



STANDING COMMITTEE ON THE ECONOMY

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**STANDING COMMITTEE ON THE ECONOMY
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Mr. Lyle Stewart
Thunder Creek

Hon. Kevin Yates
Regina Dewdney

[The committee met at 08:58.]

Enquiry into the State of Internal Trade in Saskatchewan

Presenter: Saskatchewan Federation of Labour

The Chair: — Good morning everyone. I trust you had a restful evening in preparation for a very full day today. Our presenters go until 5 o'clock this afternoon followed by questions and answers, so we have a full agenda.

This morning our first presenter is coming to us from the Saskatchewan Federation of Labour. There's Larry Hubich that I recognize as president. Larry, if you would introduce yourself and any accompanying representatives that you have. You would know that you will have 15 to 20 minutes to do an overview presentation, and we'll open up to the committee members for questions and answers.

What you present to us verbally is audio streamed today and will be part of the *Hansard* record, so if there would be information that you want to have into that process and recorded, we would ask that you put that on verbal record. Any paper material that you have for committee members — your presentation or supporting documentation — will be recorded as presented to us and all committee members receive a copy for their information base to deal with the final report. The final report is a public record and would be available after we have had it presented, the final document to the committee for final approval.

Thank you for being here this morning to present to committee, and any time you're ready you may begin.

Mr. Hubich: — Thank you very much, Madam Chair. And let me introduce myself and my partner. My name is Larry Hubich and I am president of the Saskatchewan Federation of Labour, and with me is Cara Banks. Cara is the communications officer at the Federation of Labour. Cara holds a master's degree from the University of Toronto, just by way of a bit of an explanation of her background, and she's really the brains in the organization as I'm sure you can appreciate, knowing that you're politicians, as I'm a labour politician, we need to have expert people behind us to make sure that the stuff that we say is based in fact. So I want to introduce her, and she'll be intervening as necessary to put me on the straight and narrow if I stray away from what I'm supposed to be saying. So I rely on her and her expertise.

So thank you all for the opportunity to appear before this committee. We are reproducing my speaking notes for you, and there's a package of information. And unfortunately we didn't bring enough copies of the speaking notes — we didn't know whether you would like them — but we're having them reproduced for you. And I understand that the copier jammed, so as soon as the copier's unjammed, you'll get copies of the speaker's notes.

I appear representing over 93,500 members from the province of Saskatchewan and their Federation of Labour, and may I start by commending you on holding these legislative hearings. We know that when BC [British Columbia] and Alberta signed the

TILMA [Trade, Investment and Labour Mobility Agreement], they held no transparent public consultations, and I congratulate you for taking this alternative approach. The TILMA deals with such important economic, political, social issues that it's incumbent on you to hear from the people and organizations who it will affect. So thank you again for hearing our submission.

Let me say that I have sincerely enjoyed listening to the presentations of the Standing Committee on the Economy over the past week, and I've watched as much of it as I can on the streaming website. I believe that you have heard from a wide variety of groups representing workers and citizens from all over the province, and I know that there is much more to come. It will likely come as no surprise to the committee that unions and other social groups endorse complementary if not similar positions. Labour has been accused of fearmongering on the issue of TILMA, but you can see from the various presentations before you, from a wide variety of organizations, that many others join us in raising legitimate questions and legitimate concerns.

Our federation has studied carefully the issues of internal trade barriers and barriers to labour mobility. We have reached five key conclusions based on the written documents that we have submitted to you this morning, and they're in our portfolios. I'd like to share with you the five points that we think are salient and relevant.

Number one, independent economic research suggests that the barriers to internal trade are not particularly significant. I refer you here to Brian Copeland's study, *Interprovincial Barriers to Trade: An Updated Review of the Evidence* — and that's in your kit — Erin Weir and Marc Lee's study, *The Myth of Interprovincial Trade Barriers*; and Kathleen Macmillan, who you heard from on the first day of your hearings; and Patrick Grady, *Inter-Provincial Barriers to Internal Trade in Goods, Services and Flows of Capital: Policy, Knowledge Gaps and Research Issues*; and in addition to another half a dozen or so documents that we have provided.

Lee and Weir conclude that with the possible exception of Quebec's prohibition on coloured margarine and Ontario's restriction on vegetable oil-based substitutes, genuine trade barriers are quite small and exist in only a few areas. Copeland concludes that the economic inefficiency caused by these barriers is small, about less than one tenth of 1 per cent of GDP [gross domestic product]. Macmillan and Grady review the academic research of the last 25 years and conclude that internal trade barriers have a minimal effect on overall GDP.

The AIT [Agreement on Internal Trade], designed to facilitate freer trade and increased labour mobility within Canada and led by the Council of the Federation, has thus far dealt with only 22 disputes involving goods, services, and capital, which in our opinion is further evidence that there is no emergency. And since the AIT was signed in 1994, many pre-existing trade barriers have been addressed.

I won't go into the details of the numbers and the data. I refer you to these documents on internal trade that are in your package that we've provided. We believe the evidence is clear,

and it has been supported by many others who have appeared before me, that there is no crisis in internal trade relations in Canada.

Our second concern is related to labour mobility. We believe that there is no crisis in labour mobility in this country either. Currently four-fifths of employment is not regulated or is in regulated professions or occupations where regulatory barriers exist. That's a full 80 per cent of jobs. I refer you to a second companion paper by Macmillan and Grady, *Inter-Provincial Barriers to Labour Mobility in Canada: Policy, Knowledge Gaps and Research Issues*, for those numbers. And as the Clerk is handing out the speaker's notes, I'll just let you know I'm on page 4, the last paragraph. I'm just starting.

Chapter 7 from the AIT outlines measures to resolve labour mobility questions. I am sure that you are aware that Premier Gary Doer from Manitoba is leading a forum on labour market ministers to ensure all regulated occupations meet their AIT commitments by April 2009, and the federal government is pushing that agenda hard as we've seen in announcements that came last week in Newfoundland by the minister, Maxime Bernier. I'm sure that you've been following that.

We also note that in the 12 years since the AIT was signed, there are only 23 labour mobility complaints that have been filed. Just two of those were upheld and both of them in accountancy. Most have been resolved or withdrawn and even larger number of complaints have been dealt with informally.

Mutual recognition agreements are a key method of reducing barriers. This approach, we would argue, is working very well. And I refer you to the Macmillan and Grady study for the statistics on that. That was reinforced by the representative from the College of Pharmacists who appeared before your committee last week, and I actually watched that presentation on streaming. He argues in favour of the mutual recognition agreements and actually argues that TILMA is redundant in that regard from the perspective of his college.

The Federation of Labour and our affiliates fully support the Red Seal program which works well in ensuring labour mobility for many trades and in maintaining high quality standards. As president of a provincial labour central, I can tell you that I spend a significant amount of time and energy listening to the concerns of the everyday workers from all sectors. I can tell you unequivocally that union members in Saskatchewan do not identify labour mobility as a problem that needs addressing by governments or by any other bodies. There is no labour mobility crisis.

Number three. Our third concern relates to the arguments of the proponents of TILMA. Certain business organizations cite the Conference Board of Canada studies done for the BC and Saskatchewan governments about the supposed economic benefits of signing onto TILMA. The methodology and the conclusions of those studies have been challenged by several economists, including Lee and Weir in their analysis that I mentioned earlier.

But I also refer you to Patrick Grady's piece, and the title of it is significant, *The Conference Board of Canada's \$4.8 Billion Estimate of the Impact of the BC-Alberta TILMA is not*

Credible, And John Helliwell's, *Assessing the Impact of Saskatchewan Joining the BC-Alberta Trade, Investment and Labour Mobility Agreement*. All of these documents bring into question the accuracy and the methodology used by the Conference Board of Canada to attribute economic benefits to the TILMA. And I know you've heard from other presenters on this issue, so I won't go on at length now.

Just to recap to this point, in the SFL's [Saskatchewan Federation of Labour] view there is no crisis in internal trade. There is no crisis in labour mobility, and the alleged economic benefits of signing TILMA are unconvincing at best. In other words, in our view, there is no fire to put out.

Our fourth concern is that the TILMA itself is such a broad, far-reaching trade agreement. I refer you here to Ellen Gould's paper here, *Asking for Trouble: The Trade, Investment and Labour Mobility Agreement*, and Steven Shrybman's legal opinion on the TILMA, also included in your package of materials. All measures that restrict or impair trade, investment, and labour mobility are subject to TILMA unless they have been excluded. We argue that this top-down approach is clearly not necessary to correct what in our opinion are not urgent problems to begin with.

We believe with all sincerity that the real issue at stake for business organization is regulatory reform. Businesses want easy access to as many markets as possible at the lowest possible rates of taxation. And we appreciate fully that businesses may face unnecessary regulatory irritants when trying to conduct businesses across provinces. And as a result, we support efforts to reduce those irritants where there are redundancies or unnecessary red tape, but we cannot support an agreement that covers everything unless it's exempted, particularly when the provisions on the exemptions and the legitimate objectives identified in that agreement are weak and/or likely to be ineffective.

Number five, our final concern relates to the ability under the TILMA for private investors to challenge parties in front of an unelected trade dispute panel with financial penalties of up to \$5 million. We have no doubt that this investor-state dispute mechanism will pressure democratically elected governments to favour corporate interests over the protection and promotion of the public good.

Evidence of this trend can be found in Scott Sinclair's review of NAFTA disputes, also found in your package. And I refer you here to also Marc Lee's latest paper, entitled *Investor Rights and Canadian Federalism: The Case of TILMA*. I also note that Jim Grieshaber-Otto's presentation to your committee dealt in detail with the dangers of investor-state dispute resolution mechanisms, and the SFL fully supports his analysis. And I actually had the opportunity to watch Dr. Jim G-O's presentation to your committee, and I was impressed by his analysis. I think Dr. Grieshaber-Otto is a significant contributor to this discussion, and what he says is uncontradicted, in my opinion.

It should not be the right of private corporations or individuals to challenge government policies through an unaccountable parallel system to our existing judiciary, with the possibility of financial penalties because those measures are perceived to

impede corporate profits. That is a direct attack on democratic governance at the local and provincial levels. Trade agreements should be structured so as to operate within our democratic system, not the other way around. You know, democracy is not intended to operate underneath a trade agreement, and so we would urge you to take serious consideration into that.

I want to close with some thoughts on what has occurred in the last week of hearings. As I mentioned earlier, I have sincerely enjoyed hearing from all of the presenters. And what comes to mind when reviewing these presentations is that yes, we are raising important issues about economic growth, about trade barriers, about labour mobility, about regulatory reform, but on a grander scale I suggest to you that we're also engaging in a conversation about values.

A common theme has arisen in almost every submission that I've watched, and that's TILMA raises serious questions about the thing that Saskatchewan citizens care a great deal about: questions about our medicare system, questions about the sustainability of our rural communities — I'm a small town Saskatchewan boy — questions about the decision-making authority of our local governments, questions about the protection of our Crown corporations, questions about the protection of our environment, questions about the maintenance of high quality standards for our professions. We believe that Saskatchewan citizens hold these fundamental values in common regardless of their political stripe. And we're asking these questions because there are too many aspects of the TILMA's language that are vague, undefined, and untested.

And you know, I've seen a lot of agreements in my time, in my 30 years in the labour movement, either as a president of the Federation of Labour or as a rank and file member of Grain Services Union, working in the agricultural sector. And I firmly believe that there's not a company on the planet that would sign an agreement like this with all the loose ends that exist and that hand over control of their company to someone else.

We firmly believe that the vast majority of citizens agree that it's the job of democratically elected governments to respond to their citizens and their needs without the threat of corporate litigation. Governments must serve as the voice of the people and in particular protect the interests of the most vulnerable in our society. The market cannot do that. Governments must regulate in order to meet local community needs. Provinces and other governing entities in a democracy may have compelling public policy rationale and reasons for favouring local hiring and procurement, for example. In a nation as vast and diverse as Canada, there are bound to be some differences in provincial policies and regulations in response to local realities, and that is actually multiplied at the community level. We would submit that that is what democracy is all about.

The questions that are being raised about TILMA go to the heart of what people in Saskatchewan value the most. It's our position that signing on to TILMA puts these valued aspects of our home and our community at risk. We ask that your committee return an unanimous recommendation that Saskatchewan not pursue this reckless, irresponsible, and anti-democratic agreement.

I look forward now to a dialogue and answering any questions

or discussion that we might have. And once again thank you very much on behalf of the Federation of Labour for an opportunity to present on this most important issue in front of Saskatchewan citizens.

The Chair: — Thank you Mr. Hubich for your presentation. I'll open up for questions and answers and I'll begin with Mr. Chisholm.

Mr. Chisholm: — Thank you, Madam Chairman. Good morning. In your handout, not your speaking notes but your actual handout, there's a quote at the very top that says, "... TILMA, like its predecessor, the 1995 Agreement on Internal Trade, cannot be explained as a solution to 'barriers to trade' because, by and large, they do not exist."

We have been hearing through this week that as one of the objections to TILMA is that the Agreement on Internal Trade has over the past 12 years in fact been fairly effective. That certainly isn't the position that obviously Alberta and British Columbia have taken in that they appreciate that the progress has been slow and wish to do something to address that. I wonder if you could ...

And also the second part of the question is, what was your group's position on the AIT back in 1993-94 when it was being negotiated? Would it be similar to the position on TILMA, or would you have been in favour of the Agreement on Internal Trade?

Mr. Hubich: — Well the first comment was really more of a point as opposed to a question. And if I heard you correctly, you said that BC and Alberta have decided that the AIT wasn't working fast enough or wasn't achieving what it was intended to achieve quickly enough. We don't agree with that assessment.

And as a matter of fact, if you take a look at the analysis done by Lee and Weir along with others, there's an indication that in the 10-year history of the AIT there were only 23 complaints that were registered around trade and investment and 22 relative to labour mobility. So over a 10-year period I think that some of the complaints that were ... the small number of complaints that were registered is indicative of the fact that there weren't serious problems.

There was movement through the AIT in the reduction of barriers that existed. One of them that comes immediately to mind is the issue of interprovincial sale of beer and the ability to, you know, sell beer into other jurisdictions without having a plant there. And so there were irritants, I think, trade irritants that were dealt with through the AIT.

The position of the Federation of Labour would have probably been — and this is my speculation because I wasn't the president of the federation at the time and so I wasn't intimately involved in any deliberations or discussions around the AIT — but our position would have been that we would have, I'm sure, preferred dialogue as opposed to any sort of an arbitrary standard or a punitive type of an agreement. Certainly we would have raised alarms and concerns about ensuring that while we are tearing down unnecessary irritants to trade, that we weren't deregulating just for the sake of deregulating and that we

weren't tying the hands of government in their ability to actually regulate and legislate in the public interest.

So I'm . . . you know there were probably similar positions being advanced by the labour movement around the AIT as currently around TILMA, but in my humble opinion, these are two distinctly different agreements. The AIT is bottom-up, and the TILMA is top-down. And that is being consistently identified and suggested by everyone regardless of which side of the issue you fall on — whether you're in favour of it or opposed to it. Everyone acknowledges that they're not the same. They're different agreements so.

Mr. Chisholm: — Thank you. Just another comment on, you have mentioned that there's no crisis in the labour mobility or internal trade. I think we would, or at least I would agree that we're not dealing with a crisis situation.

However I think the Conference Board of Canada, and despite the fact that you have pointed out that there are experts who disagree with their findings, there are also experts obviously who agree with their findings and in fact some who say that some of their estimates of the potential for the agreement may have been understated in the Eric Howe report that's included in our material.

So I guess my premise is that yes, there's no crisis. But if this agreement could be seen to increase the gross domestic product of the province, increase employment, would it not be something that would be to the benefit of the province?

Mr. Hubich: — I don't share — and it will come as no surprise to you — I don't share Eric Howe's assessment of the calculation of the Conference Board of Canada's numbers. As a matter of fact I actually am quite impressed with the Conference Board of Canada on a number of their other analyses.

I know that they do an annual review for the REDAs [regional economic development authority] in Regina and Saskatoon. I attended a presentation in Regina just this spring by the Conference Board of Canada talking about the economic prospects for the city of Regina. I know they did a similar one in the city of Saskatoon. I really feel that, that they've undermined their own credibility in the preparation of the document around the proposed or supposed benefits of the Trade, Investment, Labour Mobility Agreement. And I think that that's unfortunate because by and large on most other things the Conference Board of Canada does good work. I don't think that this is good work that they've done around TILMA. So I don't agree with Howe's assessment, but I do agree with the assessment of people like Helliwell, Macmillan, and Grady, Weir, and Lee. So I mean, that's our position on it, and we've done some analysis of these.

With respect to something that will improve GDP, I just don't expect . . . or I just don't agree that based on the analysis that's been provided by the Conference Board of Canada supported by people like Eric Howe, that this agreement will result in the kind of growth in GDP that they're talking about. Of course growth in GDP is beneficial, but sometimes growth in GDP is as a result of improvements in productivity. And improvements in productivity can be as a result of a reduction of the number of workers required to do a task. So it can be as a result of major

investments in technology and infrastructure and making work easier for people to do so you can get more work done with fewer people, robotics, and so on. So there's a number of ways to improve GDP.

I think that if you take a look at the words in TILMA and if you read the language of TILMA, that signing onto this agreement in hopes of an arbitrary improvement in GDP as suggested by the Conference Board of Canada is a serious price to pay to achieve little reward. It's, you know, it's not much gain for lots of pain in our opinion.

Mr. Chisholm: — Thank you for that. You mentioned that you have done some analysis regarding this agreement. Do you have any results of your analysis that you'd like to share with us as to what your, what you'd consider to be the potential benefits for the province from an economic point of view?

Mr. Hubich: — Well we don't see any economic benefits from TILMA based on the analysis of the documents that we've analysed, and I'm talking about the documents that we provided to you in our package of material. Most of this is cutting edge stuff. Obviously it's coming from the perspective of individuals who are raising serious concerns about TILMA. I don't think that you would be expecting us who are opposed to this particular agreement to be bringing documents to you that support it because, quite frankly, we don't think that there are very many out there that support it.

But our analysis of the documents and the material that we provided in our package of material to you clearly indicate that — based on economic analysis of the numbers that had been provided by the Conference Board of Canada and others, the history of trade agreements over the last 25 years, the movement and the increase in GDP, the fact that our economy is booming quite nicely right now without TILMA. And so some of that will be as a result of other initiatives that have occurred over the period of time, but we just don't think that TILMA is going to add too much. We don't believe, our analysis doesn't support that.

The Chair: — Mr. Chisholm, do you have a follow-up question?

Mr. Chisholm: — No, that's . . .

The Chair: — No? All right. We'll move down the speaking order which is Crofford, Yates, Stewart and Weekes. Ms. Crofford.

Ms. Crofford: — We have a lot of interest, so I'll try to be brief. We've so far had submissions from veterinarians, pharmacists, nurses, trades, STF [Saskatchewan Teachers' Federation], school boards, accountants, engineers and geoscientists. And none of them have felt that there is any barrier. And in fact, they all are on negotiating committees or have been under the AIT and feel that they have a process and that in fact at this point there are no barriers.

Now you probably contact more workers than any other single organization in Saskatchewan. Do you know of any trade or profession where there is mobility issues?

Mr. Hubich: — I can honestly say that I've never been approached by anyone to say, gee whiz, my labour mobility is negatively affected by barriers that are embedded in systems from going from one province to the other.

Ms. Crofford: — This may be a bit unfair to ask this, but what do you think are the factors that most affect a person's decision to be mobile?

Mr. Hubich: — Going where the work is would be one. Being able to earn a sufficient salary to raise a family would be another. Perhaps even adventure might be one of the factors, a person looking for a change of scenery.

I mean, I've got three adult children — a 27-year-old daughter, a 25-year-old daughter, and a 22-year-old son. My 27-year-old daughter lives in Nelson, BC this week. She's moving to Kamloops, and the reason that she's moving to Kamloops is her husband is a professional golfer. He just got a new course in Kamloops, and so they're moving from Nelson to Kamloops.

You know what? The reason that they're moving west has got nothing to do with labour mobility or trade or investment or anything. The fact that they're moving further west is that the season's longer. The further west you go, the longer the season is and the longer that he can golf. And so that's part of the decision around moving further west. Obviously their ultimate objective is to move to Victoria because, I understand, you can golf just about 11 1/2 months of the year there, and so that's a good thing. We can't golf quite that long in Saskatchewan, so we're bound by geography in that regard. But I mean that's some of the reasons why people move you know.

Ms. Crofford: — My other question is — and again in the interests of being brief, I would have more — but you're concerned that this may have implication for the Crowns. Can you give us more information on that?

Mr. Hubich: — Well I think that Dr. Grieshaber-Otto — I think I always get that name; it's always difficult — illustrated significantly why there are serious implications for the Crowns. I mean, I encourage you to go back to his presentation because Crowns, while they are temporarily excluded, my understanding of TILMA under section V or part V, there is serious implications for the Crowns around section 9.1, 9.2, 9.3 as well as 17.1 of TILMA which allows for government monopolies, but there's questions about whether some of our Crown corporations are actually monopolies, and there's a whole bunch of implications for the Crowns. And there are just way too many loose ends in TILMA to sign an agreement like that that puts at risk and vulnerable a number of things including the Crown corporations.

Ms. Crofford: — I'll leave it at that because there's other people interested in asking questions. Thank you.

The Chair: — Mr. Yates.

Hon. Mr. Yates: — Thank you very much, Madam Chair. I'd like to start by asking a question I've asked of virtually every presenter. Trade agreements are a reality. They're going to exist between jurisdictions, whether they be national or international. Our current approach today to trade issues in Canada are

pan-Canadian or national in nature. Do you believe that . . . and the other issue being presented to Canadians, I guess is, are regional trade agreements. We have British Columbia and Alberta in their regional agreement. There's been some speculation there may be an agreement between Quebec and Ontario at some point. Do you believe that we should approach the issues of trade on a national or pan-Canadian basis or on a regional basis and/or both?

Mr. Hubich: — Well I mean I think there's significant value in multi-lateral agreements, pan-Canadian agreements, particularly in a country as diverse as Canada. I think that that's likely the preferable route. There will be on occasion interprovincial agreements. There currently exist mutual recognition agreements. But I'll tell you what. Comparing TILMA as a regional agreement to any pan-Canadian agreement that exists, they're not the same thing. So I'm not suggesting for a moment that you should import the parameters around TILMA into a national agreement. TILMA is flawed. TILMA is flawed from the get-go. And so, yes, obviously a pan-Canadian agreement would be a preferable agreement, but not if it's a pan-Canadian TILMA. TILMA's . . . we don't support TILMA.

Hon. Mr. Yates: — Thank you very much. My next question has to go down the road of . . . you've made significant comment about an agreement with a dispute resolution mechanism like TILMA, takes away the democratic ability of elected governments. Could you follow up a little bit with your opinion on exactly what the impact of that is in certain sectors of the economy?

Mr. Hubich: — Well it provides that the parties to the agreement . . . and now I'm speaking from memory. I maybe should get the agreement out and read it, but I mean you've read it. It says that the parties to the agreement will not do anything that can be seen as a barrier to trade, investment, or labour mobility, or to restrict trade, investment, or labour mobility. And even in the transition period, parties to the agreement are prohibited from bringing in any new regulations that may restrict, impair, or limit trade or labour mobility or investment.

There are strong arguments that I concur with, that anything that government does will in some way restrict or impair trade or investment or labour mobility. That's why we regulate. That's why governments legislate. I mean taken to its extreme you could argue that a speed limit on a highway is a restriction and a barrier to trade because if you can get in a semi and drive a 150 miles an hour between Regina and Saskatoon, it will take you less time to get from Saskatoon to Regina. And so if you are bound by a speed limit to reduce your speed, it will take you longer to do that. So it's a restriction and a barrier to your ability to trade more quickly than if there was no speed limit.

That's what we do in a democratic society. We elect legislators and governments and municipal governments, city councils to bring in bylaws and local ordinances and pass legislation in the public interest. And so we just think that this dispute resolution mechanism that turns over that control to tribunals to determine whether or not something that the government has introduced in public interest, through the democratic process, offends an entity's ability with respect to trade, investment, or labour mobility.

Hon. Mr. Yates: — Thank you very much, Madam Chair, that's my question.

The Chair: — Mr. Stewart.

Mr. Stewart: — Thank you, Madam Chair, and thank you Mr. Hubich for your presentation. It's always fun to discuss issues with you. We don't always agree, but we don't necessarily disagree either. And you know the Saskatchewan Party is not interested in any agreement that won't be beneficial to the province, so we are pleased to hear all the submissions and we'll, you know, make our decision from that.

And there are issues that I don't agree with that appear to have been dealt with in the agreement as well, and I'd cite the elimination of new growth tax incentives as one. As you are aware, our party has talked about new growth tax incentives as a tool to stimulate investment in our jurisdiction. And it appears that, although TILMA is a work in progress, it appears that it's contemplating ruling against that and also certain municipal tax incentives. So I would have problems with that.

But I guess the question I ask you is, since TILMA is a work in progress . . . And the negotiations will continue until at least April '09, two years from now roughly, and possibly can be extended beyond that and any party to the agreement can opt out and get out within 12 months from any time. And in reality once a party has announced that they want out, I don't know what leverage the agreement would have over them even in that 12 months. But my question is, might it not be better to be part of the negotiation process until we at least find out if this deal is something that would be good for Saskatchewan, that we can live with? I'm curious about that.

Mr. Hubich: — Well let me put it to you this way. When we've been asking questions about this particular agreement because . . . By the way I don't read into the agreement. The reading that I've done of it and, you know, the legal advice that we've received from people like Steven Shrybman and the analysis of TILMA from experts like Dr. Jim G-O, that there's an opportunity to negotiate inside this agreement. There's a transition period that's clearly identified vis-à-vis the sweeping-in of municipal governments and a few other things, but there's a whole bunch of problems with this agreement.

And I don't know that there's an ability for someone who is acceding to the agreement as described to actually accede and to negotiate their way in through that accession.

It's very, very interesting because recently in the province of Saskatchewan at the Hotel Saskatchewan, the C.D. Howe Institute along with Harvard Developments sponsored a TILMA meeting where they brought in representatives from BC and Alberta governments to espouse the, you know, the reasons why you should join the TILMA. And I had two people who attended that event, Gary Schoenfeldt who is the Chair of the Saskatchewan Federation of Labour trade committee, and Marvin Meickel who is a city of Regina employee. He's the treasurer of the Federation of Labour. Both of those individuals have presented here; one for CUPE [Canadian Union of Public Employees] 721 — I know that Glen is familiar with Marvin — and the other on behalf of the trade committee.

And the individuals who attended that meeting, I'm told, said that there's no ability to negotiate revisions to TILMA, that the governments of BC and Alberta might be prepared quote, "to tinker with it," but there's no ability to negotiate amendments to this agreement. You're either in or you're not. And so we have some very, very serious reservations about that notwithstanding the top-down nature of the agreement and the argument that we really do believe that this agreement is fundamentally flawed. But I don't have any comfort that getting into this agreement and then trying to negotiate fixes to it would be the solution.

I wouldn't sign this kind of an agreement on behalf of my members with an employer. And I challenge a corporation in this province to say we would sign an agreement like this, with all these loose ends, in deals with our bank, in dealings with our customers, in dealings with our employees. It's irresponsible. You know, it's not a wish and a hope — that we wish and hope that we'll be able to work things out.

But if we're unable to work things out and even if the intent in an agreement is known by the two parties . . . I've had experience where the two parties who negotiated agreement are no longer around. They've moved on to different occupations in different places. And so when it comes to determining what the meaning of the agreement were and what the intent is, the arbitrators go to the language and they say, well I don't care what you thought about it. I don't care what you thought the agreement said. This is what it says. These are the words and this is what it means.

This agreement is way, way too loose for us to put our faith in it in my opinion.

Mr. Stewart: — Thank you, Mr. Hubich, for that answer. But it is my understanding that there are many issues that are still being negotiated, and we could have an influence at least on them even if the ability doesn't exist to go back and maybe fix some things that we might not like about what's already been negotiated. If that ended up not to be possible to negotiate an agreement that we could live with and would benefit the province and if there's no ability to fix issues that have already been negotiated, in any event it's my understanding that it would be our right to opt out and likely before the agreement ever really took force in '09. So I guess I'm having a hard time understanding what we have to lose by being part of the negotiating process.

Mr. Hubich: — Well the agreement is flawed. I mean if we were talking about a different agreement, if we were talking about some different negotiations, then certainly I think . . . I mean it's happening now. It's happening at the Council of the Federation. It happens across this country all the time where parties negotiate agreements — whether it's employers and unions, whether it's government to government, whether it's provincial government to municipal government. Negotiations are ongoing all the time.

I do think that there's lots to lose in this agreement notwithstanding the fact that there's an opt-out of one year. I don't know why you'd sign something that first of all is a stretch to be able to negotiate any amendments to only to, a year down the road deciding that you're going to opt out because what you were concerned about really is true. You know, I just

think that it's not value for money. It's not value for taxpayers' money to engage in that process around an agreement that in our opinion is so seriously flawed.

