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Chair

Mr. Gary Schellenberger

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•(1530)

[English]

The Chair (Mr. Gary Schellenberger (Perth—Wellington, CPC)): I'll call the meeting to order. I welcome our witnesses here today. We have some representation around the room; we don't have an NDP representative, but we do have representatives from all the rest of the parties.

I welcome the staff from Canadian Heritage.

Pursuant to Standing Order 108(2), and for the purposes of section 5.1 of the Canada Travelling Exhibitions Indemnification Act, we are here for a statutory review of the act. Having read some stuff on it earlier today and yesterday, I do understand now a little bit more of what it's about. I knew there were travelling artifacts from various other countries, etc., that travel to our museums and various places. I do understand a little more of how some of that goes.

Welcome. Does someone have an opening statement?

Ms. Lyn Elliott Sherwood (Executive Director, Heritage Group, Department of Canadian Heritage): Thank you, Mr. Chairman.

I'm Lyn Elliott Sherwood, the executive director of the Heritage Group in the Department of Canadian Heritage. I would like to introduce the colleagues I have with me today.

Keith Wickens is the manager of the indemnification program, and Marie Riendeau, from the Department of Justice, is with legal services in the Department of Canadian Heritage. In the event that I can't answer your questions, I'm counting on the two of them to do so. If they can't, we'll get back to you in writing. That's a commitment.

[Translation]

Today, we would like to give you an overview of the Indemnification Program and its operations over the first five years, share with you the results of the program over that period and the results of the evaluation that was done towards the end of 2005 and, lastly, discuss a number of issues identified in this assessment.

I will make the presentation in English but if there are questions afterwards I will, of course, be pleased to answer in the language of your choice.

[English]

I will apologize in advance because it's a relatively lengthy presentation, but we'd like to start your review by making sure everyone is on the same page in terms of the details of the program.

So I'll try to go as expeditiously as possible. I believe the clerk has circulated a copy of the presentation.

The act that established the indemnification program was passed in June 1999, and in December of that year the associated regulations were passed. It sets out a complex but relatively simple phenomenon, which is that the government assumes the potential liability for loss or damage to objects in eligible travelling exhibitions, and funds are only dispersed in the event of loss or damage. What that means from the perspective of program administration is that the program is all about managing that potential risk. As you are aware, the act requires parliamentary review following the first five years of operation. The program actually came into implementation in the year 2000-01, and our five years were up last year.

The objectives that were established for the five years were to promote access to Canadian and world heritage through the exchange of exhibitions, and to provide Canadian institutions with a competitive advantage in competing for the loan of prestigious international exhibitions—and we'll come back to some of the details of the accomplishments.

It's essentially a three-way relationship. The Canadian institution that is organizing an exhibition establishes a loan agreement with the institutions or private individual who will lend the objects that will go into the exhibition. That institution then applies to the government for indemnification of the objects, and the government—that is, the program—enters into an indemnity agreement with the owners. So it's a three-way partnership that is involved, and a three-way set of contacts.

The eligible institutions are defined in the act. They are Canadian museums, art galleries, archives, and libraries that are publicly owned, that operate for educational or cultural purposes, that operate solely for the benefit of the public, and that exhibit objects to the public. In practical terms, in the first five years of the indemnification program, the only clients of the program were museums and galleries. We did not see any archives or libraries.

There is a minimum value for eligible exhibitions that is established through the regulations, and that's \$500,000. They are focused on matters of Canadian heritage or significant international heritage, and again, this is laid out in regulations.

On the international exhibit, the fair market value of the foreign objects in the exhibit will be greater than 50%, and it will go to at least one Canadian venue. For the Canadian exhibits, the fair market value of Canadian objects is greater than 50%, and it's shown in at least two provinces. In other words, this is focused on exhibitions that are circulating within Canada.

If a Canadian exhibition is going to another country, it is indemnified by the country or countries it's travelling to, just as we indemnify the exhibits that are coming into Canada.

