no barrier at all. It simply means that we haven't come across it.

Mr. Iwanchuk: — But it's not, you wouldn't say that that was what was preventing or creating our nurse shortage.

Mr. Taylor: — No.

Mr. Iwanchuk: — Okay. Have you had any discussions with your counterparts in — I guess if there are counterparts there in the health field in Alberta or British Columbia — regarding TILMA and, you know, the people in the health care field and if they've heard that their governments have signed this agreement and how it's impacted on procurement?

Mr. Taylor: — I haven't.

Ms. Antosh: — I've not to this point. We're actually heading to national meetings this week, and so that is one of the items of discussion there, but at this point I don't have any information.

Mr. Taylor: — The other thing to remember is that the health sector has been excluded until January 2009.

Ms. Antosh: — I think it's April.

Mr. Taylor: — Or April 2009 so it wouldn't have had any impact on the health sectors in Alberta or BC at this point.

Mr. Iwanchuk: — Okay. Now you mentioned that you would . . . sort of you say here (a) the consultation process to date and very short timelines have not allowed sufficient time for many . . . whatever. SAHO would therefore recommend opportunities be provided to SAHO and other organizations to analyze potential costs. Do you have the ability to do that yourself now? Would that be an additional financial burden on you or what exactly . . .

Mr. Taylor: — To do the research?

Mr. Iwanchuk: — Yes.

Mr. Taylor: — We have the ability to do some of it as it would relate to SAHO. Our concern is that, because we're a member organization, we're dependent on what our members want us to do, and the regional health authorities would have to do some of the work themselves to look at the costs for them and then speak to us about it. And when these hearings came about, by the time we heard about and got to our members, they didn't have time to do anything and get back to us.

Mr. Iwanchuk: — Right, so you might be requesting some additional money from the government or something to . . .

Mr. Taylor: — Oh I don't know if . . .

Ms. Antosh: — My guess is something else wouldn't happen and . . .

Mr. Iwanchuk: — Pardon me?

Ms. Antosh: — My guess is something else wouldn't happen, and they would defer the resources to do this.

Mr. Taylor: — It would be done instead of.

Mr. Iwanchuk: — Okay well thank you very much for taking some time.

The Deputy Chair: — Mr. Chisholm.

Mr. Chisholm: — Yes, just on this procurement issue, it would seem to me that with the communications systems and the way they are, once a system was set up in the health care system and tenders were being let, it would become pretty routine for a health district — for all your health districts — to be able to move that information out to satisfy the conditions of the TILMA agreement.

And I guess my second part to that question is, the reason that the procurement rules are being put in place, I assume, are to save taxpayers money, to allow the lowest price of an equivalent product to be the one that is being purchased by, by not only governments but also by the municipalities and health . . . So do you see that there's a possibility of actually some savings, that if more items were tendered more widely across Canada, that there's actually some potential savings there, or do you think your people are always buying at the best price?

Mr. Taylor: — I think our experience, up until now at least, is that there is a real attempt to buy at the best price, and that's happening. Simply changing the level at which you have to tender I don't think would be a substantial savings, at least probably not any real savings at all.

The other thing that one has to consider — and Susan sort of referred to this — using beds as an example, it's not the best example because some medical devices fit into this. But suppose you have a 100-bed hospital, and they have to replace 50 of their beds. For the sake of standardization, there may only be one company that makes these beds, the particular type, say, of electric bed. You don't want to have a different type of bed sitting side by side because the nurse may hit the wrong button or whatever. It's really medical devices that would be more of a problem there. And so you don't tender. You say, you know, we want . . . Under TILMA it looks as though we would have to tender and go to the best price.

The difficulty we have is, as I think Mr. Yates said, that we're just not sure what the impact would be.

Mr. Chisholm: — Yes, again we haven't seen the exact definition of legitimate objective, but to me that would be a natural. If the reason you didn't tender 50 beds Canada-wide was because you already had 50, and it was necessary that you have 50 that matched the other 50, to me that's what legitimate objective . . . that would fit into that category.

Mr. Taylor: — We would agree that that would be a legitimate objective. The danger is always because what TILMA does is it says it's not the Alberta government deciding that Saskatchewan hasn't done the right thing. It's one private business in Alberta or BC or wherever trying to sue the government. Even if they lose, you end up spending time and money in court in order to defend what you did. That's where the costs come.

Ms. Antosh: — Can I add something?

Mr. Taylor: — Yes.