Obviously there are people who have different perspectives on this. But you know, the trade union movement has done some serious analysis of this because if there's one thing we need to do is when we come out on issues like this, we need to come out credible. And I have yet to see a legal opinion from anyone that challenges the legal opinion that has been prepared by Steven Shrybman. And so if there's a legal opinion out there that says that what Steven Shrybman has said about this agreement vis-à-vis its legal implications is false and here's the contrary legal opinion, I'd like to see that.

Because you know in our movement and in the work that we do, we're often in front of arbitrators where there are two sides, and there's lawyer who will write a decision, and they'll be a counter-decision or an alternative perspective or a dissenting opinion. I haven't seen any dissenting opinions. So if they're out there, well maybe our research isn't that great. But I'd love to see it. I'd love to read it because I'd like to see what the arguments are in favour of this. From a legal perspective, I haven't seen them yet.

Mr. Stewart: — Thank you, Mr. Hubich.

Ms. Banks: — Could I just add one thing?

A Member: — Yes.

Ms. Banks: — I'm curious about the questions around negotiations because it's our understanding that if we were going to sign on to the TILMA, we would be signing on to the existing document. We don't get to go in and make changes to the TILMA. That's not part of any first-step negotiations.

So I think the negotiations you're referring to are the things in the transitional period, the things that are to be transitioned in by 2009 or longer if need be. And I mean yes, if we signed on, we would be party to those discussions. And if we so wanted to, we could try to negotiate things perhaps to protect things like our Crown corporations or other things that you've heard presenters talking about.

But our concern is that, the way that we read it, is that the purpose of the transitional period is to transition things into the TILMA, not out. So we see it as transitioning things in like municipalities and Crowns in order to add them to the list of things that can in fact be considered barriers to trade, investment, and labour mobility. And I was just looking at the agreement here and it actually says:

During the transitional period, Parties shall:

- a) ensure that no measure listed in Part VI [which is the transitional measures] is amended or renewed in a manner that would decrease its consistency with this Agreement . . .

And we feel that the very crux of the agreement and staying consistent with the agreement is to ban measures that restrict or impair trade, investment, or labour mobility. So I think that

Saskatchewan would have a very hard time negotiating out some of the things that we really want to protect, particularly because our understanding is also that you would need to have consensus by all the committee members. And the committee members are made up of a representative from each province.

So just again with the example of Crown corporations, I have a hard time imagining that, you know, the Alberta minister wouldn't veto a carve out on Crown corporations when we know that the Alberta government doesn't have the history of valuing public ownership of resources in the way that Saskatchewan does. So that's where our concern lies around the negotiations.

Mr. Stewart: — Thank you both for your answers.

Mr. Hubich: — That's why I brought her.

The Chair: — Mr. Weekes.

Mr. Weekes: — Thank you, Madam Chair. Welcome and thank you for your presentation, Mr. Hubich.

I guess my preamble to my question, from your point of view and other union locals that have made presentations is a big concern about watering down labour laws and codes. And I've read this into the proceedings before, but part V, general exceptions, no. 1.f), "Social policy, including labour standards and codes, minimum wages, employment insurance, social assistance benefits and worker's compensation" are exceptions to the agreement. Given that, I think I agree with you when you say there's a lot of loose ends in the agreement, and I don't think labour laws and codes are one of them. But given the . . .

But what I see as a concern is basically in three areas, and two of them are actually being negotiated in the two-year phase, and that's the whole issue around Crowns and municipal governments. And we in the Saskatchewan Party certainly agree that . . . what we have been saying is that we would enter into negotiations before signing, not sign first and enter in negotiations after, but with the anticipation of signing. But we would enter into negotiations, number one, with protecting the Crowns' interests as fundamental before signing on and also a concern over municipalities. Mayor Fiacco laid it out quite clear the concern about losing the ability to have tax abatements.

And there's a third item that I think needs . . . that we would want to address before considering signing onto an agreement. It's the whole issue around new-growth tax incentives because I think both with the municipality concern over tax abatements and the ability of the province to offer new-growth tax incentives, I think that would limit the provincial government and the municipal governments' ability to do some fundamental things that we all, I believe we all agree needs to be done.

I guess my question to you is, where is your association, your Saskatchewan Federation of Labour, where are you, what is your position on new-growth tax incentives and municipal tax abatements as far as keeping them out of any potential agreement?

Mr. Hubich: — Well I'll get to that question very quickly, but first I would like to just make one comment on your comment,

and that is with respect to the assurance that issues that are important to labour — like labour standards, and occupational health and safety — are protected by virtue of the fact that they're in section 5. You can't read section 5 without reading section 17. And section 17 talks about the removal of things from section 5 by virtue of an annual review of things that are exempt with the express provision of bringing them in.

So we don't believe, number one, that labour standards and all of those things that we hold very dear would survive TILMA. And we believe the same thing for Crown corporations — that they wouldn't survive TILMA,

Now with respect to subsidies for business, there are sometimes very good reasons why governments decide to use targeted tax incentives. We don't always agree with that. And you know ideologically or ideologically, there was probably lots of people who would say well if all this was about was removing, if all this was about was removing tax abatements and handouts to business, then sign it because we don't think that business should be getting taxpayers' money. That's a very, very simplistic view of this issue.

There are times, when in the public interest and for regional economic development reasons and for reasons of city and infrastructure — and Mayor Fiocco talked about it — why you would have a tax abatement to try and revitalize the inner city because the city is suffering from urban sprawl, you know? Or why you would have regional economic development incentives in the North, or why you would have like we do now lease surface agreements or surface lease agreements with companies who engage in work in the North that they have a requirement to hire 50 per cent northerners, right? That would violate TILMA.

But sometimes you make a conscious decision around those kinds of things to invest, you know, taxpayers' money through tax incentives to business and so on. So when it's targeted, we support it so long as there's a public interest, and it's to the benefit of the citizens of the province, and it's been a decision that has made, been made in all consciousness in the public interest. We support that kind of stuff.

Can I make one final comment? You know the trade union movement is in favour of trade. I mean in Saskatchewan we sure are. I mean I grew up in small town Saskatchewan. My wife's parents are farmers. Saskatchewan wouldn't exist without trade. We are supportive of it. We are supportive of investment. As a matter of fact our members' pension plans rely on investment. The biggest pools of capital in this country are employees' pension plans mostly, mostly unionized employee pension plans, so we believe in a strong investment climate.

And on the issue of labour mobility, there's not a worker in this country who isn't prepared to pull up stakes and travel across the country to get employment if that's in their interests and if that's what they need to do to raise a family and to put food on the table. And so we're in favour of all of those things.

We don't think TILMA accomplishes them at all because of its flawed nature and because of its ideological vent. And we urge you to read the words because in the absence of — we really meant this or we really meant that — and in front of a trade

panel and a tribuna, it's the words in the agreement that will be arbitrated and decided on by people outside of government. And I'm not sure that it's responsible for our legislators to hand off their role to an independent tribunal to make those decisions that should be made by a people that we elect, who are accountable back to the electorate through an annual . . . or a quarterly, every four year process of election. So I would be really cautious.

Mr. Weekes: — Just one follow-up comment, not to be debating. We share your concerns of all those areas that you've spoken about. The process is going to continue on and we, the committee, are going to meet with the BC and Alberta officials that negotiated this agreement, and those are very valid questions that we'll be asking them about. So thank you very much for your presentation.

The Chair: — Okay. I have one speaker, and that's it, and we'll have to call time on the presenter. I did allow a little more time, and so will be the same for other presenters if there's interest by committee, which means you'll be taking breaks on your own. There won't be a formalized break this morning, and we'll adjourn a little bit later than first contemplated. Mr. Iwanchuk is the final questioner.

Mr. Iwanchuk: — Thank you very much. I think my questions were around the negotiations and the rest of that, and I thank you for your answers on that. Again just to reinforce what Mr. Weekes had said, we will be meeting with the officials, and that is obviously one question. Just in that, around the negotiations, because I think this . . . And I thank you very much for your answers.

Over and above what you have stated, has anyone actually done . . . you've done . . . and I don't know, maybe it's in your materials here, a pretty comprehensive review of this, of what negotiations would be possible? I think it's very crucial to say, for example, on the dispute mechanism or the dispute resolution mechanism that they would have, would there be any negotiations around that? Has anybody ever attempted to look at that? Has anybody attempted to look at what we would actually be negotiating over and above what you have indicated to us because I think it's crucial that when we go there to sit down to find out what it is that, as people have been saying . . . to do that. So that'd be . . .

Ms. Banks: — Well I mean our understanding — and I guess that's supported by Jim Grieshaber-Otto's analysis — is that well definitely the dispute resolution mechanism isn't negotiable. I mean that's written into TILMA. That's probably half the reason why TILMA exists right now is because there isn't one in the AIT and some provinces want it.

And our understanding from him — and this is something that I encourage you to follow-up on, you know, with those governments but also with him — is that if a province wants to sign on to the TILMA, they sign on to the existing document and agree to everything in it by signing on to it and that there isn't areas where you get to negotiate partway in or partway out. I mean that's our reading of it. But I guess you could ask those governments as well.

I just wanted to add one other thing too about exceptions that

just occurred to me, if I might, which is that a lot of people are putting a lot of faith in the things that are listed as exemptions. And I know that when NAFTA [North American Free Trade Agreement] was being negotiated, there was a huge, long list, and negotiators were very careful to, you know, exempt out certain things. But yet we find there are still private challenges to some of those things that were supposedly going to be exempted. And some of those include water exports and log exports and our postal services and our agricultural supply management system and our cultural policy.

So private investors are sometimes willing to roll the dice and say, well it's listed in the agreement but we're going to go for the money. You know, we're going to get into this market and give it a go. And we can afford to litigate a little bit here and see if we can put some cracks in NAFTA. And I would imagine that there would be corporations interested in doing the same under the TILMA.

Mr. Hubich: — One final comment for me if I could.

The Chair: — And that would be final comment for . . . [inaudible] . . . follow-up question. All right, to wrap up, Mr. Hubich.

Mr. Hubich: — In our opinion, democracy is too important to be an exemption in some trade agreement. It is a fundamental . . . In a free and democratic society, there is nothing more important than a democracy. And so trade agreements should be structured in a way to work inside a democracy, not the other way around. And I want to reiterate that. Democracy is not intended to be an exemption from some trade agreement that gives individuals and corporations the ability to sue governments for decisions that they make in the public interest. That's just wrong.

The Chair: — We thank you very much for your presentation. As committee members have mentioned, we will have some follow-up time with British Columbia and Alberta officials to ask the kinds of questions that committee members have demonstrated and some of the questions that you've presented to us. Thank you very much and travel safely.

Presenter: North Saskatoon Business Association

The Chair: — Our next presenters would be the North Saskatoon Business Association represented by Shirley Ryan. And if there are others, we'll ask them to come forward, introduce yourselves.

We thank you for your patience. We are allowing a bit of time over. And if that's the case for you, we will do the same for your presentation. As I mentioned earlier, we're going to follow the format of about 15 or 20 minutes for you to provide an overview and open up to committee for questions and answers. What you would like to have as part of the record of proceedings today or audio streamed to outside audiences, you would present in your verbal format. If you do have supporting documents and/or your presentation, which I see . . . which will be provided to all committee members, that will be recorded as being presented to us and a part of our file for information base. So thank you very much for the time you're taking to present to us this morning. If you'd like to introduce yourselves and begin

your overview, thank you.

Ms. Ryan: — Thank you so much. I would like to introduce my counterpart here, Kevin Smith, who is here with me presenting today and is prepared to answer some questions of the committee as well. Kevin is a member of our association and a member of our economic development committee which has put together this particular presentation for you today. I did, Madam Chair, bring some copies this morning, but I don't believe I brought enough. So I apologize for that. I had no idea that there would be as many people attending.

The Chair: — Our Clerk . . . [inaudible] . . . to all of us as you speak, so we all have a copy in hand. Thank you.

Ms. Ryan: — Thank you so much. Then I will begin by thanking you for the opportunity of being here today and making this presentation. The NSBA [North Saskatoon Business Association] promotes the interests of Saskatoon business and advocates for conditions that will enhance business opportunities and profitability. The TILMA seeks to create an open economy among member jurisdictions that will improve labour mobility, ease business registration requirements, improve access to government procurement opportunities, and create a positive climate for investment.

The combined economies of BC and Alberta form a formidable economic force that is the second largest in Canada behind Ontario and has outperformed the rest of the country in almost all measures of economic growth.

Saskatchewan is an export-dependent economy. In 2005 exports of 23.2 billion accounted for 68 per cent of the province's 34.2 billion GDP. Of those exports, 9.8 billion or 42 per cent were interprovincial. This is an important consideration for the NSBA as a great number of our members are exporters or suppliers to exporting producers or manufacturers. Overly complex regulatory compliance puts small business at a disadvantage because small enterprises do not have the resources to address any more regulation than is absolutely necessary.

The Canadian Federation of Independent Business estimates in a 2005 report that regulation costs Canadian business 33 billion per year in lost productivity, time spent on paper work, lost sales, opportunities, and professional fees.

Excessive regulation in the form of divergent rules among provinces discourages competition and limits the opportunities for expansion into new markets. It reduces our ability to compete in the global marketplace by encouraging business to make strategic decisions based on the shelter provided by local regulations that create artificially-sheltered, small economies. This is hardly a behaviour to be encouraged in an export-dependent economy like Saskatchewan's.

Breaking down interprovincial trade barriers is an important step in increasing our competitiveness in the global marketplace. Co-operation among signatories to the agreement also has the potential to create synergies that will open doors to even more business opportunities and markets abroad than any one of them would have done.

Opponents of TILMA raise the spectre of the demise of sensible, professional, and labour standards, the degradation of ecological conservation, environmental protection, municipal zoning, and local economic development initiatives. In the process, they ignore the stated objectives and clear language of the agreement on such matters. Article 5, point 4 states expressly, "Parties shall continue to work toward the enhancement of sustainable development, consumer and environmental protection, and health, safety and labour standards and the effectiveness of measures relating thereto."

Such arguments also often ignore article 6 which provides that exceptions to the general rules and standards may be made for legitimate objectives listed in part VII which include public security and order, protection of the environment, consumer protection, provision of social services and health services and affirmative action programs for disadvantaged groups.

Further, references generally not made to the operating principles of TILMA which, while not a part of the agreement proper, will be relied on for interpretive guidance, these principles include a resolve to increase opportunities and choice for workers, investment, consumers, and businesses. Reduced costs for consumers, businesses, and governments promote sustainable and environmentally sound development and high levels of consumer protection, health, and labour standards.

Critics of TILMA advance negative possibilities without recognizing the positive intent of the agreement. The imminent demise of government sponsored buy-local programs is seen by opponents of TILMA as detrimental to local business opportunities. What they do not consider is the wealth of opportunities that open procurement policies create for businesses across member jurisdictions. Though it would require Saskatchewan business to think regionally, the lower cost of doing business in Saskatchewan relative to Alberta and BC should weigh heavily in favour of Saskatchewan business competing not only for Saskatchewan contracts but also for those in other provinces. Further, restrictive procurement policies do not deliver by best value for taxpayers, so TILMA provides an excellent opportunity for governments to meet this obligation to their constituents.

Labour mobility is an interesting facet of TILMA. One opponent suggests that TILMA will likely result in decreased numbers of highly skilled tradespeople as member jurisdictions compete in a regulatory race to the bottom. This posture presupposes conflict and degradation and a desire of governments to reduce standards to the lowest possible level in order to compete for scarce labour. It ignores the principle of co-operation espoused in TILMA's operating principle and the express article 5(4) exhortation that "Parties shall continue to work toward the enhancement of . . . health, safety and labour standards . . ." It also ignores previous and ongoing collaborations on such matters such as the efforts of the Council of the Federation to enhance labour mobility as part of the Canadian premiers' efforts to remove barriers to internal trade.

Maintaining labour standards to ensure worker safety or professional standards to meet reasonable product and service standards likely falls within general exception 1(f) on social policy and labour standards. Failing to ensure standards are reasonable may also make government officials or regulatory

bodies complicit in a violation of the Bill C-45 provision now enacted in the Criminal Code, occupational health and safety, legislation, or the new professional service standards that are the Canadian equivalent to Sarbanes-Oxley. I hope my voice lasts till we get to the end of this.

The other more realistic aspect of the question is how enhanced labour mobility would affect Saskatoon business. For a number of years, Saskatchewan has been suffering from a significant labour drain to Alberta. In its assessment of the effects of Saskatchewan joining TILMA, the Conference Board of Canada notes that companies in Alberta are so desperate for labour that the cost of retraining is almost an irrelevant consideration in hiring decisions and postulates only slightly higher out-migration from Saskatchewan in the short term followed by stability in the near to long term.

The tide may have already turned as the first half of 2007 has witnessed a significant reversal of the labour flow as more workers — taking advantage of work opportunities, the smaller city lifestyle and the lower cost of living — return to Saskatchewan from Alberta than left. Enhanced labour mobility would position Saskatchewan business even more favourably to take advantage of this trend.

Participating in TILMA would open new markets to lower priced Saskatchewan goods and services resulting in increased profitability of Saskatchewan business and higher salaries and wages for their employees. Quantifying the actual benefits of Saskatchewan's participation in TILMA is an elusive proposition. Estimates range from substantial to modest, but all agree that there will be some economic benefit. Given that, perhaps the better question is, what will be the impact of not participating in Canada's second largest, fastest growing economic region?

I guess to add my comments to this, standing still we don't feel is an option. Saskatchewan should be at the table to discuss, debate and protect the interests of our province and its people. It is important that our province is in a position to compete in today's marketplace which should be interprovincial as well as global. Let's not be left behind.

An addendum to this is the references listed at the bottom of the pages certainly can be obtained and made available to you should you request it. Thank you very much for the opportunity of speaking.

The Chair: — Good. Well we welcome you and Mr. Smith, and we'll open up to committee questions that either of you could feel free to answer. Mr. Weekes.

Mr. Weekes: — Thank you, Madam Chair. Welcome, Ms. Ryan. Thank you very much for your presentation. It's been quite a learning experience sitting on this committee and working with my colleague, Mr. Chisholm, with his work that he has done leading up to the committee on the whole area of TILMA and the relationship that BC and Alberta has.

It's interesting to note that regardless of whether this agreement is the agreement or a new agreement or an amended agreement, something has happened very important between Alberta and British Columbia where they work on a regular basis to reduce

barriers in trade and have joint cabinet meetings. And that's certainly something I think that would be a very positive thing to do regardless if this agreement ultimately is signed.

The Saskatchewan Party's position has always been that we should have been at the table already negotiating. And unfortunately NDP [New Democratic Party] government didn't take that stance. So there's always the issue around what can be negotiated in the future, but that's to be determined, I guess, if and when that happens.

The three areas that the Saskatchewan Party has always said that upon entering negotiations with BC and Alberta is protecting the Crowns, the interest of the Crown corporations. And as we have found out from Mr. Fiacco that there's certainly concerns around the municipalities and the ability to offer tax abatements, he made that very clear and that's the Crowns and Municipal Affairs areas, that something that's going to be negotiated in the agreement over the next two years between BC and Alberta. So that's something that is out there.

The third, third item that we in the Saskatchewan Party certainly feel very strongly about — and our leader, Brad Wall, has indicated that in his economic paper and again on a number of occasions — that the province should have the ability to offer new-growth tax incentives. And that's something we feel very strongly that would have to be negotiated as an exemption in any agreement that we, in the Saskatchewan Party, would sign on behalf of the province.

My question to you, Ms. Ryan, is what is your feeling about new-growth tax incentives, and is that something that you feel is very important to leave in the hands of Saskatchewan and the ability to grow the economy?

Ms. Ryan: — Do you want me to take this?

Mr. Smith: — Sure.

Ms. Ryan: — Okay. I guess, Mr. Weekes, new tax incentive's wonderful, and we all agree with them. It's tax abatements. But what does that do for existing businesses that come in to, that are already in business in our province? Do we then have to play from a level playing field?

I go back to an article that was in the local paper last week about theatres in Saskatoon. And this was a municipal decision where I understand Galaxy theatres were offered an amusement tax exemption, whereas existing theatres in the city were not. So from that point of view, I question.

Mr. Weekes: — That is an interesting example. I think what we mean by new-growth tax incentives would be an industry or potential industry or businesses that have something . . . well basically — what is it? — a new technology that's being brought to the marketplace. And so I don't think it's something that, you know, offering . . . as in this case that you have suggested, that one theatre was offered, received special treatment over the existing ones.

So my feeling about what is meant by new-growth tax exemption would be offered to anyone that would want to go in that specific area, that endeavour. And so all the companies or

individuals would be granted that same tax benefit. And I wouldn't think that it would be used to attract a business from . . . well we'll use the word, the old economy that would be attracted into the province and to be competing with existing businesses because that's the old economy.

I think that it would be more directed towards new, innovative areas of research and development that would be hopefully brought to the marketplace. Would that satisfy your concern if it was just restricted to, well, just new growth rather than any old-economy-type industries or businesses and if it was a level playing field for everyone?

Ms. Ryan: — I think that tax incentives, tax abatements are great things, providing existing businesses in the same marketplace, okay, get the same benefits ultimately. Therein lies the crux of the problem, doesn't it? One has to be fair to all.

Mr. Weekes: — Thank you very much.

Mr. Smith: — Could I just add something to that. With regards to the new growth you're talking about such as technologies and it also leads into increased productivity. And in relation to TILMA we're talking about businesses wanting to invest so they get this tax credit. And be it new technology, new products, whatever, there's still the bottom line is that they have to have the staff to be able to do the work. And with TILMA that's going to hopefully attract those people.

So with those tax abatements we have to be in concert one with the other, saying yes we're going to, you know, encourage investment in Saskatchewan and yes we're going to encourage people to come to Saskatchewan to fill those jobs.

Mr. Weekes: — Thank you.

The Chair: — Mr. Iwanchuk.

Mr. Iwanchuk: — Yes, thank you. My question is, in hearing from various groups on the dispute resolution mechanism, and I don't know to what degree you've had a chance to look at that. And I guess the question here is in terms of the AIT and the federal approach or at least the provinces getting together, that they seem to be favouring sort of a consensus approach in trying to work through the various ways in decreasing. Because I think we're all in favour of the mobility questions and the decreasing the barriers.

The issue though is the approach that is being taken here. Because let's say we agree on the first part, the approach then as to how you clear up the barriers. And I'm just wondering you've, sir, talked about the, you know, that we should move ahead and what business does and in fact Saskatchewan business can compete with anybody in Canada.

But on this approach of how we're going to resolve them versus the associations themselves resolving the barriers, the professional standards or anything else we see, I'm just wondering if you could comment on that in terms of the approaches of TILMA and the AIT, for example.

Mr. Smith: — I did a little bit of research on the AIT and I believe it was signed in 1993. It's made some inroads. However

it itself has been blocked by what we're facing now, is protectionism. So with regards to AIT, I think even in the resolution mechanism that was used, I don't think . . . [inaudible] . . . to the table. With the dispute resolution mechanism that hopefully we would be able to sign on to and negotiate a reasonable mechanism that I believe is in place there, once again I'm of the opinion that those mechanisms, everything is something that can be tweaked. And I think it's something that we've got to work towards. Once again, we've got to be at the table to change it.

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

The Deputy Chair: — Ms. Crofford.

Ms. Crofford: — You're going to go back and forth. When the minister gave us this task, his two questions . . . And by the way, welcome. I'm always bad for that. I just jump right in. He said that we should look at the two questions of what needs fixing and is this the best tool to fix it.

Now what we've heard so far from a lot of people who are in different professional organizations is that there is a process under AIT that is really almost completed that deals with issues of interprovincial professional mobility. And they feel this is in fact confusing because they've already got a process and now here's another one. And I guess for myself in answering the minister's question of focusing on what really needs fixing instead of including stuff that doesn't need fixing, we also have a procurement standard under AIT. Now TILMA lowers it, but I'm not sure why you couldn't just lower it under AIT and just have done with that piece.

So that leaves in my view the big piece of regulation and red tape which was raised by the CFIB [Canadian Federation of Independent Business] as well. And I'm trying to find anywhere — we have a chart here of all the NAFTA rulings — anywhere where the ruling was about red tape. The rulings were about things like environmental impacts of open-pit mining and indigenous peoples' religious sites. There was one about water diversion, one about solid waste being put into a man-made lake. But none of them were about what I would call red tape.

Now if really the objective is red tape, couldn't there be a more focused process to deal with red tape? Because I'm not sure how red tape just disappears. For example, when we heard from the nurses, the registered nurses, they have a different standard for one level of nursing and the reason is because the other nurses haven't received training in prescribing and administering medication. So that can't just disappear.

So I guess I'm challenging a little bit and asking you to supply me with an example or something where something that is currently an irritant would magically disappear without the same processes that are already needed under AIT to work through things.

Mr. Smith: — One of the changes that would be involved with is in the transportation industry where the need to register in all provinces in which they will be, for interprovincial carriers would be eliminated.

Ms. Crofford: — That's very specific. Now could that, again

going back to the minister's question, is there any other way that could be solved besides signing a sweeping agreement like this?

Mr. Smith: — Are you referring to, say through the AIT?

Ms. Crofford: — Or some other mechanism.

Mr. Smith: — Once again I would imagine that it would be something within because a good portion of the transportation industry, if you take that for example, is federally regulated. So it's going to require either the federal government being involved and of course all the provinces. So we can look at it and say, okay we're going to go through three years of processes through the government or are we going to go through and clarify these issues through Alberta, BC, and Saskatchewan?

I think from the perspective, especially when you start focusing on the transportation industry and the impact of the global trade especially that's going through Vancouver and everything, it's something that I would think we would want to focus here, not worry about what Quebec's doing or what Ontario's doing or what PEI's [Prince Edward Island] doing. It's that if we can clarify that so that we get the movement of transported goods between those three provinces on a regional basis to be far easier, then you're going to actually encourage more investment in Saskatchewan, BC, and Alberta.

Ms. Crofford: — You see it's my understanding that if this is federally regulated, it's my understanding the federal government supports TILMA so it seems that they would be in a position, a fairly strong position to address this. But I really appreciate you raising a specific example because that's what we're really short of is specific examples that we can track through and say, okay how would it affect this. So I thank you very much for that.

And I don't know that I had . . . Oh, the question of who's at the table in the negotiations. Saskatoon, Regina, and SUMA [Saskatchewan Urban Municipalities Association] and a couple of small towns have weighed in on the fact that they don't seem to really be represented in the discussions as to municipal impacts. Is it your view that they should be represented in a discussion that could significantly impact what they do?

Mr. Smith: — Oh I would say that I would, of course they should be involved and they should be coming to the table themselves and saying yes, you know, yea or nay and putting their opinions forward.

Ms. Crofford: — So that's a question I guess we would have to ask the officials when they come as whether there's an opportunity for people at the municipal level to be at the table. Thank you very much.

The Chair: — Ms. Ryan.

Ms. Ryan: — If I'm not mistaken, I believe Mayor Atchison has been mandated by our city council to make a presentation to this group.

The Chair: — Thank you very much. Mr. Stewart.

Mr. Stewart: — Thank you, Madam Chair. Thank you very much for your presentation, Ms. Ryan. Mr. Weekes talked to you about municipal tax incentives such as tax abatements, and that's an issue that, you know, you had some issues with how it's done in some circumstances. And that's an issue that would not be . . . That's a municipal issue, frankly. And he also talked to you about new-growth tax incentives, and I think the caveats you put on that were very close to our own position where we wouldn't undercut existing businesses in that endeavour.

Those two things though are important tools, I think, to have available to us in attracting investment in the province, and those are things that are being negotiated by TILMA as well as protection of our Crown corporations or the right to exempt them or protect them. But you know, those things are issues that could be a deal killer as far as I would be concerned as an individual and possibly for our party as well.

But the agreement is a work-in-progress. There are still two years of negotiations left. I think April '09 is when it wraps up, and with the potential to extend the negotiations beyond that point, I understand. And then at that point any party can opt out within 12 months. And in reality once a party announces that it is intending to opt out, I don't know what leverage the agreement would have over that province after that point. But in any event for sure a party could opt out in 12 months.

I guess I ask you this question. Is it better to be part of this negotiating process, knowing full well that if the deal in the final analysis is something that the province can't live with or something that doesn't seem to be a substantial advantage to the province, that we could opt out? Is it better to be part of that process, part of that negotiation than to sit on the sidelines and watch this deal being negotiated around us? Do you think Saskatchewan could have a significant impact in the negotiating process? And do you think we should be there?

Ms. Ryan: — I think it is essential that we're part of that process, that we are at the table. I think it's important to the future of our province and having the ability to opt out gives you what you need if you're not successful in negotiations. So yes, we should be at the table.