Just to try to bring this alive, in terms of some of the exhibitions that you may have been aware of over the last few years, right now there's an exhibit from Japan at Pointe-à-Callière in Montreal. There was a jade exhibit from China that travelled to a number of venues in western Canada and also to the Musée de la civilisation in Quebec a few years ago. The bog people at the Museum of Civilization got a lot of attention. There was the Eternal Egypt exhibition at the Royal Ontario Museum. Right now the Canadian Museum of Civilization is circulating an exhibit on Rocket Richard to a number of venues in Quebec, B.C., and Alberta, to the best of my knowledge. McMichael circulated an exhibit on Emily Carr, Georgia O'Keeffe, and Frida Kahlo.

- (1535)

That's a sampling of the exhibits. We'd be happy to provide you with a full list, if you would like.

I mentioned that the program was about risk management, and in the next few slides, I'm going to talk about the approach to risk management that is inherent both in the act and in program operations.

First of all, the act lays out a maximum annual program liability of \$1.5 billion in indemnified value. It also sets out a cap per exhibition, that it will only cover up to \$450 million worth of object value within the exhibition, and we do require an objective third party verification of market value.

In the regulations, we establish a liability limit per conveyance of \$100 million. The transport portion of mounting an exhibition is actually the riskiest element in the whole process, and this is the reason for that particular limit.

There's a sliding scale for deductibles that's set out in the regulations, and this depends on the value of the exhibition itself. Obviously the lower priced exhibitions, those up to \$3 million, have the lowest deductible at \$30,000, but the highest-priced exhibitions, those up to \$450 million, have a \$500,000 deductible.

Institutions can insure the risk beyond the limits of what we will cover for an exhibit that is more valuable than what we will indemnify. They can also insure the risk of having to pay the deductible. The program is essentially a partnership between the government and the institutions, in which the institutions assume the risk and cost of the lower-value claims—and obviously they share that risk with their insurers—and the government has the risk for the higher-value claims.

I think it's worth pointing out that previously for all risk coverage, a lot of the business went offshore to some of the major reinsurers, and some of that business has now come back to Canada to Canadian

insurers. Of course, the Department of Finance is avidly interested in contingent liability for the government, and we do report to them regularly on the liabilities that we've accepted.

The second major piece in managing the risk is what we won't cover: the exclusions. The perils that we normally don't cover are set out in the program guidelines, and can be varied. Each indemnity agreement with an owner actually provides that objects are indemnified against all cause of loss or damage, except for the elements that we specifically exclude. This is obviously an area that is of great interest on each exhibition.

Generally we exclude normal wear and tear; gradual deterioration; damage from vermin; inherent vice—which I had to ask about when I became responsible for this program, and it is a property inherent in a material, so that an inherent vice of iron is that it rusts; pre-existing flaws or conditions; radioactive contamination; wars, strikes, riots, and civil commotion; and repair, restoration, or retouching processes that have not been undertaken at the ministry's request.

Initially we excluded acts of terrorism. In the post 9/11 environment, this was clearly a matter of concern for owners looking for coverage. A number of the major insurers, including Lloyd's, refused to cover terrorism, and in the end, primary insurers either excluded it totally or charged rates that were astronomically high and beyond the rates of museums. So in the context of a series of government decisions to respond to 9/11, we received general consensus within government that we could add terrorism as a general area for coverage.

We also exclude liability for loss or damage due to the wilful misconduct or gross negligence of either the owner or a participating institution. The government is not liable for having granted indemnification to objects that are or may be subject to civil or criminal claims regarding ownership.

- (1540)

The next really key part of risk management is the facilities themselves. In order to be eligible to host indemnified exhibitions, facilities must meet standards that are international norms and that are in areas established through the regulations. The review of the facilities, or analysis of the data and other information about facilities, is carried out by the Canadian Conservation Institute, a national centre of excellence that is actually part of the Department of Canadian Heritage.