Ms. Antosh: — Sorry, there's something further to add. Although we think ultimately you could argue that was a legitimate objective and would likely be successful, there's a twofold rule if it's a legitimate objective. You have to prove that it's the least restrictive way to meet the legitimate objective. And so you could have a significant amount of administrative time and/or legal costs in order to defend something that you really did believe was a legitimate requirement.

The Deputy Chair: — I have a comment just to follow up on

procurement. Recently Alberta and British Columbia signed an agreement that they're going to do joint purchasing of prescription drugs or of different drugs. It seems to me just, you know, buying in bulk and having that purchasing power would reduce the cost. And if Saskatchewan is part of that . . . I don't believe that agreement was necessarily anything to do with TILMA, but it just seems that agreements like that would make sense to reduce the cost of prescription drugs and the cost to the taxpayer. I guess my question is, would you not think it would be a benefit to the . . .

Mr. Taylor: — We'd agree wholeheartedly. Where you can do individual agreements, prescription drugs or other purchasing, where you can do it on a larger scale, there's nothing wrong with that, and in fact SAHO does that for the regions now. And in fact we also have some agreements outside of our regions where we're purchasing for others, and we do it in order to save money. If we can do it interprovincially and increase the numbers, whether it's prescription drugs or MRIs [magnetic resonance imaging] or whatever, sure.

The Deputy Chair: — Well like I guess my point is why not have that type of joint purchasing enshrined in an agreement like TILMA? What would be the problem with that?

Ms. Antosh: — I mean we have considered this in a couple of cases. And although Alberta would presumably have much more buying power because of their size and the number of supplies, in a number of cases Saskatchewan actually does have some lower prices when we've done some drug comparisons. Now that may be partly because of our procurement process in the way we do it. We go on committed volumes, and we have long-standing relationships with vendors, but that's not . . . We would be open to having those discussions and trying to work through those processes. But remember that there are some different requirements in different provinces around . . . Trying to standardize even within the province is difficult. Trying to standardize in Western Canada . . . And that's really what you have to do in order to get those economies of scale that you're talking about.

The Deputy Chair: — And I think the comment was made, well we can do that now. And I don't disagree with that — you stated that as well — but it's not happening. I mean Alberta and British Columbia is now, you know, doing that. But I think if there was an agreement in place that would, you know, encompass those types of things . . . and I guess I was going to say, you use the word force; that's not what I meant. But as we look with the Agreement on Internal Trade, it's taking 12 years, and it's just moving very slowly. And you know, for the most part, things aren't happening. And in the case of prescription drugs, you know just, I can't see anybody being against having lower cost of prescription drugs and lowering the cost to the taxpayer. So if these things are in an agreement that moves these things along, what would be the harm in it, I guess is my point.

Mr. Taylor: — Yes, I'd see no harm in these things, but it's the other parts of the agreement that may be a problem. So that's why I'd say I'd be glad to enter into negotiations for prescription drugs outside of the TILMA agreement right now. I'd say that should be a national thing rather than just Alberta, BC, and Saskatchewan.

The Deputy Chair: — Yes, and I agree with you. But I guess my point is it doesn't happen.

Mr. Taylor: — It's not happening.

The Deputy Chair: — It's not happening. And even though we're all sitting here saying it's a good thing, it doesn't happen. And I think that's maybe where the AIT is wanting to go. It just doesn't happen there either for various reasons. But I think British Columbia and Alberta just has recognized that, well, it's time to start making these things happen. And I think that's just an example. That's my own example.

Mr. Taylor: — But they've done it outside of TILMA. It's not because it's part of TILMA that they've done it.

The Deputy Chair: — Yes. No, I agree with it.

Mr. Taylor: — Yes.

The Deputy Chair: — But you know, there's a whole variety of things that are in TILMA, and it seems that that's one of the approaches to make it happen. I mean, why isn't Saskatchewan already doing joint purchases with Manitoba? It doesn't have to be with British Columbia or Alberta.

I'm just saying it's not happening, and I don't know if there's anything, anyone to blame for it. But it's not happening. And I would think that if these things are enshrined in agreements, I can't see the problem with it but . . .

Mr. Taylor: — As I say, it's the other parts of the agreement we would worry about.

The Deputy Chair: — Are there any other questions? Seeing none. Well thank you very much for your presentation. We appreciate you taking the time.

Mr. Taylor: — Thank you.

The Deputy Chair: — At this time I would like to entertain a motion to adjourn. Mr. Yates. And we will reconvene tomorrow morning at 9 a.m.

[The committee adjourned at 16:20.]