

B) TILMA
(File No. CK. 127-1)

- RECOMMENDATIONS:**
- 1) that the information be received; and
 - 2) that the study be forwarded to the provincial Minister Responsible for Intergovernmental Affairs.

Background

On April 25, 2007, the Province of Saskatchewan released a series of reports which it had commissioned regarding the impact of Saskatchewan joining the BC-Alberta Trade, Investment and Labour Mobility Agreement (“TILMA”). The reports indicated that joining TILMA could affect municipal legislation and programs. However, no specifics were given as this was not within the mandate of the commissioned reports. On further investigation, the Administration found that British Columbia and Alberta did not have any studies which were specifically about the impact of TILMA on cities.

At the meeting of May 28, 2007, City Council received a report from Executive Committee indicating that it was important that the specifics of the potential effect of TILMA on cities be clearly identified. As a result, Saskatoon joined forces with eleven other Saskatchewan cities to produce such a study.

At its meeting on June 25, 2007, Executive Committee reported to Council that the Estey Centre for Law and Economics in International Trade (which is based here in Saskatoon) had agreed to participate in the study as trade experts. Dr. William Kerr, Senior Associate of the Centre and Van Vliet Professor of International Trade at the University of Saskatchewan would be leading the Estey team. As well, Ms. Merrilee Rasmussen, Q.C., (who drafted *The Cities Act* in 2002) had agreed to participate as the legislative drafting expert.

The study is now complete and a copy is being presented to Council. Dr. Kerr and Ms. May Yeung from the Estey Centre, together with Mr. Chris Dekker, will be providing a brief overview.

Report

The main part of the study is the report of the Estey Centre on the effect of TILMA on cities (“*A Space for Cities in Trade Agreements: A Cities’ Perspective on the Trade, Investment and Labour Mobility Agreement*”). To our knowledge, this is the first in-depth study in Canada on how interprovincial trade agreements such as TILMA affect the jurisdiction of Canadian cities.

The report notes that an ever increasing proportion of economic activity is located in cities, and that they will be the engines of future economic growth: “In essence, in the globalized economy, it is cities that compete, not countries.” [p. 2]

The report goes on to say:

“The question of what makes a competitive city is complex. One thing is clear, however, each city is unique. There is no *cookie cutter* model for creating a competitive city. Each city has a unique geography, culture, values and perspective. Thus, it is vitally important that city governments be allowed *space* in trade agreements to foster those aspects of their uniqueness that enhance their competitiveness.” [p. 2]

The report makes clear that cities:

“... benefit from trade agreements as they help support their economic and social foundations. The majority of Canadian businesses are small and medium sized enterprises that are also citizens and tax payers of cities. Trade gives these Canadian businesses access to larger markets for their products and services and more varied sources for cost-effective inputs, technology and investment. This, in turn, delivers increased efficiency, productivity and competitiveness, all of which translate into jobs and higher incomes for cities’ citizens.” [p. 8]

The issue is how to balance the provisions of trade agreements with the need of cities for space. The report concludes:

“Essentially, cities should ensure as much as possible that the *space* they require to operate effectively is guaranteed in trade agreements. It appears that in the negotiation of international trade agreements, considerable care has been taken to provide *space* for cities to undertake the activities that will allow them to develop their unique character and foster economic growth. Cities need not be particularly concerned that existing international trade obligations restrict their policy *space*.

This is not true for internal trade (including labour and investment) agreements, particularly for a negative list structured agreements. Therefore, cities must ensure their *space* is guaranteed in writing. The best means of ensuring that *space* exists is to exclude cities from such agreements entirely. Excluding cities from specific articles or areas of activity under an agreement is a less effective but potential means to obtain that essential *space*.” [p. 30]

The second part of the study is a review of what it is that cities actually do, that may infringe on internal trade agreement goals and that cities should consider discontinuing or prohibiting. The findings indicate that there are four items in this category, namely:

1. Economic development subsidies to attract new or expansion of industrial or manufacturing businesses to or within the jurisdiction. (This does not include socio-economic incentives such as incentives for downtown housing.)

2. Differential business licensing fees based upon residency in the jurisdiction (eg. for out-of-town contractors).
3. Local preference policies (which cities do not currently have, but which are permitted).
4. Cities should consider having the Province control size and weight restrictions for interprovincial trucks, on designated urban connector routes only, provided that:
 - (a) the Province pays the higher maintenance and replacement costs for those routes if the weights are increased; and
 - (b) the urban connectors are physically capable of accommodating increased dimensions.

As part of collecting the information for this part of the study, the City, in cooperation with the Estey team and Fast Consulting, undertook a survey of out-of-province companies from across Canada which had recently conducted business with, or considered conducting business with, a Saskatchewan city. The survey found that the vast majority of these companies did not believe that there were discriminatory practices or barriers to doing business at the civic level.

Finally, Merrilee Rasmussen, Q.C. was asked to explore the legislative avenues available to the Province to ensure compliance with the principles of trade agreements, outside of a TILMA-type agreement. Her findings constitute the last part of the study.

We are recommending that this study be officially forwarded to the Minister Responsible for Intergovernmental Affairs for consideration, as appropriate, at the time of any future review of TILMA.

As well, because this is the first study of its kind in Canada, His Worship the Mayor plans to send it to the Federation of Canadian Municipalities, the 22 Mayors in the Big City Mayors Caucus, the Saskatchewan Urban Municipalities Association, the Saskatchewan Association of Rural Municipalities, and various other municipal organizations.

ATTACHMENT

1. Copy of “*A Space for Cities in Trade Agreements*” prepared by Dr. W. Kerr, Ms. M. Yeung and Ms. D. Larsen of The Estey Centre for Law and Economics in International Trade together with Merrilee Rasmussen, Q.C.

Written by: _____
 Theresa Dust, Q.C., City Solicitor
 Dated: March 11, 2008