Every venue that we approve must meet standards in the areas of security, fire protection systems and access to fire services, and collections preservation and environmental controls. The latter include matters such as temperature and humidity—both the levels and stability of temperature and humidity. That's a particular challenge for smaller institutions; if you think of the average historic home, for example, that's a major challenge. Light levels are also an issue. Venues have to demonstrate a track record and come clean on any issues they may have had with respect, for example, to losses as a result of failure of environmental systems.

We can approve facilities for specific exhibitions because the materials may be less vulnerable. For example, for the jade exhibit that I mentioned earlier, some facilities were only approved for that exhibit because the materials were perhaps less vulnerable than some others. Other institutions are approved globally for any exhibition, but they must requalify every five years.

It's not enough that the building is in good condition; we also take a microscope and magnifying glass to the actual plans for the exhibition, to assess the risks associated with content, with the packing and handling and transportation of the exhibition, and to determine the appropriate levels of liability. So for something like transit and handling, we'll look at issues such as the construction of crates, whether they've been used before, and at who will be crating and uncrating the exhibit. For the transport companies, what security measures do they have in place; do they have two drivers; do they have air suspension systems; and what are the climate controls available within the trucks?

As for the sensitivities of individual objects, some require particularly low light levels, so if an organizing institution is planning to create display cases, what's the lighting inside the display case? Does it correspond to the lux levels that the object needs?

We look at issues such as international conventions. Are they materials composed of something that's on the endangered species list? All of those items are reviewed by a panel of experts for every exhibition.

As quickly as I could go through it, that is the basic operation of the program and the way in which we approach the management of risk.

What I'd like to do now is turn to the second part, to the results and the findings of the evaluation. As I said, this evaluation was carried out in the latter part of 2005 and examined the standard questions that we were required to answer in government evaluations around relevance, cost-effectiveness, etc. It also gave us evidence of the results for the first five years.

The first finding was that the program is indeed relevant. It does address a need and continues to be relevant to the overall goals and objectives of the department and the government in relation to access to heritage. It's actually become increasingly important because of some increases in insurance costs. When the act was passed, the cost of purchasing insurance was roughly \$1 for every \$1,000 of value within an exhibition. That's now risen, depending on the institution, to somewhere between \$2.85 and \$4.75 per \$1,000. It was about 17% of the cost of creating a major exhibition, and it's now between 25% and 35% of the cost of creating an exhibition. A major exhibition could cost \$3 million to mount, \$1 million of which would have to go for insurance. So this is very clearly a need that still exists and, in fact, is growing.

•(1545)

The program has proven to be a key enabler to Canadian organizing institutions. As mentioned earlier, there is a need on the part of an exhibition arrangement to cover risks for which it is difficult to acquire private coverage.

It has been cost-effective. We budget about \$200,000 a year for the program, including for three staff members and the external panels. So it has cost \$1 million in the first five years, while generating \$20 million in savings in insurance costs to the institutions.

The evaluation assessed the management of risks positively, as a result of the various elements I've just described. In the first five years of the program, we indemnified 46 exhibitions, valued at \$7 billion. I'm very pleased to say that we had no claims. I think that probably is the bottom line that our colleagues in the Department of Finance will be most interested in when assessing the program's value.

We've also been able to add to the competitive advantage and institutional capacity in organizing exhibitions. Foreign institutions are more willing to lend to Canadian institutions than they were. One of the particular features of the Canadian scheme is that we indemnify the transit portion both in and out of the country; many other countries only cover one direction, the movement out. Obviously we are also providing coverage that's important to lenders and owners, coverage that isn't readily available or affordable from private sources. The insurance savings for many institutions are the difference between an exhibition that breaks even and an exhibition that loses money, and that, in turn, affects their overall capacity to function as institutions.

