



BC-ALBERTA MUTUAL RECOGNITION OF BUSINESS ENTITIES (TILMA Project)

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Trade, Investment and Labour Mobility Agreement

A partnership between the Governments of Alberta and British Columbia

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What is TILMA?

“TILMA” is the Trade, Investment and Labour Mobility Agreement between the governments of the Canadian provinces of British Columbia and Alberta. The goal of the agreement is to reduce or eliminate barriers to trade between the two provinces.

Pursuant to TILMA, both provinces are required to:

- ensure they do not have legislative provisions that restrict or impair trade, investment or labour mobility between the provinces;
- provide the same treatment to all parties to the agreement, including businesses and citizens from both provinces (e.g. fees for government services must be the same for residents of both provinces);
- mutually recognize or reconcile standards and regulations that have the effect of restricting or impairing trade, investment or labour mobility; and
- inform the other province of any proposed measures that may affect the operation of the agreement.

TILMA is described as creating the second largest economic region in Canada (after Ontario). The agreement required both provinces mutually recognize or reconcile requirements for most skilled trades and professions. The agreement also requires reconciliation in the financial services and securities regulation sectors. Except in specified circumstances, the parties (including local governments) are required to treat vendors from both provinces equally in the procurement of goods and services.

There are important exceptions to the provisions of TILMA. In particular, there is a general exception for legislation and regulations pertaining to “social policy including labour standards and codes, minimum wages, employment insurance, social assistance benefits and worker's compensation....” As well, there are some exceptions for measures related to Aboriginal peoples, water, land use, taxation and revenue generation.

A key aspect of the agreement is its dispute resolution provisions. There is a graduated process for handling disputes and both provinces agreed to establish an arbitration panel to hear and decide disputes that cannot be resolved by responsible officials in each government. While either province may initiate the dispute process, individual businesses or citizens of each province may also file a claim, if they feel that a provision of the other province creates a barrier that is not authorized by the agreement.

The tribunal may issue reports, including findings of fact as to whether or not a province failed to comply with the agreement. If a party fails to comply with a final report of the tribunal, the tribunal may also award monetary compensation.

The agreement was signed in 2006 and came into effect on April 1, 2007. TILMA included transitional rules that gave both provinces until 2009 to reach agreements in each sector and pass the legislation necessary to eliminate the barriers prohibited by the agreement. More information on TILMA is available here: http://www.tilma.ca/the_agreement.asp.

Article 11 - Investment

Article 11 of TILMA has had significant implications for BC Registry Services and the Alberta Corporate Registry. Article 11(1) requires that, “Parties shall reconcile their business registration and reporting requirements so that an enterprise meeting such requirements of one Party shall be deemed to have met those of the other Party.” An “enterprise” is defined as follows:

an entity constituted, established, organized or registered under the applicable laws of a Party, whether privately owned or governmentally owned, including any corporation, trust, partnership, cooperative, sole proprietorship, joint-venture or other form of association, for the purpose of economic gain;

Despite Article 11(1), Article 11(3) permitted both provinces to continue to apply requirements that extraprovincial companies from the other province must maintain an attorney or agent in the province for the service of legal documents and notices.

TILMA Project

Shortly after the agreement was signed in 2006, the corporate registries in Alberta and British Columbia initiated discussions to determine the policy, legal and technological approach to compliance with Article 11. The goal of the discussions was to comply with the spirit of the requirement for mutual recognition of companies from the other jurisdiction, while maintaining the requirement for

Both provinces considered a number of policy issues. A primary consideration was the retention of the requirement for the name and address of an attorney for service. In addition, the provinces identified a need to continue to enable the public to search the registries and find information on companies from the other province.

Each province has a different approach to service delivery for corporate registration of domestic entities and other extra-provincial businesses. British Columbia is moving towards a model that primarily provides for online, self-serve incorporation, registration and filing by business entities. Alberta has an established network of private-sector service delivery agents (including law firms) who provide facilitate registration, incorporation and maintenance filings into the Alberta Registry's CORES system. A requirement of the TILMA project was that those service delivery models would not be changed significantly. That was a key principle for both provinces in determining the approach to take to implement Article 11 of TILMA, as neither had the resources nor the mandate to embark upon a project greater than the scope of the inter-provincial trade agreement.