Mr. Stewart: — Thank you. One more if I may, Madam Chair. An argument has been made by some presenters that this deal is anti-democratic. And I have a hard time, frankly, getting my head around that, but do you see that? Is that an issue that you would be concerned about as a taxpaying citizen and a representative of business as well?

Ms. Ryan: — Frankly no. As a taxpaying citizen I guess I would want to see my province move forward, not be left behind. I don't see anything in it that is not democratic.

Mr. Stewart: — Thank you.

The Chair: — Mr. Yates.

Hon. Mr. Yates: — Thank you very much, Madam Chair. I'd like to start by saying I don't think there's a single one of us at the table that isn't in favour of continuing the growth of our economy, trying to make Saskatchewan the best place that we can for business investment and opportunity. But there are a

couple of things I think I need to say before I get into questions.

One, we were never asked to be at the table until the original deal was done. We weren't asked to be part of the original negotiations. We weren't able to be at the table until this 36-page document was there and in that document they put a clause in that says anyone else can accede to this agreement. But that means you accept it as it is. We weren't given the opportunity to have input into the original agreement which always leads to concerns. Like if they really wanted Saskatchewan's involvement and input into its initial design, they would have asked us to be at the original table, you'd think.

Having said that, we need to be open-minded. We need to look at the world as it continues to change. But I want to talk about a couple of things. The province of Alberta, like the province of Saskatchewan, has had to over time assist either new or existing business to continue to operate. And I think about the development of the feedlot industry in Alberta. The packing industry in Alberta was heavily government subsidized by the Government of Alberta.

I look over the history of Saskatchewan and its major businesses in the province. There was times that Cameco needed to have the assistance of government to continue in existence, IPSCO that's needed government assistance to stay in business in their history. Today both very strong and vibrant players in the world market, strong companies that now are contributing significantly to the well-being of our province. But in their development each of those companies at one point or another needed government help. In today's world we can provide that. It's questionable whether you could do that under TILMA or whether today we could use our economic leverage — which we have significantly more of today than we have had in the past; our economic situation is much greater — to use our leverage to develop our own economy.

So in looking at any agreement, we have to look at those factors. We have to look at what we need to do to develop our own economy. So I guess my question to you is, do you think it's important for the government to maintain the ability to assist businesses when they require that assistance to remain in business?

Mr. Smith: — The situations that you talk about, and of course from the perspective of the NSBA, are not very relevant. And I understand where you're coming from as far as, you know, the government being able to assist business, such as times when companies get in trouble.

I guess when we come to the NSBA and we're looking at small business, how many times does their voice carry enough weight for you to come in and help them? And the point is that they don't need government help. They need people, and they need less regulation so that they can make a profit and in turn move that profit back into the company and keep revolving it. That's how we're going to grow our GDP is if it's going to be self-made growth. And if that's growth is the result of being able to sell contracts for services or goods to the Alberta or BC government, let's encourage it.

Hon. Mr. Yates: — Thank you. Do you see the TILMA

agreement as the only method of moving that agenda forward?

Mr. Smith: — I certainly see it as a door in. I see it as an opportunity right in front of us to take advantage of it. My biggest concern is that, and something that we might want to think about, is that with the discussions between Ontario and Quebec wanting to start developing some kind of thing, interprovincial trade agreement with themselves, I believe that is strongly driven by Ontario's concern that they will start to lose their ability to be the driving engine of the Canadian economy. And therefore once again it won't be the migration of Newfoundland workers to Fort McMurray or Saskatchewan workers to Calgary. It's going to be Ontarians coming out west. So I think it's a time to get into this agreement. And our concerns can be a priority or our negotiations can actually be driven by that fact because as soon as we join that agreement, we will be a larger trading block . . . Quebec and Ontario.

Hon. Mr. Yates: — My next question has to do with, have you observed the challenges under NAFTA? You've seen Canada pay \$28 million in penalties. You've seen the Mexican government pay \$18.5 million in penalties. And although the US [United States] government has been penalized on more than one occasion, you have seen the US government pay zero dollars in penalties.

Many trade agreements, when there is one significant player and other minor players, have seen the significant player have the greatest advantage and in fact flaunt that advantage from time to time. What do you think about entering an agreement where we would be the minority or smallest player in the agreement and may be subject to the same types of treatment as Canada and Mexico have been by the United States?

Mr. Smith: — We can take the attitude that we're the minority, or we can go to the negotiating table and take the attitude that we are an equal partner in this three-way partnership. It's kind of defeatist to say that we're going to be a minority just because we have a less population. The whole point is that we could actually increase our population through this TILMA by encouraging investment in Saskatchewan and encouraging further migration of people.

Hon. Mr. Yates: — I would comment that was the exact same position at the NAFTA table, that there were all equal partners. It hasn't resulted in that outcome.

The Chair: — This is getting dangerously close to debating with our witness. And we have further speakers, and we're behind on our agenda. So I'm going to urge you to . . .

Hon. Mr. Yates: — I have one quick question.

The Chair: — A quick question. Thank you.

Hon. Mr. Yates: — Trade agreements exist, and I've asked this question virtually to every presenter. Today we have a national approach to trade investment in our country. We now are for the first time facing the option of a significant regionalization. In your opinion is the best approach for Canada and for Saskatchewan to have national agreements or a balkanization of regional agreements?

Mr. Smith: — I would have to say regional agreements only because of the movement of the global trade towards the India and Asian market. And with Vancouver being the key port, that is where most of the investment . . . And us with the strong, once again, transportation infrastructure, we are in a position to be able to attract investment to take part in that exporting of goods.

Hon. Mr. Yates: — Thank you very much, Madam Chair. That ends my questions.

The Chair: — Mr. Hart.

Mr. Hart: — Thank you, Madam Chair. Good morning. Welcome to the committee hearings. In your presentation you talked about overly complex regulatory compliance, excessive regulation in form of divergent rules among provinces, and you quoted the CFIB's study where they talked about \$33 billion in the cost of complying with government regulations and paperwork, professional fees, and those sorts of things.

Mr. Smith, when you were asked earlier about providing an example of some of the regulatory complexities and those sorts of things, you quoted the transportation. I wonder if you, do you have other examples and do you have members of your association raising concerns about being able to attract human resources to their businesses with specific skill sets and any problems associated with bringing say pipefitters or . . . I'm just using some examples and perhaps your business wouldn't have a need for a pipefitter, but people with specific skill sets from other provinces. Are there examples of problems with professionals, whether they be a journeyman tradesperson or professionals in other areas coming to this province?

We heard earlier from Mr. Hubich that the Saskatchewan union members don't see any labour mobility problems, but we didn't discuss with him whether that's mobility problems with leaving the province or doesn't he see any problems with labour moving into this province. And we probably should have asked that question.

But from your perspective I guess, number one, what are some other examples of excessive regulatory complexities that your businesses are facing when dealing with other provinces and also dealing with that human resource issue? I wonder if you could comment on those two areas.

Mr. Smith: — I don't have any examples as far as the regulatory, but as far as the attracting qualified staff, I'm seeing clients of mine complaining to me all the time. The NSBA has actually built a website that actually now the members can go on there and place jobs. And this website is targeted to people in Edmonton and Calgary and we're targeting those people. I've talked to businesses that I deal with, and the surveyors in this building boom, of course, that just the trades is significantly pressured for labour.

Mr. Hart: — Is the problem just a lack of people with those skill sets or is it the problem of people being able to come and practise their trade in this province because of some regulatory or other barrier? I would like some clarification in that area.

Mr. Smith: — Once again, as far as that, I have notes that I

have relied upon. But other than the transportation, what key issues . . .

Mr. Hart: — You mentioned that there is a website that we could look at, or I wasn't quite clear on when you mentioned . . .

Mr. Smith: — Just as far as attracting labour. You know, that's what our members are really faced with. And part of it may be a perception where, you know, someone has to be relicensed to do . . . You know, it's not a test. It's not a six-month course. They see that as a hindrance — why do I need to do that?

And once again, we as a members' association are trying to address that, you know, we here in Saskatchewan can attract that type of people to do these jobs. And becoming part of TILMA is going to encourage that even more.

Mr. Hart: — The second area that I'd like your comments on, you mentioned . . .

The Chair: — Excuse me.

Mr. Hart: — Sorry, Madam Chair.

The Chair: — We're going to go forward with questions, to-the-point questions. We're already about 20 minutes behind and we have one more questioner. So if you have a to-the-point question . . .

Mr. Hart: — Yes. Yes. The buy-local area, as far as municipalities buying, procuring locally from local businesses, is it an issue with your members? Have you had members come to you and say, if this thing goes ahead, we're going to be in problems? I'm not sure where . . . The city of Saskatoon, as an example, you know, has a policy like that and is actually practising a policy like that. Just I'd like your comments in that area.

Ms. Ryan: — Absolutely not. We have heard no complaint.

And just one quick clarification on the website. We have an initiative going right now that is trying to repatriate expats. So it's also open to anybody. To the best of my knowledge, members who have been successful in hiring through this website have not had any problems, but I could not actually say for sure to you.

Mr. Hart: — Thank you, Madam Chair.

The Chair: — Mr. Chisholm.

Mr. Chisholm: — Ms. Ryan referred to, in winding up her presentation, about the impact of not participating. I think I'd like to go to that just for a second.

In Saskatoon in particular right now we're seeing the direct results of an overheated Alberta economy and being in a position to supply to the Alberta economy, particularly the Fort McMurray project, and add a lot of fabricated and manufactured items. And further to that the British Columbia connection allows us to be part of trading with the world. So two of the hottest economies are right next door. And Mr. Yates referred

to the negative position that one is in by being a weak partner. I'd like to suggest that by partnering with Alberta and British Columbia in ways that we can . . .

The Chair: — I say that's really nice that you'd want to suggest that, but we're now to-the-point questions. We're way behind. To-the-point question, Mr. Chisholm.

Mr. Chisholm: — Yes. Do you agree that we would be in a stronger position as part of the agreement?

Ms. Ryan: — Yes I do. From my point of view we have to be equal partners in this agreement. We shouldn't be a weak partner. We should be a strong partner and it's necessary for us to be there.

The Chair: — And that will be something we'll ask of the officials that come before us. I thank you very much for your time. As a Chair, I can't help but note I've been a part of as a Legislative Secretary to crossing boundaries initiatives, Service Canada and BizPal. We've had a lot of talk about regulation and I'd like to have our researcher look at if there is any impact on streamlining regulations from that initiative. But from the people presenting in the business community, have you had any positive experiences with BizPal streamlining those regulations and processes across provinces?

Ms. Ryan: — No, absolutely not, Madam Chair.

The Chair: — Thank you. I will ask for some of that information to be provided to committee too. We thank you very much for your time. I'm getting to be a little bit brutal in the Chair because of the time constraints but we really do thank you for your presentation and wish you all the best in future deliberations. Thank you.

Ms. Ryan: — I will take my germs and go.

The Chair: — I think there are others who have germs in the room as well. Heal well.

Ms. Ryan: — Thank you so much.

Presenter: Roy Atkinson

The Chair: — The next presenter that we have is Mr. Roy Atkinson. We'd ask him to come forward. Thank him very much for your patience, Mr. Atkinson. While you're coming forward, I'll mention that we have for individual presenters about 10 minutes to do an overview presentation. Then we'll open up for questions. We've allowed half-hour time frames for individuals and I do see the next individual here as well. And thanking her for her patience too.

So if you'd just like to begin, we thank you for coming forward with your information.

Mr. Atkinson: — Thank you, Madam Chair. Members of committee, I think the first thing I will do is introduce myself because there are people here who know what my name is but maybe not my background.

First of all my name is Robert Roy Atkinson. I have the

distinction of having three letters after my name called CM [Member of the Order of Canada] and the Order of Canada. I thought that important because, as most of you know, I've been a scoundrel all my life but somebody saw fit to recognize that, and I trust I'm going to be a scoundrel here today.

To start off with, and I should say that I farmed out at Landis, Saskatchewan. I spent 29 years as an adviser, both elected and appointed, to the Canadian Wheat Board. I participated in international negotiations on several occasions at world food program in Rome. I am a past member of the Economic Council of Canada and the Canadian Council on Rural Development and have been a consultant on grain handling and transportation, along with many other things.

I want to assert right at the beginning that I am a Canadian. I am absolutely committed to the sovereignty of our country and I absolutely believe in the principle of justice, socio-economic policy that brings about distributive justice and the common good for all of the people in Canada.

Now having said that, I want to go through some of the experiences I've had and put on the table — TILMA is a Trojan horse. TILMA is an aftermath, if you like, or the back door to our social programs and the sovereignty of the municipality that you operate in, the province and this country.

If you look at the US-Canada trade agreement and if you studied the US trade agreement as I was given a mandate to do when the first principles were announced, and my function was to do an analysis of agriculture. I read the agriculture sector and it didn't make any sense. I then read the whole thing and it then began to make sense. While trade's involved, the real issue was financial services, which I found very interesting. I followed that up then with the NAFTA agreement, the multinational agreement on investment which they tried to pawn off and push and have been fairly successful at it. However there's still some problems they haven't been able to get through the back door and that's where they want to come.

And so what I want to address to you today is the fact that we talk a lot about trade in terms of these international globalization affairs. Trade is only secondary. What is being searched for is a charter of rights for finance capital. If you want to think about it a while, capital is mobile. Capital moves. Capital goes to the lowest area of lowest cost to the investor, and the greatest return. Think about that. It's mobile.

I talked to an English gentleman who immigrated to Canada and bought a farm up at Sandy Lake, Manitoba. He left London. Ahead of him, he sent his cash over. The cash arrived before he did. He was here for two years, didn't make it, and went back to England. In other words he was unloaded while he got here, all of the capital accumulation that he felt. That's just an example.

If you look at the NAFTA or the Canada-U.S. Trade Agreement or US-Canada trade agreement, you look at NAFTA — and it was raised here a bit ago — how many times have we gone to court under NAFTA, Canadian Wheat Board — how many times? They always lost the case. The timber business — they lost the case. Why? They signed NAFTA. Why are they challenging us? I want to refer you then to consider this. I would recommend that every one of you, if you haven't, read

the Monroe doctrine written in the 1700s. Monroe doctrine sets out US foreign policy and US foreign policy is, wherever the Americans perceive their interest to be is their interest, is their interest. And think about that. Think about how capital moves around.

We're not talking about trade. We have set up some regulations interprovincially. We have had some constitutional things to protect our sovereignty, and slowly but surely they have been eroded.

For example, the British North America Act, section 92, sets out the jurisdiction of the federal government: interprovincial trade, international trade, finance, and other things. The provinces have the jurisdictional responsibility of property and civil rights. In order for us to have an international railway system, we transferred power to the federal government through declaring grain handling and transportation a work to the general advantage of Canada. It made a lot of sense, but now we're wanting to fragment all of that. We want to fragment that. We're doing it. Deregulation.

Transportation is functional to marketing. What's happened to our transportation system? It's been taken over by the Americans. Our national railway system has been deregulated. I listen to, watch, and read the paper, and people are worried about getting our grain to market because it's being deregulated. So we want to . . . Whatever the rules have been developed in order for us to have some management over the provincial economy, they now want us to do away with those. But remember this. Structure determines process and process determines results. Structure determines process and process determines results.

And as we move forward to this great new world of globalization — which is not new at all; Christopher Columbus started out with that, just remember that. My roots, the Brits, they were great internationalists. They plundered and pillaged all over the bloody world and grabbed the vault and took it home.

Now let's come back to Saskatchewan. This is a very rich province. This is a very rich province. It's ready to move forward because why? You know our Premier and our Minister of Industry went to Washington to tell them where we were, where we're at. They didn't have to go to Washington. The Americans know more about us than we know about ourselves. And what do they know about us? We're ripe for plundering, that's what we are.

So I want to just reiterate. The issue at hand is not about trade. The issue about hand is who's going to control the wealth production of this country and this province and the farmers and the guys who have run feedlots to feed beef cattle that have been pillaged and plundered and their efforts have been taken away. And I'm going to name the companies: Cargill grain, which last year had \$75 billion worth of economy; and ADM [Archer Daniels Midland]; and Tyson. Just think about that. Two billion dollars when the BSE [bovine spongiform encephalopathy] struck. Who got it? Did the farmers get it? Hell no. It went straight to Minneapolis and down to Arkansas. And if you don't want to take my word for it, check it out. Check it out.

So what is TILMA? TILMA is to bring capital through the back door, underneath, very subtly to move in to take over our social programs. Our economy is pretty well opened with the advent of the, quote, “trade deals” which are not about trade, although trade’s involved. It’s about the control of finance capital — the method of capturing the wealth production and transferring it to the transnational control and through the transnationals to international capital management. Simple, but not so simple.

You cannot look at things in isolation. Or I should say it properly: you should not look at things in isolation. Everything is interconnected. And, you know, it’s like the old shell game they used to play at the fair. You have to guess which way the peanut’s under, under which hand. So they got us going on the shell game and we’re looking like this and we think, well that’s it; that’s it; it’s not it at all. It’s about who’s got the power, who’s got the power.

This whole notion of outside capital coming in to develop our province or our country is a trap. Capital does not come unless it is rewarded. And we just had . . . In all due respect to the people from north Saskatoon, they want little changes here and there. They don’t really understand that if capital moves in on them, they’re gone. They’re done, because they just wash them out, just eliminate them.

Now here’s coming to the . . . Am I over my ten minutes? You can tell me because when I get going I’ve got lots to say. But maybe I should stop there. And I want to end up by saying this. You know, George Grant in about 1965 when the former prime minister of Canada, Mr. Diefenbaker, told the Americans we’re not taking your nuclear warheads and putting it on our bomark’s because that’s in violation of the UN [United Nations] charter and he was defeated. George Grant wrote a book called a *Lament for a Nation*. A *Lament for a Nation* should be read historically; there’s a fact.

What really moved in on Diefenbaker? US foreign policy and the CIA [Central Intelligence Agency] came into Ottawa and briefed Canadian press. Now you may not like to hear this, but you’d better listen — not for me, but for the future of our country.

Walter Gordon, when he was a minister, announced a royal commission on Canada’s future economic prospects, and he hired Mel Watkins to head it up. I got this from Walter Gordon directly. When that announcement was made, the RCMP [Royal Canadian Mounted Police] came into his office and told him to get rid of Mel Watkins. He told them to go to hell.

Maybe we need another royal commission on Canada’s future prospects — both economic and social — because if you people go for the TILMA in any way, shape or form, you’ve opened the back door. You’ve opened the back door. For good reasons or bad reasons, you’ve opened the back door because capital will move in, and it will challenge.

When they changed the constitution back in the ’80s and they repatriated the constitution to Canada, section 92 was adjusted. It’s not as clear as it was in those days. Now you spend your time in court arguing about the challenges that are going to be made. And those that have the capital are going to be doing the challenging, and they’re going to be challenging the little guy,

not the big guy. But they’ll also challenge the province. They’ll also challenge the province.

The Chair: — I think we’ll leave your presentation right there. It provokes some question and answer, I’m sure. And I’ll entertain a speaking list. Mr. Yates.

Hon. Mr. Yates: — Thank you very much, Madam Chair. I’m going to ask you the same question I’ve asked virtually, I think, probably every presenter, and that is the reality is there are trade agreements today. We have a national trade agreement. We are faced with the issue of regionalization of trade agreements. Do you think our province’s approach should be to support regional trade agreements or a national approach to trade agreements within Canada?

Mr. Atkinson: — I’m going to answer the question this way, have the hard, little discussion. The argument has been that we should join Alberta and BC in this endeavour because if we’re not at the table, we have no power. Well as an old negotiator, I can tell you this: they who co-operate lose. To sit in on those discussions, you give a little here; you give a little there. Pretty soon they move the big piece, and you say no. And then you’re trapped. If you want power, you sit on the outside and you negotiate in. You don’t sit on the inside.

There’s an assumption that we’re all looking for the same thing. There’s an assumption we all have equal power. The answer is we don’t. We don’t. Our power is the power we have with the people, the power we have in the logic of our discussion, and how we maintain sovereignty over the various levels of government in this country. That’s our power. And to join them, you lost.

Now what was the other part of your question, Kevin?

Hon. Mr. Yates: — Whether we should look at a Canadian approach or regional approaches to trade.

Mr. Atkinson: — I think, I think we live in Canada. I don’t think it; I know it. We are part of the country, and we should be negotiating from a national perspective in order to find the best possible way of distributive justice across the country.

Yes if we begin to isolate ourselves in groups, then we begin to balkanize, balkanize the country. And any country that’s been balkanized — and especially with the power, the pressure that’s coming in from external forces, the US — it only weakens our opportunity to withstand our right, our sovereign right to be able to make decisions democratically.

I noticed the word democratic being used. It’s a very good word. It’s a very good word and let me say why. We had a conference in Banff here six months ago in which we had people from the Council on Foreign Relations — the United States, a few Canadian, ex-Canadian politicians — holding a closed-door conference on the future of the economy of Western Canada. Now that’s not very democratic. Why didn’t they hold it in the open so all of us could participate or listen to what they had to say? It’s not the way they do it. It’s closed door. And who are these guys? They’re the guys that manage its capital on the international basis or those that want to be at that level.

So my answer is, we do it at the national level. It may be inconvenient. It may be frustrating, but we've got along pretty good so far with all our . . .

The Chair: — Thank you. Ms. Crofford.

Ms. Crofford: — This is actually a question I'd hoped to ask the last group. But we now have the strange situation where we have the AIT which is a fed-prov-territorial negotiating process. We have the BC-Alberta agreement, and now it looks like we're going to have an Ontario-Quebec agreement.

Now I'm told that we have as much trade with the West as we do with the East of Canada. And from the point of view of agriculture is really my interest, because we've had very little on agriculture here . . . In a situation like that, where Saskatchewan may be put in a position of deciding which way it's going to go, but I'm particularly interested in your comment on that in relation to agricultural markets but also in the question of how NAFTA has affected agriculture because I have not made a study of that particular . . . or how trade agreements generally have affected agriculture.

Mr. Atkinson: — Well if we take the grain economy and we go to NAFTA and the US-Canada free trade agreement, Canadian Wheat Board — which probably provides more public information than any private company including Cargill, you know, and they're always complaining about it — has gone I forget how many times, and they've won every time. And that's an impact of NAFTA. The other question is they're after the supply managed industries like dairy, and they're trying to undermine that through NAFTA and through the trade agreements. So far we've been able to hang on.

But let me just expand a little on that for those that may not have thought about it, and I'm sure many of you have. We now have a situation in which at the federal level the wheat board is being undermined, as a matter of fact very deceitfully, on the grounds it's going to give farmers more freedom. Well I always believed . . .

And I know how tough it's been out there on the farm because we're dealing with monopolistic business who buy your product on one side and pay you for . . . and sell you the stuff that's on the other side. And they manage the market. We send our kids to the College of Commerce here or to the university agriculture. In the College of Commerce they're taught how to capture the margin, right? Capture the surplus I guess they call it. Is that right? And that means that everything is fair game even if you have to move it to the point you've got enough power you can move the point until you capture the guy's asset.

Now there's a big cry out there that agriculture's in trouble. Agriculture's not in trouble. Tell me what we're short of. The province have been . . . [inaudible] . . . successful and the farmers in doing what they're supposed to do — be responsible for production. And if there's anything there's any money in, let the farmer know and in two years he'll have overproduced and the price won't be worth a damn. Think about that. Think about that.

So from a provincial point of view, I hear people crying about the provincial government should put more money up for the

farmers because they got a shortfall. They don't even understand the constitution, for God's sake. They don't understand their obligations. That's a responsibility of the federal government, international subsidies to farmers, all those kind of things. It's a dilemma. It's one we could fix if we get our heads around it.

Now what's about going to happen, what's going to happen in the grain business if this deregulation goes — and I know some of you here are for it. Well I'll tell you what'll happen. Saskatchewan Wheat Pool's out of the way. United Grain Growers are out of the way. The pools are out of the way. They're now a corporate answering to the stockholders. They're a front for those big fellows that are sitting behind called Cargill, ADM, Dreyfus.

Who are the ones that are in the food business? Who are in the food business? Who are processing? ADM. Cargill. What do you suppose is going to happen to the high-quality grains? Who's going to get them? Oh they'll be contracted in with a little margin to selected farmers until the whole thing falls to pieces, and right now they got absolute control of the food business right from the bottom to the top. That's where we're headed. And how's it happening? Well they're capturing the wealth production here, taking into their own system, and reinvesting it with the knowledge at the end of the road they're going to have it — not a monopoly but an oligopoly.

The Chair: — Ms. Crofford, do you have a follow-up question?

Ms. Crofford: — No, thank you very much.

The Chair: — Mr. Hart.

Ms. Crofford: — Well I've enjoyed the history lesson here.

Mr. Hart: — Well just very briefly, well I guess the question is with regards to agriculture and the importance that it plays on the national scene. Quite often we in the West feel that with the population and the economic power of Central Canada that agricultural issues aren't received that well in Ottawa and aren't given the attention that they need to be. And do you see . . . My question to you is, do you see a value in Western Canada operating as a region versus independent provinces and thereby strengthening our presence on the national scene and then as a result of that, seeing more real attention being paid to issues with regards to agriculture in Western Canada?

Mr. Atkinson: — Glen, I used to believe that, until I got a little broader view of the world. And the answer is no. That's not to say that we don't have some unique things here. But one of the things that I learned was, that there is an interrelationship. Farmers have a mutual interest. They have some differences of interest which we shouldn't allow to become conflicts of interest.

But if it were not for some high management of Ontario . . . Quebec is superb. A lot of people criticize the Quebec people. I learned to respect them a great deal. They understand the relationship between the farmer who produces and the market which is dominated by a few big buyers, and so they have supply management. And if you look at the stats across Canada,

who were the farmers? You know, when I say agriculture's not in trouble, I don't mean that the farmers are not short; damn right they are. And the guys that are trying to escape that, that squeeze are just getting bigger and bigger and bigger. They're leasing, and all of a sudden they hit the wall, and they're out of business, and they call in Ritchie's to disband their, you know, all the stuff that they lease.

So my answer is that we need to . . . and what I tell farmers when they come crying to me, I say well go down to Quebec and learn how it's done. And they get quite upset about that. But I used to too. But by golly I learned that you'd better respect what they've done. And the Ontario people, BC people, yes, even Saskatchewan — we've had a tougher time because our guys think they're free enterprisers. Well I'm going to tell you something. They ain't no such animal. They ain't no such animal.

You are an entrepreneur, yes. You live within a consolidated and rapidly consolidated economic system, and you're a victim. You're a victim because you've got no organization. And you think you're a big wheel because somebody gives you a little benefit over Glen here.

Well that's the greatest . . . I used to work, I used to work when I was pretty young for a food outfit. I had more information in the morning about the crops and where it was going than any damn farmer. And I knew that if Randy Weekes got mad at me and Glen got mad at my competitor, Randy would go to the other guy and Glen would come to me, and we'd both laugh all the way to the bank because we knew one thing — price cutting was profit destroying. Anyway that, Glen, is my answer.

The Chair: — Thank you very much. That is the answer. We thank you for the time and the energy you've given to your presentation to us.

Mr. Atkinson: — I want to just say, I want to table some documents here, and it's what I've clipped out of business pages: The fall of corporate Canada, the takeover of all our major instruments of economic business, Canada beating an industrial retreat, and Reuters here, Alcoa launches a \$25 billion hostile bid for Alcan. I think this is all instructive material. It's all about the future of this country or whether we have a future or not. IPSCO on the block. I remember when IPSCO was the jewel in the eye of the Government of Saskatchewan, when we got it there, and what's happened to it.

The Chair: — Our Clerk will receive the documents. We recorded them in our record now and they'll also be recorded and distributed to all committee members. Thank you very much.

Mr. Atkinson: — Thank you.

The Chair: — I'm sorry to rush you along now but we have a very patient Ms. Hughes, who has been with us for a while and needs some time frame too.

So thank you very much.

Mr. Atkinson: — Thank you, people.

Presenter: Elaine Hughes

The Chair: — Our next presenter is Elaine Hughes, and she's presenting as an individual, I believe. We allow you time for your overview which is being, your paper is being distributed. I think you've been here since early morning, so you know the process and I'll just let you begin your presentation. Thank you very much. Welcome.

Ms. Hughes: — Thank you, Madam Chair. I have no one to help me with my research and I certainly don't have anybody to pay my wages or pay for copying and all the rest of it. First of all, my name is Elaine Hughes. I live at Archerwill, Saskatchewan on third generation, maternal grandparents' homestead. My mother and I own the land together and we're in our last year of transition to organic, and I'm very excited about that. Even though the acreage is small, it's very significant. We're surrounded by pesticides on every side. So I spend lots of time connecting dots and that's what I do best.

Before I get into my little presentation, I would like to record some of my source documents. First of all, the Council of Canadians website is excellent. Anybody who wants to know about what's happening to our country, they can just go on that website and they'll see the whole thing right there.