In the first five years, 77% of the institutions upgraded their infrastructure to meet the standards that were required, and that were identified as problematic in the facilities review. We know anecdotally that a number of directors made the case to the board that the projected insurance savings could actually be redirected to improvements in facilities. There is clearly a long-term benefit to the institutions, in terms of their capacity to preserve the permanent collections, as well as the immediate benefit of being able to host the exhibit. And there's a virtuous—

•(1550)

The Chair: Just to intervene, it has been brought to my attention that we should try to limit the remarks, as they are going to cut into some of the questions. So for the rest of the presentation, maybe you could highlight some of the main things.

Ms. Lyn Elliott Sherwood: I would be happy to do that, sir.

I think I'll move fairly quickly. I'll draw your attention on the next page to some of the results concerning the numbers of visitors and to some of the other benefits to institutions in terms of increased revenues, membership, and increased gifts.

What I'd like to spend the next couple of minutes on is the program evaluation recommendations. While there are good things, there are always things that could be better. We have enhanced our program measurement strategies. We're collecting better data as we go along. What the evaluation called for most particularly, which is of greatest interest to this particular committee, is the requirement to make sure that some of the design parameters continue to be effective in current market conditions. That is the rest of the presentation.

As we go through this, we need to balance the flexibility that clients want with the management of risk to the Crown. That is the fundamental element of analysis.

If I go to page 14, there certainly has been pressure on us to lighten up on the exclusions. We have varied the exclusions for certain exhibits, because of insistence on the part of foreign lenders particularly to do that. Also, in certain cases we have added to our standard exclusions in order to be able to manage risks associated with a particular set of exhibits. So we have a lot of pressure to change that list.

The exclusions fall into three categories. First, there may be certain ones that would be considered the responsibility of owners, or inherent in the composition or condition of objects, and those of normal wear and tear, inherent vice, or ownership claims.

The second group can be assessed, and we can take measures to mitigate the risk to the Crown. That includes issues such as vermin, radioactive contamination, and the various forms of disturbance, war and strikes, etc. We would note that a number of the international indemnification schemes don't exclude those perils. Britain actually deals with acts of war through a separate mechanism. They haven't experienced claims as a result of an approach that doesn't bar coverage of those.

Then there's a third category that we really can't anticipate, so it's hard to assess or mitigate the risk, whether it's unauthorized repair or wilful misconduct. So as we move forward in acting on the recommendations of the evaluation, and as part of your review, one of the issues is whether we should stick with our standard list or open up a little.

The second key issue was the annual ceiling for liability. This was actually forecast at the time the bill was passed as something that might need to be reviewed over time. We have crowded the limit. In fact, as a result of error, there was a time when we were over the limit. In another circumstance, the National Gallery withdrew an application in order to leave room for a smaller institution to benefit.

We're also seeing a trend line in terms of the average value of exhibitions, and that's starting to put pressure on the number of exhibitions we would be able to indemnify in any given year. Again internationally, Canada is not alone here; other countries have adjusted their ceilings.

As we mentioned earlier, this particular provision is set out in the legislation. But the legislation also provides that it can be changed either through an amendment to the act, or through an appropriations act. We need to look at the risk elements.

On page 18, the exhibit cap of \$450 million is another area that was flagged earlier. In the first five years of the program, six of the exhibitions we indemnified had values exceeding \$450 million. The institutions had to purchase additional insurance. That was another direct cost to them of \$8.5 million.

•(1555)

Other countries have either no specified cap, or a higher cap than we do. Similarly, either an amendment to the indemnification act or an appropriation act could change that cap. If it were changed, we would look at risks.

On the limit of \$100 million per conveyance, I would observe that relatively few objects actually exceed that amount. You saw in the papers a few weeks ago the Picasso painting that sold for \$95 million, the highest valued painting ever sold. This is one of the pivotal points for risk management: risk is greatest during transit.

The minimum threshold is \$500,000. In the evaluation, we did hear from people who said it would be so much easier to have a grants program than to have to go through all the nuisance of the review for indemnification. We do note that the Canadian Museums Association has a group insurance program targeted to smaller exhibitions and institutions that don't meet the facilities requirement. We do provide financial support through the museums assistance program for travelling exhibitions, and insurance is an eligible expense. And even if we cleared out all the ones, say, under \$3 million, we'd not actually be creating much room at the top end for some of the larger ones. It's fair to note that the purpose of the indemnification program in the first place was targeted at the larger exhibitions.