As a result of these considerations, the Alberta and British Columbia registries agreed to an approach where they do not automatically recognize business entities incorporated or registered in the other province. Instead, companies, limited partnerships and limited liability partnerships from Alberta and British Columbia must still take steps and provide additional information, in order to register extraprovincially and carry on business in the other jurisdiction. However, those entities can initiate the process with the Registry or agent in their home jurisdiction.

The businesses do not need to file separate registration documents with the other province. They only need to take the necessary steps to advise the registry in their home province that they wish to be registered in the other province (they may submit the request at any time). Upon doing so, the registry in the home province will arrange to collect and transmit the required information to the registry in the other province. As well, all fees for registration are waived, other than the fee for approval of the business name in the other province. As well, the additional information required for registration is limited to the extraprovincial company's name, incorporation details, head office and attorney for service name and address.

In addition to a streamlined approach to the initial registration, Alberta and British Columbia companies extraprovincially registered in the two provinces are not required to submit maintenance or change filings with the foreign province. TILMA companies and LLPs are only required to file annual reports or changes (name, addresses, attorney for service, amalgamations, etc.) with the registry in their home jurisdiction. That registry will then transmit the changed information to the other province.

The registries in Alberta and British Columbia established a goal of automating as many of these processes as possible. This required that each province implement numerous legislative, systems and process changes. Implementation of the TILMA Project required three years of intense collaboration by registry employees and policy staff in the two provinces, in order to reach agreement on the legislative, policy, process and system changes required and to implement those changes in both provinces.

In order to accommodate the different service delivery models and other technology differences, the registries developed a data exchange interface (the "DEI"). The two provinces use the DEI as an intermediary between their systems. It automatically transmits registration details and changes to the other jurisdiction.

As part of the project, BC also developed and implemented an online facility (Name Requests Online) for businesses to submit requests for business names to the Registry for approval.

Scope of the Project

The TILMA Project required both jurisdictions to make significant changes to their existing computer systems and develop a facility for exchanging data between the provinces.

The TILMA Project achieved the following goals that had been identified for the project:

- It streamlined the process for businesses established in one province to register to carry on business in the other province, which satisfied one of the highest profile obligations in the inter-provincial trade agreement;
- The extraprovincial registration process is seamless and, for the most part, invisible to clients of the registries;
- Data relating to the most common transactions is exchanged automatically and electronically between the two jurisdictions, enabling both registries to implement the process with no additional staff resources;
- The online processes for obtaining the required information from businesses are reasonably easy to use;
- Current and accurate data about shared business entities is available to both provinces;
- Companies, LPs and LLPs established in British Columbia no longer pay fees for registering extraprovincially or maintaining filings with the Alberta registry and *vice versa*;
- The technical solutions are easily maintained and used existing architecture in both jurisdictions.
- Businesses in Alberta, or anywhere else in the world, may use British Columbia's Name Requests Online to:
 - research the rules for business names in British Columbia;
 - assess the viability of potential business names;
 - submit a request for approval of a proposed business name;
 - monitor the status of an application for approval of a business name;
 - receive e-mail notification of a decision on a business name request;

- For British Columbia companies that intend to carry on business in Alberta, Name Requests Online also supports the process for obtaining the NUANS® name search report and opinion required by the Alberta Corporate Registry; and

Benefits of the Project:

Prior to implementation of the TILMA Project, a British Columbia company that intended to carry on business in Alberta had to contact a registry agent in Alberta, complete the required forms and pay the applicable fees to register with Alberta Registries. Each year, the company had to file an annual report with the registry in each province. Any changes would need to be filed on the required forms, fees paid and documents submitted separately to both registries. An Alberta company would face similar requirements if it wanted to carry on business in British Columbia

Businesses in both Alberta and British Columbia are the primary beneficiaries of the innovations implemented by the TILMA Project. Although neither registry achieved efficiencies or cost-savings as a result of the project, both registries were able to implement the changes without adding ongoing operational resources to support them.