In addition to that, I would like to refer to Ellen Gould's *Asking for Trouble*, done for CCPA [Canadian Council for Policy Alternatives]. I would like to record the CISCOR [Canadian intelligent super corridor] Smart Inland Port Network from Agribition's website. I would like to also record *North American Future 2025 Project*, also on the Council of Canadians website. And this wonderful, colourful little thing done by Janet Eaton on the east coast, in preparation for the oncoming of Atlantica. So we'll get to all of those things.

I assume I have not very much time. I will not go word for word into my presentation. You have a copy. You can peruse it at your leisure. However, I would like to introduce it by going through some of my points.

First of all, I'd like to thank the Premier for allowing the public of this province to participate in this process, which in itself lends itself to the process of democracy. And we have little enough of that in this country at the moment, which is another very alarming situation. I personally believe, after doing all my dot connecting, that TILMA is pivotal to saving our country. And if we want our country to stand, we must oppose Saskatchewan signing on to this bad deal and we must do it now.

When I first heard about TILMA, it appeared to be just a piece of local politics happening in BC and Alberta. Canada's constitution, we must remember, still guarantees provinces the ability to make our own regulations based on our own local needs and should not be seen as trade barriers by anybody — in or out of Canada.

However the real implications behind this backroom deal became alarmingly clear, especially once I got my hands on this little gem — *North America Future 2025 Project*. It is the blueprint and I would encourage all of you and your friends to have a really, really good read.

Under this title, the US Center for Strategic and International Studies, which I will refer to as CSIS, in collaboration with the Conference Board of Canada and CIDE [El Centro de Investigación y Docencia Económicas] which is an acronym for something I can't pronounce in Spanish from Mexico, is currently holding a series of closed-door, round table sessions with government practitioners and private sector stakeholders in order to strengthen the capacity of Canadian, US, and Mexican administration officials and of their respective legislatures to analyze, comprehend, and anticipate North American integration. I don't know how much clearer the message has to be.

Despite a lack of public awareness or input on all levels, all three North American governments are moving quickly toward a continental resource pact, North American security perimeter, and common agriculture and other policies related to our health and environment.

Many working groups at this moment as we speak, comprised of bureaucrats and corporate leaders — 30 of the CEOs [chief executive officer] from the largest corporations on this continent, 10 from each country — are telling our governments what to do in order that they can continue to make money.

This whole idea, including TILMA, is very important to the Harper government. Budget 2007, and I quote part of what you have on your paper:

The federal government is committed to building on (the) momentum (of TILMA) and will work with interested provinces and territories to examine how the TILMA provisions could be applied more broadly to reduce interprovincial barriers to trade and labour mobility across the country.

June 6 Canadian Press article says the federal government is poised to tell the governments that they must "... mutually recognize a worker's occupational qualifications by default if they can't reconcile differences by April 1, 2009." That same article also notes, "The provinces will get a similar message from the ... Chamber of Commerce ..." Isn't that a surprise. "The chamber will recommend that provinces negotiate deals similar to the Trade, Investment and Labour Mobility Agreement (TILMA) signed by B.C. and Alberta in 2006." Signed ... I might add for your information, even the MLAs didn't all know what TILMA even was. And I have that as a fact.

In a press release on June 7, the minister, the federal Minister of Industry proposed that:

... the Agreement on Internal Trade (AIT) be strengthened to ensure that Canadians enjoy the benefits of full labour mobility by April 1, 2009. The Minister made this proposal to his provincial and territorial counterparts at today's meeting of the Committee on Internal Trade ... in St. John's.

AIT apparently is already working on this situation, nearing completion of their work, but I was interested to hear Mr. Axworthy call TILMA a Trojan Horse because according to Erin Weir of the CCPA, it is indeed a Trojan Horse. Bringing in

TILMA's dispute settlement mechanism, it is the thin edge of the wedge, and they're trying to do an end run on TILMA by coming in through the back door using the AIT.

I cannot sit here and not acknowledge David Orchard's book. In 1993 he already understood what was happening. He has been trying since then to make us understand what's happening to our country. And little did he know when he published that book that his message today would be even more urgent.

The Canadian government is intimately involved in all of this. CSIS is driving this North American competitive council. We've got the security and prosperity partnership driven by NACC [North American Competitiveness Council]. And it goes on, and the next meeting of the security and prosperity partnership "will take place August 21-22nd in Montebello, Quebec, not far from Ottawa." And even I might go and ride a bike from Ottawa to Montebello so that I can demonstrate against this whole nightmarish scenario that's opening up in front of us as we speak.

Private meetings, secret meetings all over the place, two of particular note in April 26 and 27 in Calgary. One talking about North American energy. And Mr. Laxer indeed is correct in being concerned about eastern Canadians freezing their asses off in the dark.

Bulk water exports was on that agenda on the 27th in Calgary. They had a meeting talking about ... table for:

Discussion of bulk "water transfers" and diversions took place at a Calgary meeting of the North American Future 2025 Project (partly funded by the U.S. government). The meeting based its deliberations on the false notion that Canada has 20 per cent of the world's fresh water. Actual available supply amounts to only about six per cent ... [similar to that of the US].

On the heels of that, June 4, NDP critic Peter Julian informed us that they had tabled a — I'm not sure of the terminology — they brought a motion forward preventing bulk water exports that was brought to the House of Commons as a result of the NDP hearings on deep integration at the standing committee on international trade. He told us that it had passed — the previous evening — parliament by a vote of 134 to 108 with all Conservatives voting against and with a couple of dozen Liberal MPs [Member of Parliament] either absent or abstaining. All New Democrats voted in favour of the motion. What we have to see now is indeed Mr. Harper going to do anything about this obvious victory.

A fascinating aspect of this whole picture is something called the NAFTA super corridor. And I would encourage you to have a look at what in the hell does that mean. Any of you sitting around this table, I hope this is a review for you. I hope you are aware of what's going on. And I encourage you to get your head around this. This is extremely serious. I will not go into details.

We've got corridors coming up through non-unionized ports in Mexico. Big, fancy, inland port at Kansas City up through, invited into Winnipeg, into ... Bring your money and your dollars and we'll use Winnipeg as one of the ports of entry.

Bring your containers, sealed containers from China with your goods, in through the non-unionized ports at Mexico up through Kansas City — follow the dots; I do this well — into Agrivision's little inland port somewhere in southern Saskatchewan with access to our highways and out through the ports of Prince Rupert, Vancouver.

Labour is cheap in Asia. Labour is cheap in India. Environmental laws are non-existent or very weak. So in comes, to satisfy our consumerist greed to have more. How many fridges does one person need in their house? Bring all these goods — shoes, clothes, dishes, whatever — bring them into the centre of the continent, dispatch them to the Wal-Marts and God only knows what else, suck up our resources and take them back to China where they'll use our resources, our potash, our uranium — heaven forbid — whatever we have as a resource, get them back into the cheap labour field, bring them back in through the non-unionized ports and we've got this smooth, seamless little path going.

Halifax of course is going to be the big deal on the East Coast with Atlantica coming right in. Have a look. It's right here. They're working on it this very weekend. Halifax is going to be enhanced so that it can accommodate the world's largest container ship bringing goods in from India and other areas.

Moving right along, let's look at other developments that are going on as we speak. Talking about the amero, like the euro, giving up our dollar. And when we've lost our currency we can kiss the country goodbye. Harmonizing Canada's regulations regarding the level of pesticides on imported food — which you people up here you may still have grandchildren or children at home. This is the food you feed your kids. Cancer is epidemic. We're going to lower our regulations, our standards. Why? Why would we lower the standards on our food?

Health protection — been a NAFTA initiative from the very beginning. Now it's being fast-forwarded through the security and prosperity partnership. Creation of Canada's own no-fly list. The 2003 CSIS report on North American economic integration proposed that Canada and Mexico should work with the United States to take “concrete steps to create a North American security perimeter and further harmonization of immigration and refugee policies for those coming from non-NAFTA countries.” Just bring in the workers. Fine, everybody needs work, everybody has to feed their families. We can do that on our own. We don't need big business in the States telling us how to do that.

I will not linger on TILMA. You must be sick to death of hearing all about TILMA. I'm trying to present the big picture and how pivotal TILMA is to losing our whole country. It is indeed the fine edge of the wedge. If they can divide us, they'll conquer us. We've got TILMA on the West Coast. Oregon, Washington want to get into this northwest thing with BC and Alberta. Over here we've got Atlantica with, they're looking at 6 billion people into this Atlantica set-up — the Maritimes, Maine, Massachusetts. I don't know all the states. There are, as I said 6 billion people there, just salivating to get at this market with the cheap goods. And the corporations will just keep on making money as they bring in the products that they're doing.

Saskatchewan — somebody already said it — now finds itself

caught in the middle between the business community and ardent free traders such as the Canada West Foundation in one corner and unions and left-wing nationalists such as the Council of Canadians in the other. Several Canadian cities, Saskatoon, Regina, Yellowknife, and organizations such as SUMA have already voiced their concerns and/or opposition to TILMA. And this will continue as more people find out what's going on.

The Council of Canadians, the Canadian Labour Congress, and the Centre for Policy Alternatives held a big SPP [security and prosperity partnership] teach-in in Ottawa the end of March. I was there. It was fantastic. Fourteen hundred people attended that, whether it was the Friday night young people getting together and claiming back their country because it's their future, and the rest of us, Saturday at different workshops with excellent facilitators teaching us what's going on and opening our eyes to this.

So as a result of this pressure from corporate-friendly supporters of undemocratic TILMA, Saskatchewan must decide whether to join TILMA and risk selling democracy to multinational corporations or, according to unrealistic predictions made by the Conference Board of Canada, of possibly missing out on a western economic mini-miracle in the making.

TILMA was negotiated and signed in secret in 2006 without public consultation and without legislation by the premiers of BC and Alberta. However since being revealed to the public, concerns have arisen about its implications for trade unions, activist groups, and municipal councils losing our ability to make rules and regulations in our own RMs [rural municipality] that we elect our councillors to do what's best for us. And nobody in Washington is going to take that away from me. This makes me really angry, as you might have guessed.

Other provinces are also wary of signing on in spite of corporate pressures to do so. Hopefully the tide stops at Alberta and Saskatchewan at the border, and then recedes with the repeal of TILMA by a future BC and Alberta government so that Canadians can get on with the real and pressing economic and social issues facing the nation. Many men and women have given their lives to keep our country glorious and free. When I stand up to sing our national anthem and I say those words, I need to know what I'm saying is true. If we want to save Canada, Premier Calvert, as the head of the government of this province, must say no to TILMA. Thank you.

The Chair: — Thank you very much for your passionate presentation. I have a speaking order beginning with Mr. Yates.

Hon. Mr. Yates: — Thank you very much, Madam Chair. Ms. Hughes, I'm going to start by asking the same question I've asked every presenter. The trade arrangements that exist today in Canada are on a national basis. We now have a proposal for a regional trade agreement. Do you believe that trade arrangements in Canada should be on a national or pan-Canadian approach or should we entertain regional approaches to trade agreements?

Ms. Hughes: — No. I just said, divided they conquer us; together we stand strong. We need the strength coming from leadership in Ottawa.

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

The Chair: — Ms. Crofford.

Ms. Crofford: — We've had some discussion in this committee about whether or not this would create pressure for a lowering of standards. You mentioned a food example. Can you just give me a little bit more information on how it has caused our standard to be lower on, well pesticides for example?

Ms. Hughes: — Without going into intricate detail — I'm better in the big picture — my understanding is that in some cases the US standards or the level of accepting the amount of pesticide on our food in some cases is up to 40 per cent lower than ours. And that's the appalling part. We are prepared to say, oh well that's okay. You know, you seal a container in, I don't know, downtown California and you don't inspect it again at the border when it comes into our country. It gets into our supermarkets and you feed your kids that food. Are you prepared to do that?

Ms. Crofford: — And you don't really know what the level of pesticide is on it.

Ms. Hughes: — Forty per cent in some cases. They're more tolerant. And this is not old news. This has just happened within the last couple of months. And it's ongoing. I mean there's smart regs and there's tons and tons of stuff that one person just . . . But yes.

Ms. Crofford: — Thank you very much.

The Chair: — Further questions of our presenter? If not, I thank you, Ms. Hughes, again for your patience. We've been glad to see you here for the morning and if there's further information that comes forward in the next few weeks, if you present it to the Clerk's office, all committee members would benefit from that.

Ms. Hughes: — I'd be delighted That's what I do best. People need to know what's going on. Thank you.

**Presenter: Service Employees International Union
Local No. 333**

The Chair: — Thank you very much for your time today. Our next presenter is the Service Employees International Union Local No. 333. Ken Winton-Grey and Sandy Weyland, that I'm aware of and others who would come forward, please introduce yourselves. We're going to allow, as I've mentioned before, 10 to 15 minutes for an overview presentation and open to committee members for questions and answers. We thank you for your time in bringing forward your presentation and we'll ask you to introduce yourselves and begin.

Mr. Winton-Grey: — Thank you, Madam Chair. My name is Ken Winton-Grey. I'm the president of SEIU [Service Employees International Union] Local 333. To my right is Sandy Weyland, who is the chairperson of our political action committee in our local. And next to her is Tom Howe, who is also a member of the local's political action committee.

I'd like to thank you very much for coming here with open

minds to listen to our submission. By brief introduction, the Service Employees International Union Local 333 represents 8,000 members in Saskatoon Health Region and Heartland Health Region. Our union has members working in daycares, in hospitals, working in long-term care homes, group homes, public health, and mental health sectors, and to name a few.

We are proud that Saskatchewan has been a leader in Canada when it comes to the provision of a social safety net. Saskatchewan is proof that implementing a social service agenda does not impact negatively on employment. But this is not the time to rest on our laurels or to begin an invasion of our social advances by placing our much needed social programs at risk under the limitations and constraints of TILMA.

At SEIU the goal of our political program is to promote policies that will help to secure the future of our public services, our medicare, and our labour laws. At SEIU we feel strongly that TILMA puts working families at serious risk of losing these valued public services. Our union views TILMA quite simply as a backroom corporate rights agreement document.

Mr. Howe: — Hello. I'm Tom Howe. I'd would like to congratulate this committee for taking a serious look at this and looking at all the pros and cons of it. I'll just go ahead and start with the rationale of TILMA as it relates to the trade agreements that have been brought up at many of your different speakers.

We feel that TILMA is actually intended to do and advance another much larger agenda, often referred to as deep integration, which is a formal agreement between the NAFTA partners. It is called the security prosperity partnership of North America, SPP in short, and is supported by the federal Conservative government. The SPP will see Canada effectively harmonize virtually every important area of public policy with the US, including the areas of defence, foreign policy, culture, social policy, tax policy, drug testing, and safety.

To harmonize Canada public policy with the US requires a massive deregulation across the board — much of the regulation, the provincial and municipal, over which Ottawa has no control. That's where TILMA comes in, in our opinion.

What will be harmonized through TILMA is simple enough. And the fundamental political difference is between Canada and the US is that the property rights in their constitution and we do not. That is no accident as for when the Charter of Rights and Freedoms were negotiated between the federal government and the provinces, the idea of property rights was discussed and then rejected. Canadians, as activist government and strong social programs, demanded that the social rights trump the rights of investors. And I believe and I think our SEIU as a whole believes that these will be at risk under the TILMA agreement.

In fact according to the Council of Canadians, article 5 TILMA requires governments to mutually recognize and otherwise reconcile their existing standards and regulations. In determining the meaning of to reconcile, dispute panels could refer to the *Oxford Dictionary* . . . [inaudible] . . . defined to harmonize. Dispute panels could also try to interpret to intent of the negotiations, which I believe the SFL president, Larry

Hubich, touched on and I think discussed quite well.

The Conference Board of Canada study, which BC government frequently cites the proof of the economic benefits to TILMA, talks to the agreement achieving harmonization and deregulation between the two provinces. TILMA's requirement for the government to mutually recognize each other's existing standards and regulations is an even greater threat to public good than harmonization.

The federal Industry Minister Bernier explained to the Senate banking committee on TILMA's mutual recognition rules will put regulators in competition with each other to attract business. With mutual recognition, business will have the option of choosing which province's regulations they will choose to operate under. This is great for the corporate bottom line because it will allow business to choose a weaker regulation every time. But from the environmental, public, and consumer protection, it will most likely mean a race to the bottom. This reasoning causes our union to be very concerned about the political impacts of TILMA as a predominantly health care local union and we have many concerns relating to the members working in the health care sector.

Ms. Weyland: — TILMA and health care. Although this point is still being debated, our Canadian medicare system has so far been exempted from international trade agreements such as the North American Free Trade Agreement. This will no longer be the case within the context of TILMA.

Under TILMA, there are no exceptions to government programs and regulations relating to health care. For example, once the two-year transitional period has elapsed for the BC-Alberta TILMA, April 1, 2009, the agreement and its provisions will apply to health regions, including facilities and authorities. The 2009 anniversary date of TILMA will open the door for potential challenges to our publicly administered health care system.

This leaves no doubt that health care could be one of the first sectors to see challenges under TILMA. Provinces have authority over health care, and various Acts currently exist which could be in violation of TILMA. Examples include the respective hospital Acts in BC and Alberta and the Medicare Protection Act in BC. In particular, policies which restrict for-profit health care could be seen as a violation of this agreement. In Saskatchewan, we share similar legislation which also would be in violation of TILMA.

Ellen Gould of the Canadian Centre for Policy Alternatives has cited examples of some of these areas which could be challenged in her analysis titled *Asking for Trouble*, February 2007. She provides the following short list of measures deemed as violations of TILMA: penalties such as fines that provinces impose to prevent hospitals from allowing individuals to pay in order to receive preferred status or treatment; restrictions governments may have in place to ensure the standards are being met in private, for-profit clinics; stricter standards which governments may find necessary to regulate private care homes.

According to the Council of Canadians in "Another Bad Deal for Canada," further examples of the kinds of health care policies that could be challenged by private individuals or

corporations include: restrictions on the private, for-profit use of public health facilities, which could violate TILMA's prohibitions on regulations that restrict investment; stricter rules at nursing homes, which would violate TILMA's prohibitions on new regulations that restrict investment; BC's proposed ban on the sale of junk food in schools and hospitals, which could violate TILMA's prohibitions on maintaining regulations that are not the same as those in Alberta. And as you know, Alberta's already rejected imposing such a ban in their province.

The Council of Canadians goes on to say that:

Unlike NAFTA, TILMA does not exempt government programs and regulations with respect to health services. And in two years, the inter-provincial agreement will be extended to cover hospitals and health authorities. Public health care, already under threat from private insurance companies and other for-profit interests, could suffer constant attacks under TILMA's rules — attacks it might not be able to survive, and that could foster two-tier health care within the free trade area. Due to the provisions of the agreement which gives corporations' investors rights, it may be difficult to halt the advance of a two-tiered health care . . . [system].

A system which would treat individuals based on their ability to pay.

As we all know, in Saskatchewan we currently enjoy a publicly funded and publicly administered health care system. In light of the above information, we feel our publicly administered medicare system could be at risk under a TILMA agreement. We believe private health care corporations would be at our door challenging Saskatchewan's right to maintain services in the public when many services are private in BC and Alberta. We feel that private health care corporations would want a monopoly on our support services and would quickly work on getting those services privatized. The threat of privatizing health care services increases as the years go by and the implementation of TILMA would only make it easier to privatize.

Labour mobility. Another reason we're told that we need TILMA is to increase labour mobility. In the health care sector we do not see this as an issue. What is becoming a big issue in Saskatchewan is recruitment and retention in health care. It would seem that, if anything, this agreement would make it easier for more professionals such as LPNs [licensed practical nurse] to leave their province and go work in BC and Alberta.

The Council of Canadians article, facts about TILMA, reports that:

Article 13.2 of TILMA obligates governments to recognize the qualifications of workers certified by another province without requiring any "additional training or examination". This means that a province *must* accept that a worker is certified even if his or her certification was based on lower standards in another province. A province is *prohibited* from imposing training and examination requirements on an out-of-province worker whose qualifications are less than that . . . [who]

are required in his or . . . new province. A government will be unlikely to continue to impose heavier certification requirements on its own residents than it applies to residents from another province. TILMA will effectively push provinces to adopt the lower standard across the board.

The question must be asked: if this is the case, how could the labour mobility part of this agreement possibly benefit Saskatchewan citizens?

TILMA and our communities. The TILMA agreement also affects our members with regards to their livelihood far beyond their jobs. Communities could be under attack. We see these agreements as limiting government ability to make decisions in the best interest of Saskatchewan on all levels, including municipal bylaws, ad policies, and local hiring policies. TILMA will also apply to school boards too so this will affect people in the education sector as well.

The Council of Canadians through the article, "Facing Facts about TILMA," has informed us that article 3 states the government cannot restrict or impair . . . or investment or labour mobility between the parties. Keep in mind TILMA's definition of investment doesn't cover financial assets but also the establishment, acquisition, or expansion of an enterprise. So local government bylaws that limit residential or commercial development violate article 3 because they restrict the establishment or expansion of a real estate enterprise even though these bylaws . . . so will not discriminate between local and non-local businesses.

Therefore it strongly appears that the TILMA agreement will limit the government's ability to implement programs and regulations. Therefore TILMA takes away the rights of governments to do their job, is therefore a risk to democracy.

As reported by the legal office of Sach, Goldblatt, Mitchell, TILMA represents a dramatic expansion of the trade liberalization agenda. The same office has also reported that by prohibiting governance actions that impair or restrict trade, investment, or labour mobility, TILMA imposes a serious constraint on government policy, law, and action unless explicitly exempted from the application 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 deregulation.

These lawyers go further to say:

The overwhelming majority of government measures that are subject to TILMA have little if anything to do with inter-provincial trade, investment or labour mobility, *per se*.

Because under TILMA private claims may be unilaterally asserted by the countless individuals and corporations they are likely to weaken a broad and diverse array of public policies, laws, practices, and programs.

So we would ask why any government, regardless of which

party is in power, would want to tie their hands as legislators by this agreement.

The Council of Canadians, in "Facing the Facts about TILMA," further states that:

TILMA has eliminated critical safeguards in the existing Agreement on Internal Trade on which it is based. For example, the Agreement on Internal Trade has a screening process that prevents complaints that are "frivolous or vexatious" or intended "to harass."

The Agreement on Internal Trade also prevents complaints that will lead to the downward harmonization of our environmental and consumer protection regulations.

By eliminating those safeguards, broadening the grounds for complaints, and giving complainants the potential to win 5 million in compensation, the BC and Alberta governments have created a litigant's dream.

TILMA goes far beyond NAFTA because individuals can demand compensation up to 5 million per challenge if a regulation or law merely restricts or impairs an investment. This is a extremely low threshold for a legal challenge.

One article in TILMA states outright that there shall be no obstacle to trade, investment, or labour mobility. This could result in a flood of litigation. A similar law in Oregon just dealing with land use has resulted in over 6,000 claims worth \$6 million.

When fully implemented, TILMA would allow legal challenges to the location and size of commercial signs, environmental setbacks for developers, zoning, building height restrictions, pesticide bans, and green space requirements in urban areas. With respect to the environment, regulations regarding air quality are at risk as are restrictions on tourist developments, the establishment of ecological reserves, the agricultural land reserves and authority of the island trusts.

For instance, a TILMA dispute resolution panel could rule that land use regulations violate the agreement by restricting real estate investments. Local government zoning bylaws to prevent urban sprawl, green space requirements for housing developments, and height restrictions on buildings are further examples of potential TILMA violations. Local limits on billboard advertising, noise bylaws, and pesticide restrictions could also be in jeopardy under TILMA since these regulations restrict or impair investment.

Even if TILMA's list of legitimate government objectives were expanded to include such everyday goals of local governance, a TILMA panel would still have to be convinced that a measure designated to achieve those objectives were the least restrictive possible — an impossible task if you think about it.

A further attack on local government authority comes in article 12 of TILMA which prohibits direct or indirect government subsidies like grants, tax waivers, or any other kinds of assistance if they distort investment decisions. Downtown revitalization plans and focused development programs are clearly intended to distort investment decisions by promoting

investment in areas where it would otherwise not happen.

Similarly TILMA imposes strict rules on how local government purchases are made for amounts as little as 10,000. Ethical procurement strategies and many measures intended to promote local business could be challenged under TILMA as unfairly restricting the investment of an out-of-town or out-of-province firm.

To protect their authority, local governments need to obtain a complete exemption from TILMA. There are exceptions to the agreement and a list of legitimate objectives that governments can try to protect, but even there they have to prove to an independent dispute panel that the objective was met with the least possible restriction to business, and this is a very tough challenge.

According to Steve Shrybman:

TILMA imposes a blanket prohibition on all government measures that “operate to restrict or impair” trade, investment or labour mobility unless such measures are exempt under the scheme. It is difficult to conceive of a government action, whether legislative, regulatory or programmatic, that would not violate this broad constraint. In this regard the net cast by TILMA is larger than that of the NAFTA and the GATS combined.

TILMA defines “government” very broadly to include all aspects of provincial government, including its agencies and Crown corporations; but also to include municipalities, school boards and other publicly funded academic, health and social service entities. This means that under TILMA, all actions taken by these institutions, agencies and public bodies must also comply with the sweeping restrictions imposed by the regime.

The overwhelming majority of government measures that are subject to TILMA have little if anything to do with inter-provincial trade, investment or labour mobility, *per se*. Rather, these measures, which run the gamut from environmental controls to health care insurance plans, were established to serve broad public or societal purposes and apply equally to persons or companies whatever their respective province of origin. While such measures may impact investment, trade and labour mobility, these effects are indirect or tangential to their essential purpose. Nevertheless, because of these indirect effects, they may be challenged for offending TILMA prohibitions.

The Canadian Centre for Policy Alternatives has also stepped into the discussion and the following are their comments:

TILMA is primarily a cut and paste job drawing on the most extreme provisions of a variety of trade regimes — the WTO, NAFTA, and Canada’s Agreement on Internal Trade — and combining them for maximum effect. The agreement is essentially a long list of things governments will be prohibited from doing for all time regardless of who is elected provincially or at a local government level.

TILMA creates a legally binding process by which corporations and individuals can challenge

government programs and regulations if they “restrict or impair” investment;
regulations in one province that are different from those in another;
the establishment of new, stricter regulations;
initiatives by one province with which the other province does not agree.

And at SEI we don’t really want this in Saskatchewan because this is a clear expression of the race to the bottom.

But perhaps the first time a government minister has ever admitted it — and this is a reference from federal Industry Minister Maxime Bernier — and he stated this in front of the Senate banking committee:

A Conference Board of Canada survey sent to selected Saskatchewan businesses . . . painted a very positive picture of TILMA with almost no references to potential down-sides. Indeed, the Conference Board’s objectivity was put into serious question when Glen Hodgson, its chief economist, appeared before the Senate Banking Committee and declared: “We strongly endorse and welcome the agreement between B.C. and Alberta . . .”

As for the national cost of inter-provincial trade barriers, the Conference Board of Canada admits it has no idea. It disavows the one per cent figure being attributed to the Conference Board by B.C. and Alberta politicians to promote the deal. Paul Darby, Conference Board deputy chief economist stated: “The figure doesn’t exist. Nobody knows.”

In conclusion, implementing TILMA could basically limit all levels of government’s power to decide on (1) how we choose to deliver health care in Saskatchewan; (2) how we choose to deliver education in Saskatchewan; (3) how we own our Crown corporations; and (4) how we choose to build our economy and communities in Saskatchewan.

Interprovincial trade and investment sounds great, but a plan that creates a veto power over the priorities we set as residents as Saskatchewan is not. The government must protect our rights to set priorities of the province. The Saskatchewan government must oppose TILMA. Thank you.

The Chair: — We thank you very much for your clear presentation. I have a long speaking list. It goes like this: Weekes, Iwanchuk, Yates, Stewart, Crofford, Hart. I begin with Mr. Weekes.

Mr. Weekes: — Thank you, Madam Chair. Good morning and thank you for your presentation. I just want to pick up on one area of the presentation concerning health care. And the assumption would be, I believe, that the agreement wouldn’t have any effect on health care. I would assume that the Canada Health Act would be prominent over any trade agreements. Could you identify in the TILMA agreement that would supersede the authority of the Canada Health Act and affect our medicare system?

Mr. Howe: — I can’t speak directly to the effects of the Canada Health Act and how it would be implicated by TILMA. I could

say that it is my understanding that if it was implemented, and as it is seemingly to be trying to be pushed across the nation as a whole, that I would think because of the sovereign rights that you'll give up by signing a TILMA agreement or such agreement under the SPP with the same dispute resolutions, that all those things will be open for analysis. We have a very good paper which was done by the SFL, and it is a forensics analysis of TILMA on our health which would . . . Canadians' fundamental rights provided under the Canada Charter of Rights and Freedoms, although under the TILMA agreement, because it takes away so many of our rights and freedoms, I think that it could all be challenged and brought forward for all private or public health care.