I'm sorry, Mr. Chair, if I went a little longer than you would like, but there are a lot of pieces to deal with after five years.

The Chair: I appreciate that. Thank you.

Questions, Ms. Dhalla.

Ms. Ruby Dhalla (Brampton—Springdale, Lib.): Thank you very much for coming today to provide us with some insight in regard to the program and some of the achievements in terms of the number of people it's helped.

You mentioned that a program evaluation was conducted and that some suggestions were made in it. Could you perhaps elaborate, from your experience and insight, on how you believe the program could be improved?

Ms. Lyn Elliott Sherwood: The key issues identified in the program evaluation included the routine gathering of data. In that sense we have set in place a series of data-gathering methods, including a post-exhibit questionnaire that goes to all institutions and that covers the key performance indicators we need.

The second set of issues was around the vulnerability of the current ceilings for the liability we can accept, and that's the analysis that we're currently undertaking to see if we need to adjust those ceilings. Because the values of exhibitions are rising, there are fewer exhibitions that we will be able to accommodate, and there will be greater expense to the institutions as more of them rise above the existing \$450 million ceiling.

The issues raised in the evaluation were quite clearly not about the performance or the problem of risk management in the first five years; they were really forward looking, saying that if the current trend lines continue, in terms of rising values, the program may become less effective. That's part of the review we're undertaking and one of the reasons we welcome the committee's required review of the act at this point, and welcome your views, as we continue this analysis.

•(1600)

Ms. Ruby Dhalla: Are you working with a variety of stakeholders, or is it an internal review that's taking place?

Ms. Lyn Elliott Sherwood: The evaluation surveyed stakeholders, so the assessment is based on the views not only of the museums that are participating, but also, for example, some other market trend analysis of whether we're dealing with issues such as insurance or values. So the process at this point is really one of assessing what risks the government is willing to accept as it looks forward, and the value of those risks and the value of the liability.

Ms. Ruby Dhalla: Is it you who does the assessment of what the fair market value is of the exhibitions?

Ms. Lyn Elliott Sherwood: For an individual exhibition, the assessment of fair market value is done by an objective third party who is qualified to undertake the evaluation. If we're not satisfied with the estimates we've been given, we can actually commission our own third party evaluation for a given exhibit.

Ms. Ruby Dhalla: I have one last question. In the determination of the locations of exhibitions, I know you have a process for them to apply to ensure they receive funding, but are regional and cultural considerations made in regards to that?

Ms. Lyn Elliott Sherwood: In the process that this particular program involves, a Canadian institution that is going to organize an exhibit that will travel around Canada will identify a series of venues that wish to receive the exhibition. If the exhibition is going to be indemnified for that venue, then the facility needs to meet the standards laid out in the regulations.

Certainly a lot of use has been made of the program by the national museums and the National Gallery. They're very conscious of their mandate to reach out. In the first five years, there were venues for indemnified exhibits in nine of the 10 provinces. We didn't receive any applications for approval of venues in either P.E.I. or any of the territories. We do know there are some facilities upgrades taking place right now in two of the territories, and we expect that we will be receiving requests to approve the facilities in the near future.

Ms. Ruby Dhalla: Thank you.

The Chair: Thank you.

Mr. Kotto.

[*Translation*]

Mr. Maka Kotto (Saint-Lambert, BQ): Thank you, Mr. Chairman. Welcome, ladies and gentlemen.

I would like to ask a few preliminary questions.

Who asked you to undertake this evaluation of the Travelling Exhibitions Indemnification Program?

[*English*]

Ms. Lyn Elliott Sherwood: We asked that it be evaluated. We knew that the legislation required us to come back and present to you after five years, and we wanted to be able to do that with the findings of an evaluation in hand. And that was contracted by the department to a company named, if I'm not mistaken, the Nordicity Group.