Since implementation, more than 350 British Columbia companies and 500 Alberta companies have taken advantage of the new registration processes in order to register and carry on business in the other province. Those new registrations are in addition to the more than 18,000 Alberta or British Columbia companies that were already registered to carry on business in both provinces. Those companies will no longer have to file annual reports in the extraprovincial province and any changes in corporate information need only be submitted once - to the registry in their home province.

It is too soon to have accurate data on the savings that the TILMA Project changes will bring for British Columbia and Alberta companies. However, it is estimated that each company that registers extraprovincially under the new process will save \$1,000 on that initial registration. In addition, once registered, each company should save an average of at least \$500 per year, because they only need to submit maintenance and change filings to the registry in their home jurisdiction.

Total savings for businesses in the two provinces could be as much as \$10 million each year. These savings will occur in the following areas:

- registry fees
- legal fees and registry agent charges;
- paper, photocopy and faxing costs;
- long distance telephone costs or data transfer fees;
- labour costs for completion of forms or instructions to legal counsel.

In addition to the savings for business, the TILMA Project has unquantifiable benefits for the registries in both provinces and the public who search the records of those registries. Because information on corporate changes is automatically transmitted to the other registry, the registries will have more accurate and up-to-date information on entities from the other province.

The Name Requests Online system, implemented as part of the TILMA Project, has enabled the British Columbia registry to reduce the time required to examine an application for approval of a business name from two days down to a few hours. Name Requests Online has also reduced the number and length of phone calls to registry staff as well as the number of complaints. E-mailing the results of the applications will save the registry \$5,000 annually in paper, printing and mailing costs. The time required for data entry by staff has decreased by almost 80% - from approximately 3.5 hours per day to only 45 minutes.

Lessons Learned:

- For cross-jurisdictional projects like this, it is critical that both jurisdictions work closely together and communicate often. Although BC and Alberta were only able to meet face-to-face on two occasions, there was a solid working relationship and regular (at least bi-weekly) telephone meetings of a steering group, as well as regular meetings of working groups.
- Ideally, there should be a joint approach to project management between the jurisdictions, with one individual charged with coordinating and monitoring project-related activities in both provinces (in addition to, or instead of a project manager for each jurisdiction).

- It is important to have a well-developed, joint communications plan for the project, to ensure that stakeholders receive consistent messages, in a timely manner.
- Both jurisdictions should have a clear understanding of the existing business processes in each jurisdiction and the impact that the legislative, policy, process and systems changes will have on those existing processes.

New West Partnership and Agreement on Internal Trade

In 2010, the governments of Alberta, British Columbia and Saskatchewan signed the New West Partnership Trade Agreement (NWPTA), which essentially expands TILMA to Saskatchewan. Under NWPTA, the corporate registries in the three provinces are expected to implement processes for mutual recognition of business entities by July 1, 2012.

There are also discussions ongoing to give full effect to Article 606 of the Agreement on Internal Trade (AIT). All Canadian territories and provinces, as well as the federal government, are parties to that agreement.

Article 606 (and the associated Annex 606) requires the jurisdictions to take steps to streamline processes for extraprovincial registration of corporate entities. Required actions include:

- Developing a standard statement of registration
- Cooperation on processes to facilitate extraprovincial registration
- Ensuring the parties to the AIT update the other parties on changes to their corporate entities; and
- Sharing information provided in annual reports.

Although AIT came into effect in 1995, previous efforts to give effect to Article 606 were limited to developing a website ([Registrex](#)) that simply provides contact information for the registries in each jurisdiction. However, recent meetings of government representatives from the signatories have indicated that they would like to see action taken to fully implement Article 606 and streamline extraprovincial registration processes.

As a result of the government direction, the Canadian Association of Commercial Law Administrators (CACLA), the members of which include all corporate registrars in Canada, is taking steps to identify strategies to implement Article 606. In particular, CACLA has established a steering committee and working groups to develop work plans to identify options and potential solutions. It is not clear how long this work will take or how it might interact with the work British Columbia and Alberta (and now Saskatchewan) are doing to streamline extraprovincial registration processes.

Additional Information

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