Mr. Weekes: — Thank you. Just one follow-up. As you may know that the process . . . We're going to have the BC and Alberta officials and make a presentation to the committee, and obviously this is a question that we're going to ask them and a number of questions. I know from the Saskatchewan Party's point of view there's a number of areas that aren't negotiable and would be protected in any negotiations leading up to signing TILMA. And you know, the protection of the Crown interests, municipal governments certainly have some concerns over their ability to continue to offer tax abatements.

And something the Saskatchewan Party has been talking about for quite some time — the new growth tax incentives to encourage investment in the province — and certainly from the Saskatchewan Party's point of view the protection of the Canada Health Act and medicare as we know it in Saskatchewan would obviously be something that would not be negotiable and would be protected under any agreement that we would sign. So just thank you for your presentation.

The Chair: — The last one was straying into comment, and I think this afternoon I'm going to be very, very pointed about asking about a question rather than a political commentary. Mr. Iwanchuk.

Mr. Iwanchuk: — Thank you very much for your presentation. The points I was concerned about . . . and actually your conclusion pointed out some of the four things you list there. And my questions would be basically, I think, around how we choose to deliver health care in Saskatchewan. There's a lot of discussion about mobility and you touched on the LPNs — the ability of them to move — and my question would be, do you know of any difficulties of LPNs coming to Saskatchewan to work? Are there any barriers to that that people would consider at present that would need to be removed?

Ms. Weyland: — Thanks for the question. I'm not aware of any cases in our SEIU. If you look at the agreement where it talks about their credentials of a licensed practical nurse, in fact in Alberta they have actual requirements that require you to have pharmacology, IV [intravenous] infusion therapy, as well as assessment therapy, whereas in Saskatchewan we don't have to have all these requirements. Personally I am an LPN which is part of why we raised the issue in our presentation so that we can speak about things that we are comfortable speaking about obviously. But as an LPN, I have all those courses. So for me to go to Alberta right now it would be quite easy for me to move.

But I guess my concern is if we're going to mutually recognize

requirements for LPNs to be able to be more mobile, then what's going to happen here is obviously then . . . Our Saskatchewan standard at present is lower than the Alberta standard. So therefore it would actually make it easier for our LPNs here to move to Alberta because they wouldn't need to have all these requirements if we reduced to the lower standard. And right now with the shortage of health care workers in our province, I don't think that's a good thing because we are short. And one example I can give you is in the health care facility where I work, where some LPNs have already been told they aren't going to get summer vacation because we have a shortage right now of LPNs to work and relieve our LPNs. So that's just one case.

And I would also cite where you're talking about flow of workers back and forth, occupational therapists for example, that's also listed as another listing under the agreement. And from what I know, occupational therapists, we don't even train occupational therapists in this province. And one of the places that most . . . that I'm aware of that many go to. Not all but many go to Alberta for training. So they come out, you know, from Saskatchewan. They get trained in Alberta, so I don't see that as a mobility issue for that classification. Those are the two classifications that I'm able to speak about, and I don't know if anyone else would like to add to that.

Mr. Winton-Grey: — Well I just want to make the comment that I think that . . . I'm not very clear on LPNs' licence or issues because I'm not an LPN, but I do know that speaking from the perspective of my own area that there are certain prerequisites that are required in terms of post-secondary education to become a technologist in my field that may not necessarily exist in other provinces. And that certainly could leave a situation where a technologist that's . . . or a health region that's trained to recruit a particular technologist in one health district here, may in fact be impacted by the TILMA thing.

I think the most important point though is that labour mobility it's really driven more by wage structure. And if we have a system where it's far easier for our people to move from one province to another, they're going to chase the dollar really; that's a reality. They're going to go to the province of Alberta where a PSG [polysomnographic] technologist like myself would make \$35 a hour. So there would be a recruitment retention issue I think for the province of Saskatchewan.

Ms. Weyland: — And I guess just further, I forgot to mention, is our regulatory body for example has been working for some time on trying to improve the qualifications of LPNs in the province. We're required to take educational points. We need so many educational points every year to maintain our LPN status.

And one of the things they were trying to do is somehow figure out a way to have LPNs, have those current qualifications like in Alberta, have the medication course and the assessment course and all those kind of things.

So if they somehow — between the employer and themselves — figured out a way to do this, it's my understanding under TILMA that they cannot impose any new legislative or regulatory law that would allow them to enforce LPNs having to have these additional requirements. And I would think before

this would happen however, that if this agreement will come into effect, it would go to the lower standard, which is our understanding, which would be our lower standard so . . .

Mr. Iwanchuk: — That's actually leading to, my second question is in terms of your belief of how the bodies . . . your associations or whatever would be more appropriate. I mean, here they were saying that maybe we need . . . And that's one of the driving forces or at least that's being used as an argument to say that we need some other TILMA or whatever to get groups to standardize their own qualifications or whatever. And I guess what we've been struggling with is whether it's been your experience that your own associations are better or have these imposed from outside or do you know? Just, you could expand a bit on what you've said.

Ms. Weyland: — Well our association, like I said, is trying to adopt increasing standards, and as a regulatory body, I feel they fall under this agreement.

So if this agreement is signed — and according to the agreement, they cannot impose new legislative or regulatory changes — they will not be able to improve their standards if the standards are decided to go to the lowest standard, which we believe this agreement to mutually recognize workers to be able to have labour mobility, that will go to the lowest standard. And that's been mentioned in many different reports, that we believe that when you're trying to standardize across the provinces, that it will go to the lowest standard.

So I believe that we do not have, right now, the current qualifications that Alberta has. So therefore in the future, I don't believe that our regulatory body would be able to enforce or implement any new legislative changes, or it would be a new regulation.

Mr. Iwanchuk: — That's interesting. Just one further area. In terms of health care, because there's discussion that somehow health care could be exempted and delivery of health care, but as I've listened and I know been mention of the Canada Health Act, but I was wondering about the delivery of service in food services or maintenance or some of the other things in health care. What protections do you see or dangers do you see in TILMA coming forward in terms of privatizing the delivery of those services?

Mr. Winton-Grey: — I think that's a valid concern. Under the terms of the Canada Health Act, which the five principles are really quite broad when you look at it, I think that it's quite fair to say that we could see — and I won't say would — but we could see cases where in-house food service delivery, even if you take a look at the example in British Columbia where special care aides were actually contracted out in a number of long-term care facilities, certainly there could be challenges presented by TILMA by private organizations who want to come in and operate these facilities on a contractual basis. So absolutely I think that there is, there certainly could be that fear.

I think from the perspective of long-term care facilities in Saskatchewan which do receive some, a certain amount of government support to provide care to those folks who are less advantaged when it comes to having money to afford the services in long-term care facility, I could foresee a possible

challenge under what I've read of TILMA to any form of subsidy for those folks who are less disadvantaged. And I certainly wouldn't want to see a case where we go to a pure, private, for-profit situation in our long-term care facilities.

I look at certain long-term care homes that are run by churches here, for example our church boards, that if they were challenged by the Extencare groups, for example — I raise that only as an example, not saying that I've heard that they are going to do that — but that certainly Extencare, being a profit organization, could certainly come in and, I think, challenge some of the boards that run some of the long-term care facilities. So I would be fearful of that.

Mr. Iwanchuk: — Okay. Thank you very much for bringing forward some of these things that we've not yet had an opportunity to discuss. And I would thank you very much for appearing before our committee. Thank you.

The Chair: — Mr. Yates.

Hon. Mr. Yates: — Thank you very much, Madam Chair. I'm going to start where my colleague just left off. Today the government sets maximum fees that are allowed for long-term care, to be charged to individuals in long-term care. Do you think those fees would be in jeopardy if in fact we signed an agreement, or those limitations would be in jeopardy if we signed an agreement like TILMA?

Mr. Winton-Grey: — I believe so.

Hon. Mr. Yates: — Thank you.

Mr. Howe: — I just want to kind of speak to that because that's an interesting question. In the fact, to put it even more simply, right now in the papers and everywhere, everybody's concerned about rental levels being set. Well under the TILMA agreement, if a private investor wanted to so build a high-rise downtown and he wanted to make his rent double that, he could argue that you are infringing on his right and he could challenge it under the TILMA agreement. And I believe that you're asking the exact same question although it would be in real estate, but the end result would be the same is that there would be a challenge. And in my opinion, you'd probably lose it.

Hon. Mr. Yates: — My next question goes to . . . And this is a situation I'm not aware of and you may well be. In either British Columbia or Alberta, are there services today delivered in hospital facilities and/or health care facilities that are delivered by private organizations that aren't delivered by private organizations here? And if we signed any such agreement, would that put those organizations — for lack of a better word — being in competition if they wanted to move to Saskatchewan with a government-run enterprise or a government-run organization?

Mr. Howe: — Yes it would. Just to put a point to it, I have a co-worker out in BC that went through the deregulation of their health care, and their food services for instance is all privatized. And I would believe that that would happen here without a doubt under the TILMA agreement if it is signed. It is already being challenged without the TILMA in private care homes and long-term homes as was stated before. And I think that if you

sign this agreement, you're going to give the rights of the few sweeping powers that will be very hard, very difficult to debate and control for the betterment of the people of Saskatchewan in particular. And if it's signed across country, I would say for the Canadians as a whole.

Ms. Weyland: — And just further on that, the biggest threat we see is once your health care services are privatized, because we have agreements such as NAFTA, it would be very, very difficult and very costly to ever bring those services back into the public. Because what would happen if you decided you wanted to opt out and you wanted to get those services back in the public, you would have these big corporations challenging under NAFTA because you're taking away their right for profit or their potential for any future profit. And as we know NAFTA challenges can be very costly. So once the service is privatized, it's very difficult to ever bring it back in the public eye or back in the public service area.

Hon. Mr. Yates: — Thank you very much. My final question is the question I've asked all the presenters throughout this process. Today we have the AIT which is a national approach to trade and investment Canada, and now we have the formulation of a regional approach, which do you believe is the best approach for Canada to look at or for the province to look at?

Ms. Weyland: — Thank you, yes I've heard your question before. We believe that a national agreement would be better than a regional agreement. And you talked about your pan-Canada agreements. But what we do not want to see is a pan-TILMA agreement across Canada. What we want to see is disputes or any kind of questions about mutual recognition resolved at the national level, possibly through the AIT, but some kind of a national process rather than an interprovincial process.

Hon. Mr. Yates: — Thank you very much. That's all, Madam Chair.

The Chair: — Mr. Stewart.

Mr. Stewart: — Thank you, Madam Chair. And thank you for your presentation. I don't know if TILMA is going to be a benefit for Saskatchewan or not, but the Conference Board of Canada certainly thinks it would be at least for the economy and others do, and there's certainly some credibility there. We, you know, we have some issues with it, but in any event what it takes to build an economy is investment in the province or in a jurisdiction. So I'm going to ask you to take a kind of an overview of the province and maybe a broader view than you normally would from the union's perspective, if you can and . . .

The Chair: — Is this leading to a question?

Mr. Stewart: — Yes it is. You know I wonder in the interest of the province — since that any party can opt out of this thing in 12 months and be fully out in 12 months, and since the agreement is a negotiating work in progress that will go on for another two years — do you think it might be worthwhile for the province to be involved in those negotiations knowing full well that if we're not happy with the results that we can get out? Do you think that's worthwhile?

Mr. Howe: — It would be my opinion, because you wanted a wider scope of coverage, I believe that when you give up the sovereignty of any identity . . . I come from a long family of . . . my father served in the Second World War. I have four uncles that served in the First and Second World War. I still have family serving in our things now.

I think that unequivocally, I believe this is a bad deal. I don't think that signing on in hopes that maybe we're going to come up with a better deal . . . I would like to see the leadership of this province, say, come up with a firm no. It is not good for the people of this province. And as far as the investment you'd touched on before, I think there is an extreme amount of investment coming into Saskatchewan, existing right now without TILMA, and if you want to even go broader as with the NAFTA agreement, 95 per cent of the trade would happen without it.

I believe that in this similar case, as TILMA sits, it would not increase our economic wealth. And as an economist which I heard speak the other day, he believes it is not going to benefit the province. And I know that he is far more educated than I am in this field. So I would say that no, I don't believe anything to do with this TILMA agreement would be beneficial to this province or anything else, as it stands.

Ms. Weyland: — Thank you for your comments and I appreciate your comment about having an open mind and how you . . . listening to all sides of this dispute. And further to what Tom has said, I also agree that I don't believe this is a good idea to sign an agreement and then think that we're going to be able to negotiate side benefits. I believe that we are signing this agreement, you're signing it as it comes into context. And it's my opinion of course — and I might as well admit I'm not a trade expert — but I would perceive this agreement to allow very limited extensions of whatever you're going to be able to negotiate into it. I believe that this agreement was made to negotiate out.

And if you look at your list of exemptions and you look at what the article about the annual review — I believe it's article 17 — it talks about an annual review and it talks about reducing the scope. So to me what this means is every year after this period you're going to be reviewing the exemptions with the goal to reduce as many as you can.

And I know you also mentioned the opting out after a year. Well it we don't like it; we can opt out after a year. But my concern is once you're signed in and you have to give a year's notice, there's lots of things that can get you into a lot of trouble before the year is out. You could have many, many challenges in that year before you're able to opt out of this agreement. So that's my concern. Thank you.

Mr. Stewart: — Well unfortunately none of us are trade experts here. And thank you for your answers.

Mr. Winton-Grey: — I'd just like to make one other comment too, just a very quick one. If I have a problem with dandelions on my lawn, I get down on my hands and knees and dig the dandelions out of my lawn. I don't go to my house, tear off my shingles, gut out my house, tear out all of my appliances to get to the problem of the dandelions.

I don't think that signing an encompassing deal on an issue of trade, for example if you're looking at investment into the province by also placing up as collateral the rest of our shop, I don't think that that's necessarily the way we want to look at how to improve the economy in Saskatchewan. And I'm not going to be argumentative, but I heard a little clip of yours on the radio, Lyle, where you commented that things are looking pretty good in Saskatchewan right now. That was the clip I heard, and they're looking good because, well, we don't have TILMA. Not because we don't have TILMA, but without TILMA, things are looking pretty good. So I just want to just close this discussion with that.

The Chair: — Ms. Crofford.

Ms. Crofford: — A yes/no answer will do. TILMA reaches into the laws made by governments. Do you think that TILMA would reach into the agreements negotiated by unions?

Ms. Weyland: — Yes.

The Chair: — That's a yes.

Ms. Crofford: — It looked like a yes.

Mr. Winton-Grey: — Pending discussion on the Supreme Court ruling, I would say yes.

Ms. Weyland: — Since you've addressed the labour concern, I would like to draw your attention to The Trade Union Act. And that's one of the areas where we have a grave concern about because The Trade Union Act is not exempted. So we believe if TILMA was signed, it wouldn't take very long for some corporation, business, somebody to challenge The Trade Union Act under a provision they thought was impeding their right for investment, trade, mobility, etc. So we feel that The Trade Union Act is in very grave danger if TILMA is signed.

Ms. Crofford: — That's it.

The Chair: — Mr. Hart.

Mr. Hart: — Thank you, Madam Chair. Very briefly. I'm always troubled when presenters take the position that we're going to adopt the lowest standards, and you've made that statement on page 8. And I could understand that if we were looking at signing an agreement with another country, Third World countries, and so on where you would have much lower standards. But this agreement is an agreement between Alberta and British Columbia, and Saskatchewan is having a look to see if it has a fit for us.

You've already mentioned in a couple of the examples that in some instances licensed practical nurses, Alberta has higher standards than Saskatchewan does, and then I believe you also mentioned in one of the other areas that Saskatchewan has higher standards.

If we look at what's happening in another area, in the area of education, where the amalgamation of a number of school boards into larger school divisions has occurred very recently, board members tell us that quite often when they look at the various areas that they need to deal with, that quite often the

higher standard is the one that is adopted because there is various standards within the various smaller parts to the larger part. And it seems to me that the provinces of British Columbia and Alberta, I don't see a concerted effort for them, those governments and the people of those provinces, accepting lower standards. And I just wonder if you could help me understand why you naturally assume that we will go to the lower standards in most cases.

Ms. Weyland: — Well it's a good point, and one of the things I referenced in our agreement. And it is from an article by Murray Dobbin from *The Tyee* — a very well-known columnist. And what it even says is that:

... Minister Maxime Bernier told the Senate banking committee when testifying about TILMA [that] "Mutual recognition is an important principle from the economic standpoint because . . . such a situation places regulators in competition with one another [for having the weakest regulations]."

And that's part of his quote. And that's good you referenced the examples, that actually sometimes we have the better standards.

But I'll give you one example. And it's my understanding that in Alberta they have lower labour standards. So if you're trying to mutually recognize and bring your standards down to the same level, Saskatchewan is very well known for having very strong labour standards, labour legislation. So if we're the stronger standard, I have a hard time believing that BC and Alberta would want to raise their labour standards to meet our standards. And there's been several reports and several analysis and this as well saying that it will go to the weakest standard. And that's one of my concerns is I do not want to see our labour standards go to the weaker Alberta standard.

And one of the things I believe in Alberta, because of their lower labour standards . . . We recently had a day of mourning, April 20 is our National Day of Mourning. And in Alberta they had to recognize I believe it was 124 workers killed in the past year in their province, and in the first two months of this year, another 27 workers killed on the job.

And I guess being a union activist, occupational health and safety has always been a very important concern to me. And I would not want to see regulations such as labour standards weakened in our province.

Mr. Hart: — Just a quick follow-up, Madam Chair. But I think you also probably recognize that Saskatchewan has a much higher injury rate in the workplace than both Alberta . . .

The Chair: — We are not here to start debating with the witnesses. Do you have a question?

Mr. Hart: — Yes. And I just wanted to point that out to the presenters that Saskatchewan's injury rate is much higher than the other two provinces. And perhaps with the . . . Although occupational health and safety standards are exempted by the agreement, I'm guessing that they must have some other programs in place that perhaps Saskatchewan could adopt that would help rectify this problem because we have consistently been higher than these other two jurisdictions. And I think it's a

two-way street, is I guess the point I'm trying to make. And I'd just appreciate your thoughts.

The Chair: — The question, I believe the way he's putting it, is that do you not think that there are other areas where we could benefit because a standard would be higher and alleviate some injuries?

Mr. Howe: — Well I agree that if there is better standards and can be adopted, I'm all for it. I mean, I don't think there's anybody in this room that would agree that we want to have people injured.

Do I believe that TILMA is the route? Not a hope. I won't read it, but there's the trade and investment agreement that was done by the Ontario Federation of Labour, and it actually talks about labour standards on page 11 and talks about bringing in foreign workers.

Now I think that, as provinces can make deals to better the lives of people, I don't think TILMA is the venue. I just don't.

The Chair: — With that, I'm going to have to wrap up. We do have a full afternoon. I would pronounce the committee now stands adjourned. We thank you very much for your presentation and wish you safe travels and best wishes in future deliberations. Thank you. Committee stands adjourned.

[The committee recessed for a period of time.]

Presenter: Saskatchewan Registered Nurses Association

The Chair: — Well welcome back, everyone. I know this morning we had a large number of delegations and your Chair was in the mode of allowing for a lot of discourse before a question occurred. I think because we do have a very full agenda this afternoon, I will be much more efficient in cutting off debate and allowing time for questions. So I may be quite to the point on that with committee understanding that's why that would occur. But I thank you for being back here promptly. I know that rushed a lot of your lunchtime, and I appreciate the diligence to your task before us.

Our first presenters, Saskatchewan Registered Nurses' Association represented by Donna Brunskill, Colleen Toye, and I know there may be a few other people who would like to come up and be part of the presentation. So we welcome you and ask you to come forward and introduce yourselves.

The written submission can be found in yesterday's package of written submissions. So if that's not with you, please take a few notes and get ready for your questions and answers.

Thank you for your time before committee and the presentation you've prepared for us. If you'd like to introduce yourselves, and what we allow for is about 15 to 20 minutes for an overview presentation and then questions and answers from committee members. I've mentioned to other presenters that the verbal record today would go into *Hansard*. It's also being audio streamed. If there are additional documents presented to the Clerks, we will record all of those as being presented, but anything from those documents that you want to highlight or want to have part of the written record for *Hansard* you would

read into your comments today. And thank you. We'll say please go forward.

Ms. Toye: — Thank you for the opportunity to present today. I'm Colleen Toye, president of the Saskatchewan Nurses' Association, and this is Donna Brunskill, executive director.

The Saskatchewan Registered Nurses' Association, the SRNA, is under The Registered Nurses Act, 1988 and is the provincial self-regulatory body responsible for the licensing and regulation of 9,000 registered nurses and registered nurse practitioners practicing or intending to practice their profession in the province of Saskatchewan. Through provincial legislation, the SRNA is accountable for public protection by ensuring that RNs [registered nurse] and RN(NP)s [registered nurse (nurse practitioner)] in Saskatchewan are safe, competent, and ethical practitioners. The SRNA's mission is to ensure competent, caring nursing for the people of Saskatchewan.

In the context of its mandate, the SRNA is committed to advocating for actions and policies that promote the health and wellness of all the people of Saskatchewan. For the purposes of TILMA, the SRNA is a government entity to which TILMA would apply. A government entity includes the province's non-governmental bodies that exercise authority delegated by law.

TILMA's potential effect on healthy public policy. The SRNA is very concerned about the impact of TILMA on public policy. Bearing in mind the many competing demands on governmental actors, the SRNA submits that the health and well-being of citizens must be of primary importance. Of all possible policy priorities, legislators and governments should be ever mindful of the impact of their decisions on health and welfare, laws, regulations. And government actions should be judged in the light of their effect on this priority.

In her address to the House of Commons Standing Committee on Finance in October 2006, Marlene Smadu, president of the Canadian Nurses Association drew a parallel between wealth and health when she stated that "... the health of the nation as its most fundamental resource, and as such, a pillar of the Canadian economy ..."

TILMA does not recognize that sound health and social policies contribute to the economic prosperity and well-being of all Canadians. TILMA elevates interprovincial trade, investment, and labour mobility above all other policy areas, including policies affecting the health and well-being of individuals.

By requiring parties, signatory provinces to justify their measures against possible impacts on trade, investment, and labour mobility, TILMA places liberalized trade and labour movement above other areas of public policy. In particular, TILMA places the onus on governments to show why legislation, regulations, policies, and so on should prevail when these conflict with interprovincial trade, investment and labour mobility. Thus government measures related to health, social services, culture, recreation for example are all considered through the prism of their effect on interprovincial trade, investment, and labour mobility.

Article 3 of TILMA obligates parties to ensure that their

measures do not operate to restrict or impair trade between or through the territory of the parties or investment or labour mobility between the parties. Healthy public policy measures may be challenged because they incidentally restrict or impair trade or investment.

Article 5 is intended to minimize differences and standards and regulations among the provinces where those differences undermine trade, investment, or labour mobility. In particular, parties agree to mutually recognize or otherwise reconcile their existing standards and regulations that restrict or impair trade, investment, or labour mobility. They also agree not to set new standards or regulations that impair trade, investment, or labour mobility.

While parties are able to take measures that depart from these goals, the burden is on them to show that these measures are to achieve legitimate objectives. Parties also agree to minimize differences and standards or regulations adopted to achieve legitimate objectives. TILMA does not recognize the valuable contribution made by many standards and regulations to the promotion of health and social justice for the good of the public.

Article 6 allows the parties to adopt or maintain measures that are incompatible with their obligations to remove obstacles to trade, investment, and labour mobility and to standardize their regulatory regimes. However the party that wishes to maintain or adopt such a measure bears the onus of satisfying a three-part test. The party must show that the measure's purpose is to achieve a legitimate objective; the measure is not more restrictive than necessary to achieve the legitimate objective; and the measure is not disguised restriction to trade, investment, or labour mobility.

Legitimate objectives are defined to include, among other things, protection of human, animal or plant life or health; provision of social services, health services within the territory of a party.

TILMA does not set out criteria for determining whether a measure's purpose is to achieve a legitimate objective or whether the measure is more restrictive than necessary. Certainly in designing new or expanded health care programs, governments will have to take into account their impact on interprovincial trade, investment, and labour mobility. Unfortunately the best program design will not necessarily be the least restrictive on the goals of TILMA. Further, health care providers involved in designing such initiatives are not likely to have sufficient expertise in economics to take full account of TILMA's requirements.

If a measure is challenged under TILMA's dispute resolution mechanism, only a party — the province whose measure is challenged — will have an opportunity to defend the legitimacy of the measure and its restrictiveness. If the measure in dispute is a licensing requirement imposed by a self-regulating profession or a decision to admit a professional from another province, who is in the best position to defend the measure?

Saskatchewan has delegated the responsibility for professional regulation to the professions because they are best able to set appropriate standards for licensure. Similarly the self-governing

professions are best suited to defending their decisions to license members and their policies and decisions related to professional discipline. It is foreseeable that all of these areas could be subject to challenge under TILMA.

Further as a matter of democratic accountability, the SRNA submits that except in the case of unconstitutional legislation or activity, the province of Saskatchewan should only have to defend the legitimacy and restrictiveness of its policy choices before the electorate. If, for example, a government is elected with a mandate to set higher standards for the provision of health care services or to expand the range of services covered by medicare, it should not be possible for those measures to be challenged because it infringes upon interprovincial trade, investment, or labour mobility.

The SRNA is also concerned that the exceptions listed in TILMA are too narrow, likely to be interpreted restrictively, and cannot be added to without significant difficulty as doing so will require a mutual agreement of the parties. Some exceptions to the application of TILMA include measures relating to social policy, including labour standards and codes, minimum wages, employment insurance, social assistance benefits, and workers' compensation. Government procurement of, among other things, health services and social services is also exempt from some of the provisions of TILMA.

However these terms are not precise and are likely to be interpreted narrowly in order to give effect as fully as possible to the overriding objectives of TILMA. Accordingly the SRNA submits that measures related to, for example, occupational health and safety or measures that require the health services be publicly delivered will be open to challenge under TILMA if they are inconsistent with measures in force in other provinces. Such measures may be challenged on the basis that they restrict or impair trade, investment, or labour mobility.

The SRNA does not oppose policy that encourage investment or that may lead to enhanced prosperity provided that other important goals such as the health and well-being of citizens do not take a back seat. Unfortunately TILMA is a top-down approach that prioritizes interprovincial trade, investment, and labour mobility above other regulatory priorities without consideration for protection of the public.

TILMA's potential impact on public health. Health promotion is a fundamental part of primary health care. Under TILMA, primary health care policies may have to be harmonized across provinces, putting those provincial standards that are the most stringent at risk if there are barriers to trade, investment, or labour mobility. Health public policies like smoking bylaws or the elimination of junk food in schools, in hospitals, could be considered barriers to investment. If compensation is awarded by a dispute resolution panel, governments may yield to the pressure to abandon or weaken their policies to avoid further financial penalties. This is perhaps even more likely in the case of preventative measures whose benefits are often difficult to quantify.

It is possible to point to numerous aspects of health policy that could be affected by Saskatchewan's accession to TILMA. One common example relates to tobacco control measures. Municipalities have questioned whether they would have been

able to enact bylaws to prohibit smoking in public places if they had been subject to TILMA, since this could have an impact on interprovincial investment.

A further example is section 6 of The Tobacco Control Act, SS [*Statutes of Saskatchewan*], 2001, c. T-14.1, banning all advertising, display, and promotion of tobacco or tobacco-related products in any premises in which persons under 18 years of age are permitted. While a constitutional challenge to this law was dismissed by the Supreme Court of Canada, the law could be challenged under TILMA as imposing a barrier to interprovincial trade and investment or as a standard that is not reconcilable with other provinces' standards and regulations.

The SRNA, the Saskatchewan Medical Association, the Regina Qu'Appelle Health Region, and the Canadian Cancer Society, among others, are jointly campaigning for an amendment to The Occupational Health and Safety Regulations to extend the ban on smoking to all workplaces. If this change were made after Saskatchewan became a signatory to TILMA, the change could be vulnerable to claims under TILMA by persons claiming losses as investors in Saskatchewan. Tobacco control is just one example illustrative of the larger point that occupational health and safety legislation is not specifically protected from the application of TILMA. More stringent standards in one province, it could be argued, would be an obstacle to interprovincial investment and could be subject to challenge.

Government policies concerning the determinants of health could be affected by TILMA. Some examples include the following: income. Investment in local groups such as the Saskatoon youth co-operative which helps supply income and social status, along with building capacity, could also be in conflict with TILMA. Physical environments, subsidies for low-income housing, and rent controls could also be viewed as obstacles to trade and investment.

TILMA's effect on the ability to self-regulate, innovate, and to protect the public. As noted above, part IV of TILMA includes a list of occupations which include many of the self-governing professions where the qualifications for licensure differ between Alberta and British Columbia. These differences are specifically exempted from the application of the agreement. Differences in the licensing requirements of occupations regulated under Saskatchewan law from Alberta and British Columbia are not specifically protected under TILMA. Accordingly, inclusion of these special requirements would have to be specifically negotiated before Saskatchewan accedes to TILMA. Alternately Saskatchewan would have to receive the consent of the other parties subsequent to acceding to the agreement.