[*Translation*]

Mr. Maka Kotto: Okay.

Did you consult with stakeholders for the purpose of conducting this evaluation?

[*English*]

Ms. Lyn Elliott Sherwood: The survey work, etc., is done independently by the third party. Where we certainly needed to spend time with the company carrying out the evaluation was in putting together various documents for their review, but also in working with them to help them understand what the program was before they developed a survey instrument and went out to survey the program. But the evaluation is conducted by a group external to the department, and it goes through the department's corporate review branch, as opposed to being a direct contract between the program and the evaluation company.

•(1605)

[*Translation*]

Mr. Maka Kotto: Could you tell us the name of this third party or external group? Is it a company, a firm? Who is it exactly?

Ms. Lyn Elliott Sherwood: It is the Nordicity Group.

Mr. Maka Kotto: Did this group consult with stakeholders in order to develop its assessment protocol or did it rely on the data that you gave them?

Ms. Lyn Elliott Sherwood: No. There was a survey and interviews with institutions and experts from the insurance industry, for example.

Mr. Maka Kotto: Fine.

Do you know if stakeholders, in other words, the museums, are satisfied with the program such as it exists at the present time?

Ms. Lyn Elliott Sherwood: Yes. People said they were very happy with the results and the savings achieved. Institutions with smaller exhibitions told us they would prefer a subsidy program that would include costs related to the paperwork required by the Indemnification Program. This came out clearly.

One issue that was mentioned in the first years of the program was the delays. It sometimes took several months to get facilities approved and this was a source of some dissatisfaction. However, there is general satisfaction with the program as a whole. They are happy with the savings they achieved and to have been able to negotiate major exhibitions with large institutions.

Mr. Maka Kotto: I have some questions on your eligibility criteria. Under the program, an exhibition is eligible for indemnification only if the total value of the objects is greater than \$500,000. Are there many exhibitions, especially in smaller communities, where the insurable value would be less than \$500,000? If so, should this threshold not be reduced in order for them to be covered?

Ms. Lyn Elliott Sherwood: The program is aimed at major exhibitions where insurance costs can be enormous. As for small exhibitions, it might be more efficient to provide them with funding to access private insurance.

For a small institution that wants to organize a large exhibition, there is the issue of revenues. One must ask if it will reach a large enough public in order to break even. We are in a market economy.

As for the policy issue you raise, one must determine if it is more efficient to have an indemnification program or to set up another program that would provide funding to cover the costs of travelling exhibitions, including insurance costs.

Mr. Maka Kotto: You mentioned the market. In view of...

[English]

The Chair: Excuse me.

[Translation]

Mr. Maka Kotto: I will follow up later if there is time left. Thank you.

[English]

The Chair: The time is up.

Mr. Charlie Angus (Timmins—James Bay, NDP): I think it's a very wise program, because of the cost of insurance to run any kind of exhibit or festival. On any community activity that we're doing in the arts now, the cost of insurance is having major impacts.

In terms of the \$450 million cap, I would like to ask you if, or how often, you have an exhibit that reaches or exceeds the cap. In that case, where would they go to cover the outstanding amounts above and beyond \$450 million?

• (1610)

Ms. Lyn Elliott Sherwood: I'm going to answer the first big easy part of that question, then I'm going to ask my colleague Mr. Wickens, who is the manager of the program, to discuss where they go.

In the first five years, there were six exhibitions that exceeded \$450 million. The cost of insurance to them was \$8.5 million to cover the extra insurance, and they got that insurance from—

Mr. Keith Wickens (Manager, Indemnification Program, Department of Canadian Heritage): Again, it's a question of the liquidity of the insurance companies. Very few Canadian companies can cover vast amounts of money.