TILMA could have a significant impact on the ability of Saskatchewan's self-governing professions to set appropriate standards for their members consistent with the health needs of the Saskatchewan context. In the case of the nursing profession, TILMA may hinder the SRNA's fulfillment of its legislative duty to set standards for licensure for its members. This will undermine the SRNA's ability to ensure safe, competent nursing care for the people of Saskatchewan.

In particular, article 13 of TILMA will affect all self-regulating

professions, including registered nurses. Section 13:1 provides that "... any worker certified for an occupation by a regulatory ... [body] of a Party shall be recognized as qualified to practice that occupation by the other Party." 13:2 accepts that professional associations may require professionals from other provinces to obtain a licence or register with them so long as they do not impose any additional training or examinations before accepting the qualifications of such professionals. 13:4 provides that existing inconsistencies between the licensing requirements of the professions in Alberta and British Columbia will be listed in part VI of TILMA.

Parties may subsequently add to this list only if they can show that these licensing differences are necessary to achieve a legitimate objective, regulate an occupation not regulated by the other party, or relate to a difference in the permitted scope of practice of an occupation — section 13:5.

The parties also agree to work toward reconciling their licensing inconsistencies.

Of course only the parties — i.e., the provinces — can negotiate changes to the agreement, including amendments to the list of additional requirements for licensure for various occupations. That's before any self-governing association can revise its licensure requirements to incorporate best practices, it will first have to convince its provincial government of the necessity of such a change. The province would then have to obtain the agreement from other parties to TILMA. Practically speaking, the result would be to thwart any advances in licensure.

Appropriate mechanisms for consulting counterpart organizations for the purpose of enhancing labour mobility and accommodating changes to licensure standards already exist.

More importantly there are significant difficulties inherent with creating a comprehensive list of different licensing requirements. While the list in part VI of TILMA is intended presumably to be exhaustive, this list is clearly problematic. In each case the descriptions of differences between the various listed occupations in Alberta and British Columbia are in each case general and imprecise. At some point a panel convened under the dispute resolution mechanism in TILMA may be called upon to interpret the scope of these exceptions. Given that the overarching purpose of TILMA is to reduce obstacles to, among other things, labour mobility, adjudicators are likely to interpret the exceptions as narrowly as possible.

The list is meant to encompass only existing differences between the provinces regarding the qualifications necessary for licensure. Any additions to the list after the fact will require the agreement of all parties. Accordingly this requirement will present a major obstacle to innovation by any self-regulating profession.

In the health care field, the training and educational requirements of each of the self-governing professions has undergone fundamental changes over time in response to advances in knowledge, changing client needs, and changes to the delivery of health care services. The role of registered nurses has evolved in response to changes in client acuity and the context of that client. Correspondingly, nursing education standards and competency have also changed. TILMA will

make it very difficult for the evolution of the professions to continue.

While self-regulating professions continue to have the responsibility for establishing licensing qualifications and for determining whether to admit individuals as members, the authority for deciding violations of TILMA's labour mobility provisions will fall within the purview of a panel established under the dispute mechanism in TILMA.

Thus panels will have to decide whether the licensing requirements of specific professions are in fact substantively different between provinces; whether such differences restrict trade, investment, or labour mobility; if the licensing requirements are different; whether their purpose is to achieve a legitimate objective and are not more restrictive than necessary; and whether in an individual case a registrar's decision not to license an individual was the result of the province's different standards. These panels are unlikely to have sufficient expertise and understanding of the complex reason for requiring certain qualifications in order to make appropriate decisions.

Further, the parties, the provinces will be placed in the difficult position of defending measures adopted and implemented by non-government organizations like the SRNA if the dispute resolution mechanism is invoked.

Under TILMA if the SRNA and the province of Saskatchewan decided that additional qualifications for the licensure of registered nurses are appropriate and in the best interests of the public, they could not readily make this change. Changing standards would likely constitute a violation of article 13 which requires regulatory authorities to recognize the qualifications of persons licensed in another jurisdiction that is party to TILMA.

A person aggrieved by this could bring a claim against the province of Saskatchewan for compensation under TILMA. The province would then have the burden of showing that the higher standard addresses a legitimate objective and impairs labour mobility as little as possible.

Governments, not the self-governing bodies themselves, will be liable for any compensation awarded to individuals if restrictions on licensing are found to be obstacles to interprovincial trade, investment, or labour mobility. It is, at the very least, incongruous that a provincial government should bear responsibility for decisions that have been expressly delegated by legislation to other decision-making bodies.

The province will be exposed to significant liability for matters over which, at present, it has little control. Ultimately adverse claims under TILMA could put significant pressure on the province of Saskatchewan to reconsider the self-governance of professions. This would be unfortunate as the Saskatchewan model of self-governing professions has served the public well.

The SRNA submits that TILMA will have little practical benefit in enhancing labour mobility for registered nurses. Registered nurses' associations across Canada have worked diligently under the terms of chapter 7 of the Agreement on Internal Trade, AIT, to set out commonly held national registration and licensure principles to facilitate mobility of registered nurses through registration endorsement.

As of January 1, 2000, the associations entered into a mutual recognition agreement, including a dispute resolution mechanism that virtually eliminates barriers to licensure in other provinces. This process has worked well precisely because regulatory bodies have worked collaboratively to reconcile differing licensing requirements while preserving their ability to take into account differences specific to each province.

Further, this process has been driven by the experts, the nursing profession itself, who are in the best position to assess the significance of differing licensing requirements and to explain these differences to each other.

In effect, labour mobility has been aligned with the licensure to serve the best interests of the public. Registered nursing associations have also agreed to give each other advance notice before introducing any new requirements for licensure or amending existing requirements.

Recommendations. The SRNA believes in the importance of healthy public policy, social programs such as a publicly funded, one-tier health care system, and responsible professional self-regulation for the protection of the public. To this effect, the SRNA recommends that the province of Saskatchewan renew its dedication to a comprehensive health and social policy, further build upon the existing publicly funded and administered health care system, and address the determinants of health.

The province of Saskatchewan continue to work with the Agreement on Internal Trade to lower existing barriers to interprovincial trade, investment, and labour mobility on a case-by-case basis as necessary and compatible with other policy objectives.

The province of Saskatchewan decline to accede to TILMA. Alternately, if the province of Saskatchewan decides to accede to TILMA, that it consult first with interested organizations in the health care and social justice field including the SRNA. Before signing TILMA, the SRNA recommends that the province of Saskatchewan negotiates amendments that address the following concerns.

Social and health programs should be included in the list of exceptions to TILMA and should not be subject to mandatory annual review for the purpose of limiting their scope. As with the North American Free Trade Agreement, there should be an exemption for public social services permitting governments to adopt and maintain any measures related to social services.

Public controls which protect programs such as health care should not be open to dispute, ensuring that penalties for non-compliance do not weaken the measures which provide accessible, publicly funded, not-for-profit health care services.

And finally, professional regulation should be subject to a transitional period where special provisions, exclusions, and transitional measures to determine the extent of coverage of the agreement can be negotiated.

Further, TILMA should be explicit that current regulatory standards cannot be weakened even if such standards are not

specifically recognized in the list of different regulatory requirements set out at part VI of TILMA. Thank you.

The Chair: — Thank you. I'll begin the speaking list with Mr. Yates.

Hon. Mr. Yates: — Thank you very much, Madam Chair. You've answered a few questions we've had from previous meetings that we had asked the Saskatchewan Union of Nurses when they were before us, particularly about the issues of labour mobility of nurses. And so in your mind there is no major problem to labour mobility for nurses in Canada today?

Ms. Brunskill: — Correct. In fact I would say that Saskatchewan is and has been a leader in labour mobility, and the profession of registered nursing is looked at as a leading profession in terms of compliance with the Agreement on Internal Trade, with the one exception being Quebec.

Hon. Mr. Yates: — And nothing in the current situation could be seen as a detriment to maintaining or seeking nurses to come to the province of Saskatchewan?

Ms. Brunskill: — Correct. Not that I'm aware of.

Hon. Mr. Yates: — Thank you. Then I'm just going to ask you the final question I ask everybody. I think it's very clear from your document, but I've asked all presenters whether they believe that we should be part of a national trade agreement versus regional trade agreements. And I believe your document says very clearly that we should remain part of the AIT, a national agreement.

Ms. Brunskill: — Certainly our preference is to pursue the Agreement on Internal Trade, that if it is deemed that it's important to have a regional trade agreement, I think that our concern is that health and social justice should be equivalent to the three economic principles mentioned.

Hon. Mr. Yates: — Thank you very much. That's all my questions.

The Chair: — Mr. Chisholm.

Mr. Chisholm: — Well thank you, Madam Chair. Just a point, I think that when we're talking about, for example, the smoking issue and the junk food issue, this has been brought up a number of times and to me are examples of something that certainly are not likely to be problems and are actually covered. And I'll just refer to this. "TILMA does not require either province to get rid of measures that protect consumers, the environment, or which address other legitimate public policy objectives . . ."

So these are items that are being thrown out as potential problems that, at least in my reading of TILMA, I don't see that they will be problems. I wonder if you'd like to comment on . . .

Ms. Brunskill: — I'd be happy to respond to that. If I could use as one example the Agreement on Internal Trade, there are many challenges that we did not anticipate and did not seem to be what would necessarily come within the Agreement on Internal Trade. But if you look at where there have been

occupational challenges, sometimes they are quite narrow in terms of the issue. And yet, when one looks at the legislation — one has to look at it — and our experience has been that, from a legal perspective, things tend to get defined very specifically.

And so all it takes is a challenge from a tobacco company or someone that there's a barrier in Saskatchewan. For example, if it was the one that required cigarettes to not be visible to the public, then if someone can make the case and make the case of how that is in fact impeding their livelihood as a tobacco company or whatever, that remains subject to challenge and subject to interpretation by a panel. And it's our experience that those interpretations are not necessarily predictable and therefore could take us backward in the whole area of healthy public policy.

Mr. Chisholm: — Thank you.

The Chair: — Mr. Iwanchuk.

Mr. Iwanchuk: — Yes. Just to follow up on this point because that was my question. It's very interesting that you have brought this forward on the smoking, and the way you've written it out. We've heard about this before. But what struck me is that . . . And we've been sort of struggling with this and people have been saying there's fearmongering and all the rest of that around here.

There's a paragraph here we talk about further as the matter of democratic accountability. And you point out . . . And I think, just when you're talking about healthy choices, it is something that I guess is put in such stark . . . You're either fearmongering or this is never going to happen. And it's interesting that you bring this smoking and the way you just put it, that these are legal issues. And I guess it flags to people that we do have to be concerned. So yes, if you can add anything to that, that has really been at the heart of a lot of what we've been talking about here.

Ms. Brunskill: — Well if I could use the one example which is in our area of practice, which is the regulation of the nursing profession — and really it's no different than that with the tobacco and the issue — when we tend to introduce change, we may initiate something in Saskatchewan. Say for example, right now we've got drug-resistant tuberculosis. So if we decide that we need to begin to implement a module and screen all of our registered nurses and for them to be eligible to register next year they must have completed a three-hour course on drug-resistant tuberculosis, as an example. It could be that or it could be that cigarettes are hidden behind a screen or it could be the one that we're currently trying to advance, that we should have smoke-free workplaces. It could be any one of those measures.

If they're not all implemented by all jurisdictions at the same time, in the future they could then be perceived as a barrier. And so we're concerned about for future promotion as well. And they need to be advancing healthy public policy that anyone will be able to argue that that is a barrier. So that is the one case for the future.

The second case is that with where we currently stand, say Saskatchewan had already implemented a requirement that you

have to complete a three-hour course on drug-resistant tuberculosis to be eligible for registration, and no other province had yet implemented that, then a registered nurse coming from another jurisdiction could say I've put up a barrier to her registration, because it's not required any way.

And that's a very narrow example but it's the same thing then with cigarettes being hidden behind a screen, that if it's not required everywhere, then people can argue. And so we tend to often implement incrementally in different jurisdictions at different times and will often agree that okay, BC you take the lead in this; Alberta, you take the lead in this; and Saskatchewan, we'll take the lead on drug-resistant tuberculosis.

And our concern is that when it gets legislated in this way, as with TILMA, that it removes . . . You've either all got to move in lockstep, which when we talk about top-down it then becomes, it then becomes a heavy, bureaucratic process rather than an enabling process.

And so I don't know if I've confused you more or whatever, but that's my concern, is that sometimes it's very important that people can . . . One jurisdiction will lead in the legislative area and get the wrinkles taken out of it and then the next jurisdiction can implement even easier.

And I always say the law is something that's written in stone and regulations in ink and policy in pencil. And one's further ahead to go forward from pencil to ink to stone than start out with the legislation. So that's my concern.

Mr. Iwanchuk: — Thank you very much for that last statement, because as you were doing your presentation, I was wondering about red tape and costs myself, especially in the self-regulation area of this. So thank you very much for those comments.

Ms. Brunskill: — And just I would want to add that certainly our vision is I would love to see so that a registered nurse can practise throughout all of Western Canada, based on the fact that they've got a licence. We're not there yet, but are we meeting with the other Canadian jurisdictions to try to make that a reality? Yes. And so that's where I really support the enablement versus the top-down imposition that would come with legislation that may create a dinosaur it doesn't want to create.

Mr. Iwanchuk: — Thank you.

The Chair: — Ms. Crofford.

Ms. Crofford: — This may be a little bit unfair to ask you this because I don't know if it's possible to have an answer to it. But under TILMA there could be impacts on laws enacted by legislatures. Do you believe there could also be incursions into collectively bargained agreements?

Ms. Brunskill: — I don't know that I would have a comment on that because I'm not as . . . I'm familiar with administrative law, and I really am not familiar with the legislation of collective agreements. But I would say if it's a barrier to mobility, it's something that would merit exploration. But I

really couldn't comment on that.

Ms. Crofford: — Thank you very much.

The Chair: — Mr. Weekes.

Mr. Weekes: — Thank you, Madam Chair. Welcome and thank you for your presentation. This whole issue around smoking bans and advertising and all those types of things have come up a number of times before.

And I guess my question to you is, does not part V, the exceptions to the agreement, general exceptions, 1.f) which states "Social policy, including labour standards and codes, minimum wages, employment insurance, social assistance benefits and worker's compensation," do you not feel that that would cover those types of things concerning tobacco? I mean that, I believe, generally always falls under a social policy as far as regulation and, I guess, Supreme Court decisions. Would you not feel that that be part of the exceptions, that we wouldn't have a concern over that?

Ms. Brunskill: — Our concern is that the experience that I've seen under Agreement on Internal Trade and the concern that frequently people will tend to interpret very narrowly and not very broadly is, we may believe so today, which at first blush you look and say, oh well it looks like this is covered under labour standards, or that that's where that would be; that might be where it's covered. Well it might be in another jurisdiction it was introduced in some other piece of legislation, and so one argues well no it didn't come in under the labour standards, therefore it's not exempted. It's that it creates the potential for the room for argument. And when you've got the room for argument, then you've got the room for a different position. So that's the concern that we're trying to raise, is that we see that as not only a possibility but as a probability.

Mr. Weekes: — Thank you. Just on another topic, the whole TILMA agreement is based, the whole thing about it is reducing barriers to trade and investment and labour mobility. It doesn't speak to, you know, privatizing health care or reducing, you know, or changing our health care system or our social policies for that matter.

But in the agreement under occupations, registered nurse, additional requirements — of course this is between Alberta and BC, but I'll just read it — "Alberta requires Nurse Practitioners to have their equivalencies assessed." So there's a slight difference there between Alberta and BC. Is there any similar differences between Saskatchewan and not only Alberta and British Columbia but other provinces?

Ms. Brunskill: — Yes. There are differences that exist across the board right now. And with the Agreement on Internal Trade, what we do is we accommodate them. And which means that we will still enable them to go ahead and practise, but there may be a restriction on their licence until the mechanism or the deficit, if it's that they don't have competencies in a particular area, are resolved. And so, yes, that is the case right now.

One example that I could give you is that nurse practitioners in Saskatchewan are educated, some of them at a non-master's level. And the province of Alberta historically has said they will

not accept a nurse practitioner unless they are master's prepared, you know. So that there are those kinds of differences that exist between jurisdictions.

What we require, the example I gave, although it was a fictitious one, it's the kind of one that can come up any day. If we decide, listen we need to require that people go through and do a documentation on emergency preparedness or, as I said, drug-resistant tuberculosis, typically those kinds of things you might do it in one jurisdiction and another jurisdiction might do it the next year or decide not to do it. So yes, there are variances right now but by and large we do everything we can to enable mobility.

With the registered nurses, we're there. I'm working on the registered nurse national AIT so that's why I can speak to that. We're going to the nurse practitioner yet. But nurse practitioners do not have mobility throughout Canada yet. They need it, and we are planning to work towards ensuring that it's there.

Mr. Weekes: — That's an interesting example that we're discussing here. There's also the theme in some quarters that it's going to be the race to the bottom of, you know, qualification and accreditation. There's an example that you've just laid out and Alberta and British Columbia are speaking to. It's going to the higher standard not the lower. And I haven't seen anyone speak about going to the lower standard.

And would you agree that the whole discussion on this particular topic is reaching out to accommodate the higher standard?

Ms. Brunskill: — Well certainly the intention, as we've understood, it is to go to the higher standard. Our concern is that when there's a challenge though that it could be interpreted narrowly, and our concern is that it could ultimately move to the lower standard. And I think some historically . . . If you look legally at some of the Agreement on Internal Trade challenges that that's not an unreasonable fear. And so while one may have the best of intentions, when legislation starts to do the work that the law says that it does, it could have the opposite effect and go to the lower standard.

Mr. Weekes: — Thank you.

The Chair: — Mr. Weekes was the last one that I saw on the speaking order. Are there any further questions? Seeing none, thank you very much again for your presentation. We wish you safe travels. And as I mentioned to other presenters, if there's further information now that you've heard the tone of the questions, if you have any further information, if you'll provide it to the Clerk, we would distribute that to all committee members. Again thank you for your presentation.

**Presenter: Canadian Union of Public Employees
Saskatchewan Division**

The Chair: — Our next presenter comes from Canadian Employee of Public Employees, Saskatchewan Division, Tom Graham the president. And the other person, I believe, accompanying Tom is Steven Shrybman, who has been implicated in a number of documents that have come before us,

so we're glad to see you in person and make your acquaintance.

I've mentioned to other presenters we're allowing 15 to 20 minutes for overview. If you're wanting your comments and information to be a part of the written record, the audio that's streaming down to other parts of the province, if you would make those in your verbal comments. We have audio streaming and any material and information you present to us from the Clerk they'll distribute that, and it will be recorded as part of the information base we have for these hearings. Again thank you for the time and effort to appear today and to begin by introducing yourselves.

Mr. Graham: — Thanks very much and we certainly do appreciate this opportunity to address the committee. As stated my name is Tom Graham. I am the provincial president of CUPE in Saskatchewan, CUPE Saskatchewan. With me is Mr. Steven Shrybman. Mr. Shrybman is a partner with the law firm, Sack Goldblatt Mitchell, and Mr. Shrybman has authored several documents on trade deals, TILMA specifically, for the purpose of this presentation. I will begin the presentation, and I'll turn it over to Mr. Shrybman shortly, so we will both be presenting today.

CUPE, the Canadian Union of Public Employees, represents about 27,000 working people, men and women, in the province of Saskatchewan in several public service sectors including health care, education, CBOs [community-based organization], library, municipal, university. We also represent about 550,000 members across Canada.

I want to begin by stating that CUPE is not opposed to labour mobility. We are not opposed to trade, and we are not certainly opposed to investment. However our research around TILMA suggests that TILMA would have some very far-reaching negative effects on our legislative system specifically and quite probably on our economy and on our communities.

We are encouraging the Saskatchewan government to make a promise to the people of Saskatchewan not to allow itself to become a partner with the Trade, Investment and Labour Mobility Agreement. We make this statement based on our mandate from our provincial convention where our delegates passed a resolution directing us to do so.

In Canada we have a Charter of Rights and Freedoms, our constitution, and within it it's stated that every Canadian has the right to labour mobility. That's a fact in this country. There are no restrictions on labour mobility from our perspective.

We have the Agreement on Internal Trade which is aimed at reducing restrictions on businesses that wish to conduct their business across provincial borders, through harmonization largely. We do have the belief that harmonization must be balanced against several other factors, and certainly not the smallest one is for a province to be able to act in the best interests and on behalf of its voters. This is paramount to democracy.

I'm going to skip over our brief a little bit on the more technical aspects of the AIT and TILMA because Mr. Shrybman is far more qualified to speak on that than I am.

Under TILMA there are certainly certain exclusions, and I know that's come up that this is protected, that's protected, health care is protected, a few other things. But it's stated within TILMA is that, you know, the:

Parties shall mutually recognize ... [and] otherwise reconcile their existing standards and regulations that operate to restrict or impair trade, investment or labour mobility.

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

Our understanding is that the provisions in TILMA, where there are exclusions, are going to be reviewed regularly with the aim at getting rid of them. So if in fact certain things are excluded today, we concern ourselves that down the road these things may very well not be excluded any more — issues around health care, public delivery, those kinds of things.

We have a very proud history in this province of forward-thinking legislation. We passed a lot of legislation — or not passed it — over the years through consultation, through legislative process. And we find it very unsettling that an agreement like TILMA could overturn that based on some private interests where a constitutionally elected government passes a law and could have that law overturned by an individual who seeks to make a profit. And I guess I don't know how to put it more bluntly than that.

We have certain concerns — environmental concerns, health concerns — that TILMA may very well create havoc with. There is, I am sure you are aware, much municipal opposition to TILMA. Both this city, Saskatoon, and Regina have spoken unfavourably about it as far as they're concerned. I believe the Saskatchewan Urban Municipalities Association has also taken a stance opposing TILMA as far as they're concerned. An example done by the solicitor's department in Saskatoon pointed out that under TILMA the smoking ban in Saskatoon may very well have been open to challenge. In Saskatoon you cannot smoke on a deck outside of a bar or a restaurant. I believe in Regina you're still allowed to do that. Does that create a challenge under TILMA? These are the kinds of things we're worried about under this deal.

Our Crown corporations — are they exempt? We don't believe they really are exempt. And once again if we decide in this province that we want our telephones, our public insurance, our gas, our electricity to be provided publicly, should we not be allowed to do that? And should that in fact ... Under TILMA, would that not in fact be open to a challenge that a private company — I don't want to name names — but a private phone company may want to challenge the fact that SaskTel provides residential phone service and will TILMA not in fact impact these things?

Probably the most onerous thing that we see is the dispute resolution. The idea that an elected government could be on the hook for up to \$5 million because of a law that may reduce or restrict the profitability of an individual or a corporation worries the heck out of us. I don't know how else to put that.

We elect governments to make laws. If you don't like the law, you can lobby the government; you can vote for somebody else. The very fact that because you think you could make more money without that law, that you have a right to sue the government, the taxpayers, the citizens of this province for up to \$5 million — and we don't know how many people would do this and how frequently — it would suggest that governments would not be passing too many laws, laws within a municipality to try and support local economic development. These kind of things could very well be challenged. And we're very, very concerned about these, the dispute resolution and the fact that a private panel would be able to overturn a duly elected government's decision.

As a matter of policy, we support our public services. Would they be safe under TILMA? We do not think they would be. We know that there is a big push for privatization in our society. Is this a way to get in through the back door, so to speak, and to start privatizing some of our public services that people in Saskatchewan hold near and dear? Quite frankly, we can have all the debates we want about the flaws within the health care system, when in fact people in this province get good health care and they don't have to have a whole bunch of money in the bank to make sure they're looked after if they do happen to become ill.

We conclude by saying simply, my part of the brief anyway, that we are opposed to TILMA. We do not believe that we need a deal like this. No one has explained to us what the barriers to trade are, what the labour mobility barriers are, or the investment barriers are. I've heard a few scattered, marginal remarks about various things. But generally speaking, such a broad sweeping agreement as TILMA, I believe it was said during the AIT, is this in fact a solution looking for a problem here?

So we don't see the barriers, and I'd certainly be interested in hearing them, if there are some. And maybe I've missed it all, but I don't know what they are.

Anyway, for a more exciting part of our presentation, a little more technical stuff, I'd like to turn it over to Mr. Shrybman who can certainly enlighten us a heck of a lot more on trade deals.

Mr. Shrybman: — Thank you, Tom. Thank you very much, Madam Chair, members of the committee. It's a good thing that you're holding public hearings into an agreement which really does have some far-reaching impacts. And I note that neither British Columbia nor Alberta has engaged in much of a public policy or development process to explain why it thought entering into such an agreement was a good thing, that would serve the people of those two provinces, so I commend you on your initiative.

I've practiced international trade and investment law for about 20 years, much of that in environmental, non-governmental organizations before joining the firm I'm with now. Six years ago, I was the director of the West Coast Environmental Law Association. Since then I've provided legal advice to unions and the Council of Canadians but also to the governments of Ontario, and Manitoba and British Columbia on international trade and investment issues.

I've been involved in three of the disputes that have proceeded under chapter 11 of NAFTA, including a challenge by UPS [United Parcel Service of America] to Canada Post and Canadian policies having to do with the delivery of postal services. And we should have a decision in that case any day now I'm told. The case was argued about a year and a half ago.

I want to address three issues. The first, to begin where Tom left off, what is the rationale or justification for this initiative, not so much from an economic point of view but from a legal one? Are there really impediments to trade, investment, and labour mobility in Canada at the provincial level that need to be resolved in some way? I want to go on to discuss the impacts of the regime in terms of government resources and the effect it is likely to have on government policy and law. So those are the three issues in the next almost 10 minutes that I'll try to review briefly.

The first, the rationale. Are there trade, investment, and labour mobility impediments at the provincial level that need to be removed? With respect to trade, I don't believe you can answer that question yes. As you know, international and interprovincial trade is a federal head of constitutional authority. Provinces do not have jurisdiction to restrict interprovincial trade. And where they put in place laws that have that effect, they have been challenged successfully and struck down as unconstitutional.

So right off the top, provincial governments don't have constitutional authority to regulate interprovincial trade. Some provincial level laws and regulations may have that effect indirectly. The example that I'm aware of is supply management systems. Because you restrict the market within the province, you have to concern yourself with interprovincial and international flows as well. You'll be aware of some of those controversies because they're very much at large in the international context as well. And so one of the irritants I know of in terms of interprovincial trade is for example Quebec's rules with respect to the colouring of margarine.

So it's not as if there aren't some impediments, but they're few and far between. And they have to be justified as being primarily about provincial level matters in order to sustain a challenge that they interfere, even indirectly, with interprovincial trade.

The same thing is true with respect to investment. The provinces don't have authority to restrict interprovincial investment. And in fact I think I'd be hard pressed to imagine a province or a municipality that isn't keen to attract as much investment, certainly from elsewhere in Canada but also internationally, as it can attract. There are in place at the provincial level procurement laws that may favour local companies or local hiring practices or local procurement and may indirectly impact the ability of a company from out of province or out of country to gain a contract to provide a particular type of service, but it's not an impediment to interprovincial investment per se. But looking beyond that, I don't know of other examples.

With respect to labour mobility, we don't live in a unitary state, but we live in a federal state. The regulation of many professions and vocations exists at the provincial level, so there

are differences in certification and licensing requirements.

My understanding is that they are being actively addressed under the auspices of the AIT, in large measure successfully. There's the Red Seal trade program with respect to licensed trades that covers a lot of the waterfront. There are agreements among regulatory agencies to facilitate the development of standards and certification requirements that are consistent across country to make it easier for people in certified and compulsory trades to move freely from province to province without confronting onerous regulatory obligations in one province rather than another. I think those issues are being successfully resolved.

What you have to answer is the question, are there remaining impediments to mobility? They're unwarranted. You do want people who practise medicine or who operate heavy equipment in Saskatchewan to be qualified, so they don't put consumers or the public health and safety at risk. Are they not being addressed now under the various initiatives that are under way at the ministerial level? And there are task forces as well that are charged with this responsibility. And is TILMA a kind of meaningful or an appropriate or proportional response to problems if they do remain? I think it's difficult to answer any of those questions in the affirmative.

What TILMA is, if it isn't about trade and investment and labour mobility, is an executive level agreement that attaches legal liability to the otherwise lawful and constitutional actions of provincial governments and virtually every other publicly funded body or constituted body in a province — municipalities, school boards, children's aid societies, Crown corporations.

Their activities, otherwise lawfully taken, entirely constitutional, can now be assailed as infringing the provisions of an agreement among the executives of the political level of the governments involved. It's a very significant — I would argue — even radical development in terms of the Canadian constitutional landscape. In our system of government, elected governments are the ultimate arbiters of what is in the public interest. And if they stray beyond constitutional limits, the courts are there to keep them in bounds.

It is not to the cabinet or the Premier of a province to overlay on top of the prerogatives of governments some constraint that would actually allow the taxpayers of a province to have to deal with legal liability for the otherwise lawful conduct of their governments.

The essential features of the regime from my perspective are really the features of deregulation and privatization. And let me just very quickly go through. And you have a lengthy brief from me — I think that goes on to about 34 or 35 pages — that describes these issues in more detail.

But I've been listening to some of the testimony, and I know there have been questions about, well, if there needs to be a reconciliation of provincial standards from one province to another, a good question is, why that would be true? But even if you accept that, will the agreement work to raise standards or lower them? And here are the reasons why it will work to lower them.

To begin with, there are broad constraints imposed by the regime on all manner of government conduct — and when I refer to governments, I'm referring to public bodies and municipalities as well — that restrict or impair investment. Think of something that governments do that doesn't . . . And I want to put labour mobility and trade aside because really it's about investor rights. And that's where this agreement gains traction because of the private claims that can be brought under it. Is there anything that a government does that doesn't somehow restrict or impair investor rights?

Apriori when governments act, they influence the market. Whether it's a zoning bylaw or a constraint on private clinics in the health care system or an environmental regulation, the market is influenced. What's permitted and what isn't permitted and how one might make a profit is influenced as a result of government intervention. If the market was working, there would be no reason for the government to act in the first place. So almost everything is fair game for challenge — point one.

Point two, there's no floor. There's no minimum standard of regulation in any sector whatsoever that's required by the agreement.

Three, when a challenge is brought, the onus is on the government to demonstrate that its measure is either justified by an exception or a reservation or as a legitimate objective. And my brief goes through the number of hoops that you have to jump over and through in order to satisfy the legitimate objective test.

Four, there's a screening requirement in the Agreement on Internal Trade that establishes a body to screen private complaints to make sure that none are frivolous and vexatious. That provision is not incorporated in TILMA. So arguably even frivolous and vexatious complaints can proceed to dispute resolution under the regime. And I would argue there's no way to stop them.

Five, there's a provision in the AIT as well that's instructive that wasn't incorporated into TILMA, that stipulates that in no case will environmental standards be lowered in any attempt to reconcile interprovincial standards. That's missing in TILMA, again expresses the — I would argue — the intent to move things to a lower common denominator.

Others have commented on the mutual recognition obligations of article 5, and this is number six on my list. If you have to accept lower standards from having to do with goods and services or professions or people arriving from another province, how can you justify maintaining a higher standard for the people of your own province? It just doesn't compute. You can either talk the other government up, or the default option is to reduce your standards to level the playing field so that you don't impose more onerous obligations on your own citizens than you are allowed to require of those from another province.

Number seven, there's provision in TILMA which requires the annual review for the purpose of ensuring . . . by removing inconsistencies with the essential thrust of the agreement of all of the exceptions that are nominated under the agreement. So the exceptions themselves aren't permanent but need to be reviewed annually.

And finally, number eight is the arbitral process is unpredictable and uncertain. These are quasi-private tribunals. They're not bound by the decisions made by other tribunals. If you're a policy or a lawmaker, you really don't know where the safe terrain resides in terms of formulating policy and law because something that passed muster with the tribunal yesterday may not pass muster with the tribunal tomorrow — so another corrosive influence that encourages government to follow the safe course which is just simply to remove or weaken regulations once they're targeted.

Very briefly, privatization — I'll just give you the Chaoulli case as an example. We intervened in the Chaoulli and argued the case before the Supreme Court of Canada. You probably know it. This is a challenge by a doctor in Quebec, though it might have been a private insurance company because what the doctor was concerned about was the constraint on private insurance for insured health care services, services that must be publicly funded under medicare.

The impediment to private insurance is obviously a restriction or an impairment to private investment. Dr. Chaoulli spent 10 years getting to the Supreme Court of Canada. In order to get there, he had to establish that the ban on private insurance was a breach of his fundamental right to life, liberty, and security of the person, and which was deprived in a way that did not accord the fundamental justice.

Under TILMA you simply have to establish that there was a restriction or impairment of investor rights. It's a far easier hurdle to overcome by way of the burden of proof. You don't have to wait 10 years; you're probably going to get a result within a year. And unlike the decision in the Supreme Court of Canada, which limited Dr. Chaoulli's relief to costs, here you can also hit the \$5 million jackpot.

So there's one example — and my brief includes others — of how this regime can be invoked to undo medicare single-tier health care services by targeting the regulations that are in place to restrict the billing practices of doctors and private clinics, their entry into the market. When you look at the framework of medicare law in Canada both nationally but more importantly provincially, there's a robust body of law, regulation, policy, funding agreements upon which health, public health care depends.

And it's certainly true in Saskatchewan. You've got some of the most developed rules in the country — I've reviewed many of them — with respect to private clinics and the right of physicians to participate in private clinics. Then you set the model for the rest of the country.

I'll answer questions about negotiating your way in and out of TILMA too if you have any. I know that's come up. But I think I've gone longer than I should have. Thank you.

The Chair: — Good. You've provided some new points to the information that's come forward so far. I'll open up for questions, the committee, beginning with Mr. Yates.

Hon. Mr. Yates: — Thank you very much, Madam Chair. I'm going to ask a number of very specific questions to Mr. Shrybman. I want to start by . . . there is a premise that we

could enter negotiations now and negotiate issues in the agreement. Do you believe that it's possible, the way it's worded, where it says you must accede to the agreement to actually negotiate the terms and conditions of the original agreement?

Mr. Shrybman: — Well I think, as I understand the way the regime works under the AIT, you would accede to the agreement as it is. That doesn't mean that there isn't some wiggle room in terms of reservations under the transitional provisions of the agreement and even with respect to exceptions. So I think there is a bit of wiggle room there, that you could certainly sit down with Alberta and BC to try to negotiate. But you have to understand the limits of your opportunity there.

With respect to transitional measures, each of the provinces has it own. You arguably would be entitled to yours as well. But they're time limited to begin with. And two, they, even during the transitional period, Crown corporations, municipalities that are transitioned can't implement new measures that offend the constraints of the regime. So you're kind of locked into the status quo; you can't respond to new challenges that you may want to respond to as a government. And at the end of the day unless you can persuade the other participants in the process that the transition period should continue with respect to certain areas of public policy and law, you're fully in two years later.

Exceptions — take a look at the exceptions provisions of the agreement. There are two or three exceptions that each of the provinces has negotiated there. You probably would be able to get something there. But if you want to, say, get Crowns in or something like that, they're going to say to you, well you know our Crowns are subject to the agreement; we think yours should as well. If you have something to propose, what are you going to put on the table? It's a negotiation. There's going to be a quid pro quo for anything you want out that the other governments have agreed belong in. And you have to ask yourself, how much negotiating leverage is the province of Saskatchewan going to have with Alberta and British Columbia? And what if other provinces join? No I actually, frankly think they will not, and I think this has gone as far as it's going to go.

Hon. Mr. Yates: — Thank you very much. My next question has to do specifically with our Crowns. Article 11:4 says that:

Nothing in this Agreement shall be construed to prevent a Party from maintaining, designating, or regulating a monopoly for the provision of goods or services within its own territory.

And that's been the clause that defenders that say our Crowns would not be privatized or eliminated through this process as the saving grace. But of course none of our Crown corporations are in fact monopolies.

SaskPower operates in competition to the city of Saskatoon, the city of Swift Current for power distribution. We're in competition with a company called CGE [Canadian General Electric] for natural gas distribution. We're in competition, of course, with Sask Transportation with the Greyhound. And so every one of our major Crown utilities is in fact not a monopoly. They're in competition with some private sector

companies within Saskatchewan even at this time.

We need to know ... [inaudible] ... because this is very important to the people of this province, are our Crowns at risk if we sign into this agreement?

Mr. Shrybman: — Well I think they're very much at risk. There are similar provisions in NAFTA. You maintain the right to establish a Crown entity or a monopoly, but the disciplines of the regime apply to the activities, conduct of the Crown corporation or the public monopoly nevertheless — or even private monopoly in the case of NAFTA. There's a reservation in here for measures of and relating to Crown corporations that's in the transitional provisions. So that offers some protection for the transitional period. But once the transitional period is over, the activities and conduct of Crown corporations — even if you can establish and maintain them — still must comply with the requirements of the regime.

UPS has gone after Canada Post not because it exists but because it doesn't like the competition that it faces from Canada Post in non-monopoly areas of service: courier and package services. And it argues that it should be entitled to Canada Post's infrastructure of mailboxes and depots in order to deliver courier services. It argues that by restricting, Canada Post restricting its distribution system for its own products, that Canada Post has breached national treatment obligations of NAFTA.

There is more opportunity for that type of challenge in TILMA because the constraints on public policy and law are so much more broadly written. So while you still may be able to have a Crown corporation, what Crown corporations do in the marketplace is vulnerable to attack under this regime once the transition period is over.

Hon. Mr. Yates: — Thank you very much. My next question goes to another issue that's fundamentally important to Saskatchewan citizens and has to do with our health care. Under TILMA, is our system of publicly funded health care at risk?

Mr. Shrybman: — Well I've looked at this. It's in the brief. You know, I don't think that it's going to be easy for a private company to go after subsidies or public funding which will probably fall under the category of subsidy. But as I explained in Chaoulli, there's lots of other ways to skin the cat.

And I have a case study at the end of my opinion which describes the circumstances of, the company's name is Copeman — I don't use the company name. But this is a private clinic operator. It's operating in BC. It wants to establish a private clinic here. It's not allowed to do that under the current regime in place in Saskatchewan if it in any way charges user fees or allows people to jump the queue. And I won't pretend to be an expert in provincial health care law, but it's those constraints which prevent the clinic from operating.

When it tried to come to Ontario, the provincial government said no. Your scheme would create two tiered health care. You're not going to get a license to operate in Ontario. That's the kind of constraint that would be a target. And the argument would be this restricts and impairs my investor rights. I think that's a foregone conclusion.

The onus shifts to the government to demonstrate why that's necessary, and the government is immediately confronted with the fact that this clinic is allowed to operate in British Columbia. The system hasn't collapsed there, so how can Ontario maintain that private clinics shouldn't be able to operate in Ontario? That's the way it plays out.

Hon. Mr. Yates: — Okay. Thank you. And my final question, a very short question, Mr. Graham. I've asked this of every presenter. Faced with the proposition of having a regional trade agreement or continuing with the national trade agreement, AIT, which would be the preference that your organization would have?

Mr. Graham: — Thanks. Well the long answer is any trade agreement needs to be done, discussed publicly. The AIT is a trade agreement, Agreement on Internal Trade. It exists. There's work being done on it. Our view would be that is the way to go to deal with anything. Any barriers, any problems within trade in this country would be through the AIT and through public forums such as this.

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

The Chair: — Ms. Crofford and then Mr. Chisholm.

Ms. Crofford: — I've got someone I can ask this question to now. In the instance of the Canadian constitution and TILMA, if there was a disagreement about authorities under the constitution or the Charter of Rights and TILMA, which would take precedence?

Mr. Shrybman: — The Constitution and the Charter of Rights certainly.

Ms. Crofford: — So how would that occur? You've got this trade panel that would make a decision that overturns a law that a government has the right to make, and then what has to happen?

Mr. Shrybman: — That may engender the Charter of Rights. Then there would have to be a constitutional challenge brought either to the decision and/or whatever the provincial government might do to implement it.

Ms. Crofford: — Okay. Has anybody estimated the costs of these processes to governments or the kind of bureaucracy you might have to set up?

Mr. Shrybman: — Not that I'm aware of. I mean there's been so little forthcoming from either Alberta or British Columbia that indicates they've actually thought about this very carefully. But if you do and you look at the dispute provisions, anyone can complain that a measure of another province is off limits and at that point you complained . . . Let's say you're a resident in Saskatchewan, and you don't like something that Alberta is doing with respect to an oil lease. You go to your own government and you say, we want you to take up this complaint with the other government. I don't know how many of those there may be. There may be hundreds of them; there may be dozens. It depends how well known the regime becomes.

But you suddenly have to put people to work to process the

complaints from your own residents that something that another province is doing is inappropriate or not allowed under TILMA. You have 21 days to deal with that complaint. If you decide not to take it forward, you have to provide written reasons explaining why you're not proceeding. If you decide not to proceed, then the private party can bring the complaint herself or himself or itself if it's a corporation. So you've got those demands.

Meanwhile you've got investors or individuals in Alberta and BC who may not like measures of municipalities in Saskatchewan or the provincial government or a Crown corporation, and it's pestered its own bureaucrats to contact Saskatchewan to say we'd like to talk to you about these measures. Think about the resource demands of that, both to field your own residents' complaints but to deal with those that are coming at you from outside the province, either by the other provincial governments or private parties that are on their way to invoking dispute resolution and all that that entails including potential exposure to damages.

It's a make-work project for lawyers. They should be very happy with this. I can't think of anyone else that would benefit more.

Ms. Crofford: — My other and last question is, you mentioned in NAFTA there was a provision that in no case will environmental standards be lowered. And this is really about interpretation because even under or within the framework of NAFTA we've had this recent situation where the amount of pesticides that can be allowed on food has increased in Canada to concur with US standards. So a pesticide is not considered environmental?

Mr. Shrybman: — Well my reference was to the AIT. There's no such provision in NAFTA in terms of respecting environmental standards. That's definitely the AIT which is where this regime comes from.

Ms. Crofford: — Okay.

Mr. Shrybman: — In NAFTA there is a pesticide case I know under chapter 11. I'm not familiar with it. There have been recent stories about harmonization between Canada and the US around pesticide regulation which probably exists independently of NAFTA, that particular story, though it's part of the thrust of the agreement to promote that type of harmonization or reconciliation of standards.

Ms. Crofford: — Okay. Thank you.

The Acting Chair (Hon. Mr. Yates): — Thank you very much. Mr. Chisholm.

Mr. Chisholm: — Thank you. I just have a question. When Mr. Graham, in your opening comments it was mentioned that TILMA will have a negative effect on the economy. We certainly . . . The agreement itself between British Columbia and Alberta was designed to be an economic positive for their two provinces. There was independent studies done that would indicate that that was the case, and quite convincingly the case in dollars and in numbers of jobs.

So I just wonder if you could comment on how you see this as a negative effect on either Saskatchewan's economy, should we choose to belong, or on the economy of Alberta or BC.

Mr. Graham: — Well I won't certainly comment on the economies of Alberta or BC. I don't live there; I live here. I'm not aware of all these studies on the positive economic effects of this. I know the Conference Board of Canada did some work around this and made some statements that I understand are in dispute. And I haven't heard anyone coming to their aid.

However I'm no economist. But in an economy in a city such as Saskatoon, there are certain practices that take place around procurement, around spreading the business around largely locally, trying to support local business. My understanding is under TILMA that those practices would be finished. You will not . . . I mean, you can be challenged for doing business with, you know, Joe's Welding in Saskatoon because you wanted to support it because that's your practice. Another welding company from, say, Alberta comes in and says hold everything. We want to do that welding, and that's, you know, that's restricting us here.

You're harming a local economy then because when an out-of-province, out-of-the-community business comes in, it takes away business from that local business. So when we talk about the economy, we're talking about local economies here. I mean there's X amount of dollars going to be spent on welding, I suppose. Where is it going? An economy should in our view have no . . . they have no real purpose if they're not serving the majority of the people. So it's numbers, if that answers it.

Mr. Shrybman: — Can I add just one thing to that? I've read the Conference Board of Canada report, and I'm not an economist. But what I was looking for in it was some indication of where the actual barriers were, some examples of them, and I couldn't find them. And quite honestly, I don't know what they would be.

So the question you have to ask is, if TILMA is going to create economic prosperity, how would it do that if there aren't barriers to be removed? I'm arguing that the effect of TILMA will be to encourage governments to abandon regulation and weaken regulation and to privatize services. It's not at all apparent to me that that's going to generate wealth and economic activity even if you wanted to pay the price in terms of abandoning the principles of medicare or ending up with an environment that's more polluted and contaminated.

So at a very practical level you have to ask yourself, if this is going to make everybody so much wealthier, how would it do that? You know, we're the mobility province for a province like Alberta, for example. You know, I mean people are flocking there to work. They're bringing workers in from outside the country. I just don't think there's any beef here. And without the beef, you can't make a hamburger let alone economic prosperity.

The Chair: — Mr. Iwanchuk.

Mr. Iwanchuk: — On page 4 at the bottom where you talk about the "TILMA as substantially expands the AIT framework" and then, "as well as including private, for-profit

corporations . . . which may file disputes," can you give us some examples? I think you're talking about the private clinic, but I was just . . . if you could just expand on that, what that means, that paragraph.

Mr. Shrybman: — Okay. Well I mean if you look at article 3 and article 5, for example, those are the most broadly framed. They simply say you can't do anything that impairs, restricts investment. You're a company that doesn't want to adhere to certain mining regulations. Actually I think resource sector regulations are exempted.

Waste disposal — you're a municipal waste disposal company, and you don't want to line your waste disposal site. If that's a regulation in Saskatchewan, you can challenge that measure. What you do is you go to your . . . you've got businesses in Saskatchewan and Alberta and British Columbia. You go to a friendly government, and you say we want you to take up this complaint. And if you're not, we're quite happy to take it on our own.

There's a negotiation period that lasts 30 days with the Government of Saskatchewan that doesn't want to remove its environmental regulation, and so you go to dispute resolution before a tribunal. Have you been through all of this with other witnesses? Should I continue?

Mr. Iwanchuk: — Oh no, continue.

Mr. Shrybman: — The tribunal decides whether the measure or not is consistent with the obligations of TILMA. If it decides that it's inconsistent, you — the investor — and the government go off to see how compliance is going to be achieved. If the government digs in its heels and doesn't do what the investor thinks is required in the circumstances, back to the tribunal you go. The tribunal in that case, if it finds that there hasn't been implementation of its decision, is mandated to order damages. It isn't mandated to order damages of a particular level. It's not allowed to order more than \$5 million in damages, but it can order costs.

And I did an interview just before this and explained it. In the MMT [methylcyclopentadienyl manganese tricarbonyl] case which is a celebrated NAFTA case against Canada that never went beyond the preliminary stage because it was also an AIT case, Canada wrote MMT a cheque for \$14.5 million US to cover its legal costs of taking the case to a preliminary stage of dispute resolution under precisely the same arbitration rules that are invoked by TILMA. That's how it works.

But any regulation — a land use zoning bylaw, a constraint on the ability of a private clinic to operate, an environmental law — unless it's exempt under the agreement, that can be challenged. And then there'll be big debate about whether or not the agreement actually constrains that type of measure, and if it does, whether it can be justified as legitimate objective, and again just lots of fun for the lawyers.

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

The Chair: — Mr. Hart.

Mr. Hart: — Thank you. Good afternoon and thank you for

making your presentations here this afternoon. Mr. Shrybman, I'm looking at the condensed version, I believe, of your report.

And you, in no. 10, you raised some concerns where under TILMA that investors in the US and Mexico under the NAFTA agreement may have some rights to proceed with actions. I wonder if you could just more explain the NAFTA implications with regards to TILMA because it's been my understanding that TILMA is an agreement between two provinces, and it pertains to citizens and companies and investors within those two provinces. But you raise the NAFTA spectre, and I'd like you to explain how, what part of the NAFTA agreement may have implications with TILMA.

Mr. Shrybman: — Right. This is my understanding of how it would work. And let me just preface that by saying that if you look at the investor-state cases that have been brought, they're actually more ingenious and inventive than I would have suspected. Some people accuse me of seeing problems where none exist. But if you actually look at the cases, they're incredibly ambitious in terms of the way in which they've invoked NAFTA to go after Canadian measures. I would have never contemplated the type of challenges that have been brought and succeeded, S.D. Myers being a good example.

Under NAFTA 1102 you're obliged to provide national treatment as a provincial government to foreign investors, which means the most favourable treatment — it's not hard to read; you should go there — the most favourable treatment you accord to any investor in your jurisdiction. Okay? So the very highest level of treatment that you accord to anybody in your province is the standard that a foreign investor is entitled to.

Well under TILMA, arguably the most favourable treatment you accord anybody in your province is an out-of-province investor with rights under TILMA because no one within your province can invoke arbitration before a tribunal to claim damages against you for doing something that is lawful. It's not a constitutional challenge. They haven't got an administrative law complaint about what you're doing. They accept it as being lawful and done properly and constitutionally. Nevertheless they can claim damages against you because they argue that their investor rights are impaired or diminished.

That is a favourable level of treatment I describe as a new high-water mark which, under NAFTA, now foreign investors can claim, well in Saskatchewan that's the highest standard. That's the one under 1102 we're entitled to as well. That's the concern. And it's not a terribly creative argument. I mean I think it's quite straight forward and is likely to persuade a tribunal if past experience is any guide.

Mr. Hart: — So then if I understood you correctly, it's your position that if a investor or company or an individual from another province launches an action under TILMA, if Saskatchewan was part of the agreement, that would then open the door for investors and companies from Mexico and the US to say, well okay, you've dealt or you've acknowledged a case from a British Columbia entity that something that we're doing in Saskatchewan is not in their best interests under the agreement, and therefore that opens the door to foreign investors from the US and Mexico who are NAFTA partners. Is that basically what your contention is?

Mr. Shrybman: — Yes. Very close. It's a very good question because you're asking me to make it more concrete and practical. So here's how I think it might work. It doesn't require that a complaint be taken first. It's simply the right to take a complaint and what can be targeted.

So for example, a US investor that's unhappy with, say, something in the health care system — they want to establish, they operate . . . They're a private insurance company or — I can't think of a good example — or they're an HMO [health maintenance organization] in the United States. They want into the Alberta market.

Right now NAFTA doesn't really allow them in because there's a reservation for health care services. There's no similar reservation remarkably in TILMA. So they might say, okay, I'm going to bring a NAFTA complaint, and what I'm seeking is the same level of treatment that Saskatchewan accords investors from Alberta. And that means the right to challenge provincial health care measures that keep private clinics out, without there being a complaint from Alberta or Saskatchewan.

And that's a concrete example of how TILMA can create a new standard which opens the door even wider than NAFTA does to foreign investor claims. And the premise for the claim is other investors in Canada have these rights in Saskatchewan. They're not constrained in the same way my rights as an investor under NAFTA are constrained to respect public policy around health care, for example, though the door's open under NAFTA to environmental claims. So I want to bring forward a claim seeking that level of favourable treatment. That's the way it would work or could work.

Mr. Hart: — Okay. Thank you.

The Chair: — Thank you. Seeing no more questioners, unless I've missed someone, I thank you very much for your discussion before our committee members. You've offered some new thoughts to our deliberations, and we appreciate the time you've taken to develop your presentation and the information, and all best wishes for future deliberations. Thank you.

Presenter: Saskatchewan Pork Development Board

The Chair: — I'm assuming that individual committee members will take appropriate breaks as needed as your Chair has been doing by having a substitute Chair. As we proceed forward since our time is already lagging, we'll ask the Saskatchewan Pork Development Board presenters to come forward: Neil Ketilson, general manager; Mark Ferguson, manager, industry and policy analysis and . . .

Mr. Ferguson: — Neil won't be here today. He sends his regrets.

The Chair: — Well welcome. I'm assuming then you're Mr. Mark Ferguson.

Mr. Ferguson: — Yes.

The Chair: — What I've been asking of other presenters is that you would have 15 to 20 minutes for an overview presentation.

Those remarks you'd like to have audio streamed and/or part of our written *Hansard* record, if you would read them into your presentation. Any written material, such as that being passed out now by our Clerk's office, if there's further information or is needed to have distribution to committee members, if you'd present them to the Clerk's office, they'll make certain they're recorded as part of the deliberations of our members. Thank you very much for the work you've already done for your presentation to come before us and just go ahead. Thank you.

Mr. Ferguson: — Well thank you, Madam Chair, and members of the committee. We appreciate the invitation to speak today. My name is Mark Ferguson. I'm an agricultural economist with the Saskatchewan Pork Development Board. The Saskatchewan Pork Development Board, or Sask Pork for short, represents the interests of Saskatchewan's hog producers. Through communications, programming, public policy development, and industry and swine research, Sask Pork works on behalf of producers to ensure the sustainability of the pork industry.

Pork production continues to be an important driver of the economy. Producers in Saskatchewan market over 2.5 million animals at over 400 production units across the province. Cash sales from hogs generate over 300 million in cash receipts and significantly more dollars in value-added activities and spinoffs, particularly in rural communities.

The Saskatchewan pork industry is facing a new phase, one where interprovincial and international trade in our products — which are feeder pigs, market hogs, and pork — is becoming increasingly important. As everyone will be undoubtedly be aware, the last two years have marked the closure of the province's two main federally inspected slaughter facilities, namely Mitchell's Gourmet Foods in Saskatoon and the Moose Jaw packing plant known as Worldwide Pork. These facilities slaughtered 1.2 million animals per year. And while producers remain hopeful that the Moose Jaw plant will reopen and perhaps a new slaughter facility could be built in Saskatoon, the loss of these markets are going to have a large negative impact on our industry, and for the foreseeable future fewer than 50,000 hogs will be slaughtered in the province of Saskatchewan.

So we are projecting vast increases in the number of hogs exported interprovincially and internationally in the coming months as producers move their hogs to new markets. We expect many smaller producers to exit the industry entirely, and certainly the high value of the Canadian dollar and a near 100 per cent increase in feed prices are not helpful either. Many producers are going to shift from producing finished hogs to simply producing and exporting weanlings to the United States.

So with the only major Western Canadian markets for the foreseeable future being located in Alberta, namely the Olymel plant in Red Deer, or Manitoba, the Brandon Maple Leaf plant, an increasing number of Saskatchewan producers will be developing business contacts in other provinces and doing business there.

You know fortunately we're here today to tell you that there're very few interprovincial barriers to trade in the pork industry which eases the burden of this transition period. Live hogs and inputs such as feed, veterinary medicine, and barn equipment

move seamlessly across provincial boundaries.

Producers have not made us aware of any major regulations that work as barriers to trade, and however the Pork Development Board has identified one barrier to trade, and that is the regulations around provincially inspected meat. Meat slaughtered in a provincially inspected plant may not cross provincial boundaries; only federally inspected meat is eligible. And if meat inspection, provincial meat inspection regulations were harmonized, additional markets would be available for many of the province's smaller abattoirs and processors, and this could result in a growth of these businesses and an increase in Western Canadian slaughter capacity which would obviously benefit producers.

The Saskatchewan Pork Development Board has not taken a formal position regarding TILMA to date, and to be honest, it is not a topic that has garnered significant producer interest or response. This is probably due to the fact that — as I mentioned before — there's very few perceived internal barriers to trade. There's very few regulations that act as irritants, and then that's probably why we haven't had a lot of interest. With that said, our board of directors in the past has supported initiatives aimed at reducing international trade barriers and harmonizing municipal regulations, particularly for the establishment of intensive livestock operations.

From a philosophical standpoint, the reduction of any red tape or regulatory differences between provinces would seem to be a good goal to work towards. And some specific parts of the agreement that would likely benefit hog producers are the streamlining of business registration and the reporting requirements, removing duplicate requirements for vehicle registration, and a simplified regulatory framework. These things have the potential to provide long-term benefits to the industry and to the province's economy. Pork producers and processors will benefit from reduced paperwork and costs associated with doing business in other provinces.

Whether the investment component of TILMA is good for pork producers remains unclear. The text in TILMA seems to indicate that any type of municipal or government grant, whether direct or indirect, could be challenged by businesses in other provinces. However long-term strategic investments do sometimes require government assistance, and it may not be prudent to permanently close the door on governments investing in public-good investments.

The pork industry, along with many agricultural industries, have the potential to benefit from a competitive environment where local governments compete for business. In some cases, niche tax breaks may provide Saskatchewan municipalities with a competitive advantage versus those in other provinces. I know that Saskatchewan cities and municipalities are examining this agreement in detail, and hopefully they can come up with some recommendations on this front.

We regret that Sask Pork cannot provide any concrete recommendations on this issue at this time. We have more questions than answers. We trust that the provincial government will proceed cautiously, continue to involve stakeholders in the process, work towards signing an agreement that reduces regulatory differences, is good for Saskatchewan's agricultural

industry, and gives municipalities and provincial governments the latitude to make strategic investments.

As this process unfolds and the issues around TILMA become more known, Sask Pork will continue to engage our member producers on this issue. Thank you.

The Chair: — Well thank you very much for the brief you have presented, the concise and clear information. I'll open up for questions, and I have Mr. Weekes, then Ms. Crofford, Chisholm, Yates.

Mr. Weekes: — Thank you, Madam Chair, and welcome and thank you very much for your presentation. I think you really hit on some key areas of concern and of potential about the agreement. Certainly we in the Saskatchewan Party certainly share many of what you have said. I mean we've always said that there's certain things . . .

The Chair: — I've mentioned earlier I'm going to get really strict on philosophically where you're coming from. This is a chance to ask questions. You're having a question?

Mr. Weekes: — Thank you. I will have a question.

The Chair: — Really soon.

Mr. Weekes: — Really soon.

The Chair: — Good.

Mr. Weekes: — Many areas that need to be, as I said, that we have concerns with you know making sure the Crowns are protected. We have concerns about, you know, we certainly wouldn't . . . won't have any effect on the Canada Health Act or medicare.

The two items that you touched on I think are very important to address is the ability of municipal governments as well to be protected, so they can give tax abatements and any new-growth tax incentives that would be allowed. Would you agree that those areas should be protected under any agreement or under any negotiation to come to an agreement under TILMA?

Mr. Ferguson: — I would agree with that and you know maybe even to the point that, you know, agriculture and agriculture value-added could be added as a legitimate objective to the agreement. And that's what we would like to see.

Mr. Weekes: — Thank you.

The Chair: — Ms. Crofford.

Ms. Crofford: — Okay, I just love anybody who's got anything on the agricultural front because that seems to be the hardest to get a reading on, even though it's one of our biggest areas of both business and trade.

So what I want to understand is, who is in charge of deciding that provincially inspected beef cannot cross boundaries, only federally inspected beef?

Mr. Ferguson: — Well I think it's under the regulations of the

CFIA [Canadian Food Inspection Agency] somewhat. You know I'm not totally clear on the laws myself and who is responsible for the regulatory part of it, if the CFIA have provincial . . . I'm not clear whether the provinces have ever asked that to be changed, and I'm assuming they would have some degree of decision-making power in that.

Ms. Crofford: — Okay. The reason I ask that question is that we have a federal government that does support TILMA. We have . . . and apparently this is within their jurisdiction to make a decision on this. And one of the tasks that the minister set for us when he gave us this assignment to listen to people, is first of all to look at what the barriers were, and then second of all to look at whether this is the best solution.

Now it sounds like the federal government could just decide to do this if they wanted to because they're in charge. It sounds like that. I don't know if that's true. But anyway that's something to check into is whether they would have the authority to do that.

But it sounds like a real issue and it concerns me that we could have this kind of an impact when somebody else is making the decision to close these federally inspected hog slaughter facilities. And I'm glad you raised that issue with us.

The next one is it sounds like you're saying yes to a harmonized regulatory regime under TILMA but maybe no to a regularized investment regime.

Mr. Ferguson: — I think that, you know, in the past we've supported initiatives that have worked to minimize the red tape in regulations across the board. You know, in terms of investment, we're not against the investment part of it. We just have some questions about it and the latitude of what types of investments, you know, governments — whether local or provincial — can make. So I mean we're not against it. We just have some questions, And it's probably trade lawyers and people like that that can answer it. And I'm sure you've heard that type of testimony as well.

Ms. Crofford: — Do you think we should answer the questions before we sign the agreement?

Mr. Ferguson: — Yes, I do.

Ms. Crofford: — That was a bit frivolous. You did give some examples though of things you'd like to see there be no barriers, and I looked for them in here. I didn't see them. You mentioned auto licensing. Or what were your examples?

Mr. Ferguson: — Yes, the registration of corporations and the reporting requirements for corporations, as you know a lot of pork farms are corporate, and so that's seen as a benefit. You know, specifically for the licensing, that would apply more to commercial operators but anything that increases their cost gets passed back to hog farmers.

So then, you know, across the board as different . . . We haven't had a lot of specific irritants or regulatory differences brought up to us, and we usually go off the information our producers tell us. And as they crop up, you know, we hear of them from time to time. It would be nice to harmonize everything.

Ms. Crofford: — Yes. No, and those were good examples because they're real and they're specific. So thank you very much for that.

The Chair: — All right to the next speaker. Mr. Chisholm.

Mr. Chisholm: — Thank you, Madam Chairman. Mark, you mentioned the transportation issue could very well be . . . there could be advantages if we had our streamline regulations. And I would think that may be even more important now when we're moving more of our product across a provincial boundary or two. And I'm just wondering if you'd like to comment on that.

Mr. Ferguson: — Well definitely, it's going to be more important. Every hog has got to move out of the province now with the exception of, you know, a very small percentage. So you know, in terms of transporting interprovincially, we haven't had a lot of issues identified.

I know I had one brought up the other day regarding workers' compensation, how they divide that up between provinces and more of an irritant than anything. There's not a lot of major, major issues right now. We'd like to keep it that way.

Mr. Chisholm: — Good. Thank you.

The Chair: — Mr. Yates.

Hon. Mr. Yates: — Thank you very much, Madam Chair. My questions have to do with the ability of to grow the industry in Saskatchewan. The industry in Alberta, the meat industry in Alberta grew largely through government subsidy. We have a provincial meat strategy. And in dealing with all of the major companies that are interested in developing packing plants in the province of Saskatchewan, it would require significant government input in order to attract those companies to build in Saskatchewan. Under TILMA, that would not be possible.

The Saskatchewan and of course the Alberta economies are at different places. Alberta put hundreds of millions of dollars into building their economy to get where it is. The rules under TILMA would say that today that the rules would have to be standardized so that you couldn't put targeted strategies like the meat strategy in place.

So my question is simple. Would your industry support an agreement that would negate the ability to have government capital and funding in the development of a new slaughter and packing capacity in Saskatchewan?

Mr. Ferguson: — Well certainly we see those programs as a benefit, you know, such as the meat processing investment rebate program. You know, even with that program in place, we haven't had a lot of development in the slaughter industry. So it's tough to see that removing it would be helpful either.

Would we specifically support it? I don't know. I think, you know, I'm not clear on whether that type of program would be allowed under the TILMA agreement or not. My sense is that it probably would not be. I'd like to get a concrete opinion on that first and go from there.

Hon. Mr. Yates: — Thank you very much. And the final

question I ask everybody, I think the answer is that you don't have a position but currently trade agreements in Canada to this point have been on a national basis with consistency across the country, and now we're looking at regionalization, the Alberta-British Columbia agreement perhaps. There's talk about Quebec-Ontario agreement. What do you believe should be the appropriate approach to dealing with trade, investment, and labour mobility issues in Canada?

Mr. Ferguson: — Well I don't have a specific opinion, and I knew you were going to ask the question. I would say whatever is more effective for striking agreements, and whatever's best for the province of Saskatchewan at the time. So maybe a bit of both, I don't know.

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

The Chair: — Mr. Stewart.

Mr. Stewart: — Well thank you, Madam Chair. Now you've identified both positives and negatives with TILMA. As such do you think it's in the province's interest to be at the table for the negotiations knowing that in the final analysis, if the deal was not something that's deemed to be advantageous to the province, that we could opt out? Do you think that would be a worthwhile strategy?

Mr. Ferguson: — Well it's probably good to be at the table as long as that, you know, doesn't mean signing it without knowing the consequences of all the types of things that I've brought up and that the other stakeholders are bringing up throughout these hearings. So if you can, you know, be at the table without committing, that's would probably be the preferable option.

Mr. Stewart: — Thank you.

The Chair: — Mr. Iwanchuk.

Mr. Iwanchuk: — You mentioned the workers' compensation. Could you just expand on that a bit?

Mr. Ferguson: — Yes, I don't know the specifics of it. It had to do with well . . . Farms do not have to take part in workers' compensation; it's a choice. And apparently for truckers that go into other provinces, there's some issue surrounding . . . you know it becomes the jurisdiction of Manitoba workers' compensation when the driver's in another province. But you know, I don't know that much about the issue; I just had it brought up the other day so.

Mr. Iwanchuk: — And I understand that. So in terms of bringing that up, it was just . . . people raised that with you . . .

Mr. Ferguson: — Yes.

Mr. Iwanchuk: — As a form of something that could be streamlined or some decisions.

Mr. Ferguson: — Yes exactly and I mean if there's going to be little regulatory things like that across the board that the different companies will think of and you know if it's better for business to have those out of the way, for sure.

Mr. Iwanchuk: — Just would it be possible that you could submit that in sort of an explanation of that.

Mr. Ferguson: — Sure, yes, I can find out more.

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

The Chair: — Mr. Hart.

Mr. Hart: — Thank you. Mark, you mentioned the problems between provincially inspected facilities and federal-inspected facilities. I'm not familiar with the standards that a provincially inspected plant has versus federally, and perhaps you may have more information on that because, you know, I certainly can see that if provincially inspected plants could market their products in other provinces, it would be a huge benefit for them for future growth and those sorts of things. And you know, I'm not sure what level of knowledge you have in this area, but I'd appreciate anything that you would have because I feel this is an area that we certainly need to look at because that certainly is a real barrier to growth for our smaller abattoirs and meat processing plants. I wonder if you could just explain that issue as best you can.

Mr. Ferguson: — Well that is true. The smaller provincially inspected abattoirs, the provincially inspected abattoirs, the meat is inspected. There is just some small differences between the standards of equipment used in them and that type of thing.

Certainly it would open up additional markets for those types of processors. Right now their marketing opportunities are fairly limited because I mean you're limited just to Saskatchewan and the roughly one million people here, but it's a little more restrictive than that because lots of the larger grocery chains only buy from federally inspected because it's a lot easier for them. Our feeling is that it could help with our current slaughter capacity issue. And you know, it would be many years down the road with negotiations between different levels of government and that type of thing if it was to occur.

I don't know if you've had the Saskatchewan Meat Processors' appear before your committee. These would be good questions for those folks.

The Chair: — That's everything. Seeing no other questioners, Mr. Ferguson, we really thank you for your efforts to be before the committee and the presentation. If there's further information before our wrap-up of the report at the end of this month, you could forward that to the Clerk, and it would be provided to all members. Safe travel and best wishes in your further deliberations.

Mr. Ferguson: — Thank you.

The Chair: — I'm asking in the room if there's Shirley Klassen present, a Paul Zuck, or Stan Hovdebo. And would any of those people, if they're present, want to make their presentation now? If not, I think I'll provide the committee . . . Nobody's coming forward by those names, so I'll provide the committee with about a five-minute recess. And hopefully someone will show up, and we can move the proceedings along.

[The committee recessed for a period of time.]

Presenter: Stan Hovdebo

The Chair: — We have called a quorum of committee members, and we do have Mr. Stan Hovdebo who's been very gracious in agreeing to move his presentation time forward. So we're going to welcome Mr. Hovdebo. There's your presentation that can be given to committee members. As an overview for presenters, Mr. Hovdebo, what we've said is that you would have about 10 to 15 minutes for your presentation, and then we would open up to questions from committee members.

Our hearings are being audio streamed so that people can hear what the presentations are, and our Hansard would be able to record. So anything you'd like to be recorded in *Hansard* or have a hearing audience tune into, please present to us in your verbal comments. Any material you provide to us will be recorded, and people will know that we have that as part of our information base.

Following this we'll be doing a report to the minister and cabinet which will become a public report. And up until the date — probably the last week of June — when we finalize the report, if you have any further information, if you send it to the Clerk's office, we would consider that in our deliberation. Next week toward the end of the week we will have presenters from British Columbia and Alberta government that we will be asking questions of. That's a dangling whatever, but it's late in the day. Thank you very much for your interest in these hearings and your presentation and any time you'd like to start, please begin.

Mr. Hovdebo: — Thank you. Members of the legislative committee, I have the written presentation there which I'll follow to some extent in expressing here. My name is Stan Hovdebo, and for more than 14 years between 1979 and 1994, I was a member of parliament elected by the people of north central Saskatchewan. Those years, if you remember them, were the years of the loss of the Crow rate, the NAFTA negotiations and the bringing back of the constitution. So they were eventful years as far as the federal parliament was concerned.

Since my voluntary retirement from political life, my wife and I continue to live on a farm northeast of Saskatoon and continue to care deeply about the issues that affect rural Saskatchewan. Thank you very much for letting me make the presentation today. I know it's late in the day, and therefore I will be brief in my presentation. I've been on your side of the desk quite often.

As I reviewed a copy of the Trade, Investment and Labour Mobility Agreement recently signed between the government of Alberta, British Columbia, and listened to the myriad of comments made by various organizations including those representing both business and labour, I often found myself pondering whether or not I myself and whether Saskatchewan should agree or support this agreement and become part of this agreement. As I thought about the issue and tried to make up my mind, I found myself having a great deal of difficulty answering a few basic questions about the objectives of the agreement and why such an agreement was needed in the first place.

The first of these questions has to do with the fundamental reasons that the government of Alberta and British Columbia believe that the agreement was necessary at all and why the elected representatives of those two governments were, in my opinion, knowingly abrogating their responsibilities to their people, to the people that elected them. In my opinion there is no need for an agreement such as TILMA if our elected officials are doing what we elect them to do. In fact TILMA may restrict the ability of members to act responsibly.

Let me explain. We in Canada have the privilege of electing capable representatives to various levels of government including local, municipal, and provincial legislatures. We do so in the belief that such elected officials will make decisions and enact legislation and regulations based on the circumstances that exist in the jurisdictions they represent. In making these decisions, it is the responsibility of elected officials to review all of the relevant information and arrive at a conclusion based on what they believe is the best interest of the majority of the citizens that elected them and not solely on the interest of any particular sector of society or of the economy, such as industry, the corporation sector, or labour organizations.

Sometimes in making such decisions, elected officials arrive at the conclusion that in order to realize a greater good there is a need to put in place measures or restrictions that are designed to create an environment that enhances local development opportunities, that provide local support for disadvantaged groups or communities, and that are designed to protect the citizens that they represent from deleterious activities or actions by others. That is the job of an elected official.

It would seem to me that by signing an agreement such as TILMA which allows a non-elected panel of individuals to adjudicate on what a complainant believes are restrictions on interprovincial trade, investment, or labour mobility, that our elected officials are abrogating their responsibility to those that elect them.

I for one do not want an appointed body of whatever stripe being given the authority to decide on whether a particular trade, investment, or labour issue or action is relevant, is important, or in some cases instances even fundamental to the survival of rural communities in Saskatchewan.

Some people have argued that the agreement does not give the panel the authority to decide anything. I disagree as the agreement gives the panel the authority to levy punitive measures in the form of monetary awards to those who, in the panel's view, are an aggrieved party. It is that ability to impose punitive measures that empowers an enforcement body. If you have that power to impose punitive measures, you are a powerful agency.

The second question I kept asking myself as I read the agreement and listened to the concern about the issue is, what impact would participating in such an agreement really have on rural communities in Saskatchewan?

The more I read, the more I became concerned. This concern arose not from what the agreement says, but more significantly what the agreement does not say. Again let me explain by asking some questions that I think you, as committee members,

should answer for yourselves before deciding whether the province of Saskatchewan should become a signatory to the agreement.

First of all as the agreement extends to areas of local government including such things as health boards, school boards, and municipal councils, what are the potential ramifications of article 14 of the agreement on such things as the ability of my school board to hire local men and women to perform maintenance and/or janitorial services or to provide and maintain their own school buses and to preferentially — and that's an important word — and to preferentially hire local bus drivers from the community? In many rural communities these jobs are an important contributor to the local economy, and in some instances to the survival of the family farm. Will the local school board have to tender these jobs and award them to the lowest bidder or face the threat of punitive decision by a TILMA panel?

What are the potential ramifications of that article on the ability of local municipalities to preferentially hire a local contractor for things such as sewage and waterworks? This type of work is often the work that sustains the survival of small rural construction companies and without it many small rural contractors will not survive. If they cannot survive, they will not be around in mid-January at 40 below zero to address the emergency situation such as a broken water main in a small community.

Or what are the potential ramifications of article 14 of the agreement on the ability of the local health board to contract with the local rural emergency ambulance services company, or the ability of local boards to design and enact incentive programs to attract and retain doctors and rural hospitals to our communities? Quite often rural communities offer housing. These are the kind of questions that I brought forward.

Another important question that must be answered is, what are the potential ramifications of the agreement on such things as the Saskatchewan's successful regional economic development authorities and the ability of those organizations to create a competitive advantage in order to attract new businesses to rural Saskatchewan? And I repeat — organizations to create a competitive advantage. Would TILMA allow a competitive advantage to be established? I believe that you as elected officials and as individuals must answer dozens of such questions with some level of certainty before you can in good conscience recommend that Saskatchewan become a signatory to a trade, investment, labour mobility agreement.

The things that I have talked about are just a few examples of the things that are unique to the rural Saskatchewan situation and some of the things that will ensure the continued survival of rural communities in this province. Anything that threatens the communities' continued viable operation is not in my opinion in the best interest of Saskatchewan.

In closing let me say that I believe that Saskatchewan is different from Alberta just as I believe that Alberta is different from British Columbia. I believe that addressing the unique circumstances presented by each jurisdiction in a single overriding agreement on trade, investment, and labour mobility is not in the best interest of the citizens of this or of any other

province. If industry, business, or labour can identify a legitimate restriction on trade, investment, or labour mobility that after a detailed review you, you MLAs [Member of the Legislative Assembly], truly believe should be addressed in order to improve the condition of the majority of citizens of Saskatchewan, then you as elected officials should address it in the legislature. That is what you were elected to do. There is nothing in the agreement that cannot be taken care of by good governance.

Furthermore as far as I have been able to determine, prior to the surfacing of this agreement between Alberta and British Columbia there was no significant hue and cry to address trade, investment, or labour mobility issues in Saskatchewan. And as I heard a previous presenter say, I believe that this agreement is like trying to kill a fly with a sledgehammer. Thank you.

The Chair: — Thank you very much for your presentation. I'll be opening up to questions beginning with Mr. Chisholm.

Mr. Chisholm: — Thank you, Madam Chair, and good afternoon. You began your comments questioning really why Alberta and British Columbia would have considered entering into such an agreement. I'd just like to offer a couple of comments.

In the communiqué that was released when the agreement was announced, part of the opening comments said that investors, businesses, workers, and consumers will benefit from the growing prosperity in Alberta and British Columbia. Now this assumption was brought out in a couple of different reports that were prepared specifically for the British Columbia government at that time where it was indicated that the potential increase to the GDP for the province of British Columbia would be some \$4.8 billion and there could be up to 78,000 jobs created in the province of British Columbia as a result of this agreement being in place after a period of a number of years. So I'd just like you to comment on that, if you would.

Mr. Hovdebo: — Yes, I read that report. In fact it was part of a program released by the British Columbia government. And if you look at the British Columbia website you'll find that there is very little, in fact there's almost nothing about this agreement on their website relative to this agreement. And do you really believe that those figures are possible? They're not backed up by any research which they list or recognize in that particular announcement they made. Because where do those jobs come from? Alberta? Because that's the other half of this agreement.

You know, I have a ridiculous kind of an image of two provincial governments who are there negotiating on behalf of a mythical third party — the corporate structure, business, whatever you want to call it over here — and who are giving a fourth party, an arbitrary panel which has maybe no relation to any of this at all or theoretically not, and giving that group the power to impose fines on a fifth party, which might be a local board or a local board.

So you have here a broad spectrum — and BC and Alberta must have recognized this — you have this broad spectrum of people who may have no contact with each other, making judgments and levelling fines, restricting growth and restricting development without really knowing anything about what's

going on in the total structure. This is not two governments dealing with each other. This is two governments dealing with the entire citizenship of those two provinces.

Mr. Chisholm: — Well further to that, you've mentioned that the figures in the Conference Board of Canada were not backed up. It's interesting that the province of Saskatchewan also employed the Conference Board of Canada some two years or one or two years later to prepare a similar report for the province of Saskatchewan and what the impact would be on the province of Saskatchewan should it choose to join the agreement. That report also indicated pretty positive numbers in the growth of the economy of Saskatchewan and in the potential growth of jobs in the province of Saskatchewan.

Mr. Hovdebo: — I'm not sure that I believe those figures any more than I believe the ones that were given . . . [inaudible] . . . Because if you say that you're going to have 78,000 jobs for Saskatchewan, 78,000 jobs for Alberta, 78,000 jobs, where are those people, where are those jobs coming from? Are they going to come from a sudden, you know, development? It's just doesn't make sense.

Right now both Alberta and Saskatchewan and to some extent British Columbia are in a very tight position as far as finding people to fill jobs they have. So I would say, no I don't believe those figures are figures of now. They might be 20 years from now if we had the kind of growth, population growth — it might be possible. But even that I'm very doubtful.

Mr. Chisholm: — So do you agree or disagree that reducing the barriers to internal trade within provinces is a positive thing to do?

Mr. Hovdebo: — There are always improvements possible in that. And there are some. I recognize that there would be something. What I'm suggesting in my presentation and what I'm suggesting is that it doesn't take an agreement like this which takes away the power. What's the legislature going to do if this agreement, in economic development, if this agreement is signed? It takes away the power of the legislature to have any impact on the economy. It gives that power to this panel and this agreement. It doesn't leave it with the legislature. And we don't elect legislatures to give up their power. We hope that they will use that power for the benefit of the citizens.

The Chair: — Mr. Stewart.

Mr. Stewart: — Thank you, Madam Chair. And thank you, Mr. Hovdebo, for your presentation and for moving up your time to facilitate the committee. You ask a very good question in your presentation where you say, what are the potential ramifications of the agreement on such things as Saskatchewan's successful regional economic development authorities and the ability of those organizations to create a competitive advantage and so on. That's a question that also weighs on my mind, I must say. And I must say, I don't know the answer and I suspect that you don't either since you asked the question.

We are going to be entertaining witnesses from Alberta and British Columbia later on in this process. But I think that these issues are still in the negotiation stage and they may not be able to help us with them either. So that being said, Mr. Hovdebo, if

Saskatchewan could be in a position to be at the negotiating table without being committed to be a signatory in the deal — unless at the end of the negotiations we decide that it's in the benefit of the province — would you think that that'd be a sensible thing to do?

Mr. Hovdebo: — If I were in the position of the minister responsible and had this as the basis for discussion, I would probably say, not until we have a much better basis which recognizes the social justice must be part of all business and all provincial development. This particular agreement ignores social justice. It doesn't recognize the fact that for anything to develop and . . . that it's a legislative responsibility to protect people who are trying to make a living. And yes, I would say let's be at the table if we can start from a different base, but it wouldn't be this base.

Mr. Stewart: — Thank you, Mr. Hovdebo. I think that's what I wanted to hear.

The Chair: — Mr. Iwanchuk.

Mr. Iwanchuk: — Mr. Hovdebo, thank you very much for your insightful presentation. I appreciated it very much, listening to what you had to say. And much like Mr. Stewart, I also went to that section when you spoke about the potential ramifications.

One that it kind of clicked into for me was, we had the SaskPower folks there, and they had people or companies that were doing work for them. And of course they contracted with them and developed these companies so that they could have a secure source of product that they needed. And I looked at where you talk about the ability of local health boards to contract ambulance service companies and I know the struggle we've had in that. And if you don't support your local service, if that was . . . I take it you're trying to say here — and I guess that's what my question is — if you could expand on that to sort of open it up for competition, what . . . you know, because there is an area where we need a stable service. People have to depend on that, and here we are. Are you intending to talk about here opening this up for competition so we . . . I'm just wondering if you could expand on that.

Mr. Hovdebo: — This agreement establishes a dispute mechanism. I don't know what you'd call it, a dispute arbitration mechanism. It's called a TILMA panel or something in the agreement. I'm very suspicious of panels. This agreement gives anybody, anybody — any individual, any business, any corporation — the right to complain, to be a complainant that goes before a panel. And we've had bad experience with panels.

You know, we've had bad experience relative to the wheat Board. I think we're probably, the WTO [World Trade Organization] is on the fourth or fifth review of what the wheat board is doing. They keep trying, the US keeps trying to make the wheat board an organization which gives the farmer some subsidy. It gives them some strength, but there's no subsidy paid. Every dollar that goes through there either comes from the trade or from the farmers themselves. They have lost that four times, and they're still bringing it forward.

In the stumpage or the softwood lumber issues across Canada

and in almost every province has been challenged by and gone to a panel. It's been in every case, or in most cases it's either nothing has happened or the change has been in favour of Canada. We have . . . [inaudible] . . . I see no reason why a panel — which is appointed by the Government of British Columbia, the Government of Alberta, and if Saskatchewan were to join, the Government of Alberta — why that panel would do anything but what they think is right, but might be difficult for any one of the provinces to move in a direction that they want to move in a particular local situation or in a broad . . .

For instance, you mentioned SaskPower. I have been trying to convince SaskPower for the last little while to give neutral charges to community development such as senior citizens' homes or community halls or rinks, arenas. The policy there is not. Now if they did it and if we were buying any of those services from anywhere else, we would immediately be challenged. It would immediately be challenged that that would be a subsidy which would have made some money for somebody else. And anything that will make some money for somebody else will be challenged, could make some money for somebody else will be challenged.

It's part of NAFTA. It happens in NAFTA every time we turn around. And NAFTA has statistically been a success. But if you ask many of the organizations who've been on the — I don't say the receiving end — on the losing end of these negotiations, they'll say well it's not a success. We're not here any more because of NAFTA.

Mr. Iwanchuk: — Just one further point. It struck me in terms of this question raised about being at the table and negotiating on this agreement and it strikes me that you've mentioned you were around the NAFTA.

But it doesn't seem to me that you would be sitting there and negotiating a different panel. It doesn't seem to me — and that seems to be at the heart of it — that this panel can decide within the agreement that has already been crafted there, the TILMA agreement, that somehow again that Saskatchewan would be there now saying to them, well no, we want a different panel. No, we don't want you to award damages. We don't want . . . So I guess I ask the same question.

I mean it's one thing to say that you could be there negotiating this deal, but I guess in terms of the NAFTA deal and that, I mean the extent of the negotiations on TILMA if you can't negotiate a new panel, where are you then? I mean what I'm trying to say is I guess the extent of these negotiations . . . It's one thing to negotiate exemptions, but I think what I hear and I thought I heard you saying was that this panel, taking the rights from elected people to make these decisions, would you see that as part of what we would go there and negotiate with these folks?

Mr. Hovdebo: — Where do you think this came from? Both the Premier of BC and the Premier of Alberta are a little embarrassed at where this came from, and they won't tell you where it came from. Have you seen any announcement that this was a negotiated thing between the two premiers before they signed it? It came from someplace else, and that is not democratic. If you as a legislative committee were assigned the

negotiating of this agreement, I think you would have to go back to basics and say look, I don't agree with this. We'll start from nothing and start from someplace else. This as a fait accompli is pretty unacceptable.

Mr. Iwanchuk: — Thank you very much.

The Chair: — Mr. Yates.

Hon. Mr. Yates: — Thank you very much, Madam Chair. I've asked one question of all the presenters and today currently in Canada we have the Agreement on Internal Trade which deals with the exact same issues that are within the TILMA agreement with the exception of the reverse onus that puts in place if you can't come to an agreement, it goes before a panel and it ultimately would decide. But the issues that are anticipated being dealt with are exactly the same ones that are currently before the AIT and that it's a process which all the Canadian provinces and territories are involved in negotiations on.

In your opinion . . . And then of course we have TILMA which is to deal with the same issues in a much more expeditious way on a regional basis. In your opinion, should the approach of the Saskatchewan government be to continue in the national forum on the AIT or to become involved in the signing of the TILMA agreement?

Mr. Hovdebo: — The AIT hasn't worked particularly, but I don't think that the way that we, that is, the governments — and I look particularly at Quebec and Ontario — I don't think that the governments have particularly worked at it nor . . . It didn't and that of course is going to be one of the arguments for TILMA. The AIT doesn't have many teeth. It's difficult under the AIT agreements which end up being agreements between two provinces in almost every case. There is a difficulty of imposing something, but you're going to have that difficulty regardless.

Let's say that you took one particular item that you disliked and came up and said let's negotiate this. Under NAFTA, since you're two different countries and you have the world trade agreement and other international law to deal with, you had a framework in which to deal.

Unfortunately, or maybe fortunately if we could start from scratch, that structure is not there. It wasn't there for the AIT agreements either. And consequently, unless the governments really recognize and see a need to solve a problem . . . The big issue between Quebec and Ontario was of course construction people, the movement of companies across the line. Could they build in Quebec, and could workers from Quebec come to Ontario? It didn't work because there was no punitive.

As I said there are lots of punitive ability in this — up to \$5 million. There was no punitive structure in the AIT agreements, in that particular agreement. Now there may have been . . . And it might be quite possible and it might be quite worthwhile for two provinces to come to some agreement and have a structure which says, if you don't . . . without the problem of disallowing a social justice structure under which we work.

Hon. Mr. Yates: — Okay. Thank you very much. That's

everything.

The Chair: — I have no further questioners on my list, Mr. Hovdebo. We're thankful that you would come forward and present your brief to us. As I mentioned, there'll be a written report at the end and would be available to the public. Thank you for your time today and for the ability to come forward early.

Mr. Hovdebo: — Thank you.

The Chair: — Safe travel. Committee members, tomorrow we have nine confirmed presenters as today nine presenters were before us. So again it's another full day. The morning is an interesting morning with the University of Saskatchewan Faculty Association, Saskatchewan Environmental Society, Greater Saskatoon Chamber of Commerce, and David Orchard. So it should be a very interesting morning.

I would now, being the hour of 5 o'clock, move to adjourn this committee for today, keeping in mind that our first presenter has been notified that they would be able to begin at 9 a.m. Thank you for your commitment to the process today, and I'll see you in the morning.

[The committee adjourned at 17:35.]