If we have an exhibition worth, say \$800 million—and we've had at least two, if not three—then we're talking \$350 million to \$450 million. In most cases, that would go offshore to Lloyd's, Marsh, or Aon Artscope in Amsterdam. But the very large institutions—and they would be the ones having this—may be able to negotiate that with their own insurer here in Canada. But for the most part, they are restricted in doing that because of coverage for war and terrorism.

Mr. Charlie Angus: Poor old Edvard Munch's *The Scream*, has caused quite the stir since it was stolen. If, for example, we're running the art gallery in Ottawa and we want *Guernica* to be brought here, and the museum in New York agrees, how is the insurance dealt with? Does their local insurance, whether it's in the United States or Europe, cover part of the cost of a travelling exhibit such as that, and we'd cover the rest? Or do we take the whole risk?

Ms. Lyn Elliott Sherwood: Let me make sure I understand your question. Is indemnification a shared responsibility between governments?

Mr. Charlie Angus: Yes.

Ms. Lyn Elliott Sherwood: No. There is some variation on the transit in and out of the country—as I told Keith earlier today, it was too much information, but I'm glad he gave it to me. We cover both in and out. On occasion, Britain has asked us if we have enough room to cover in and out, because if we don't, they'll pick up the homeward journey for indemnification. But by and large, the Canadian indemnification covers the full circuit of the exhibition.

If it is not too much information, I would ask Keith to talk about the point at which indemnification starts for an exhibit that's moving between many countries.

Mr. Keith Wickens: If I understood your question correctly, did you mean if it's coming from an institution in New York and loaned to Ottawa, does the institution owner in New York pay anything?

Mr. Charlie Angus: Do they have to get any insurance?

Mr. Keith Wickens: No, they don't. They insure it on their own property, but that's no different, in a sense, from renting a car. Obviously they don't have to lend it, but if they do, their own bylaws insist that it's covered for its fair market value, so that when anything is borrowed, whether it's insured or indemnified, the borrower bears full responsibility.

When indemnification comes into effect, it is not a date, it's an actual signature that is on a condition report. This is vital because that condition report is the benchmark against which we are indemnifying. So for anything—a crack in a painting or a picture frame—a condition report is made by qualified conservators. In most cases, it is actually co-signed by the lender and the borrower. Those condition reports must be provided to the program, and indemnity goes on or off with them. Moreover, they're cumulative. Every time it's taken in or out of a crate, a new condition report has to be made, so we know where and when any damage occurred.

Mr. Charlie Angus: I'd like to go from the high end to the low end now.

The Chair: One quick question, please, Mr. Angus.

Mr. Charlie Angus: A quick question, yes.

Has there been thought of a similar program for exhibits valued less than \$500,000? I'm considering issues in terms of regional values of art and museum pieces. There's such a limit on those budgets to be able to pay these costs. Obviously you couldn't use the same program, because you'd have to have such strict guidelines above \$500,000. But from \$150,000 or \$250,000 to \$500,000, would it be possible to have a similar program for regional museums and art galleries, etc?

•(1615)

Ms. Lyn Elliott Sherwood: The approach we currently have is that insurance costs are an eligible expenditure under the museums assistance program, and the self-funded insurance program, run by the Canadian Museums Association, would provide favourable rates for the institutions you are mentioning.

The Chair: Thank you.

Mr. Fast.

Mr. Ed Fast (Abbotsford, CPC): Thank you, Mr. Chair.

I have a question first of all through you, Mr. Chair, to Ms. Sherwood.

Did I hear you say that there have been no claims yet under our program?

Ms. Lyn Elliott Sherwood: Yes, and I'd like to say it again: \$7 billion worth of indemnification over five years and no claims.

Mr. Ed Fast: That's wonderful. That's a great record to have.

Do we get involved in any reinsurance? Are there reinsurers that cover us on the back side, or this is a straight risk to the taxpayer?

Ms. Lyn Elliott Sherwood: We would not do that. If there is supplementary insurance to be purchased, the institution would be purchasing it, and if the primary insurer then goes to a reinsurer, that's their....

By and large, if someone is looking for all-risk coverage—and this goes to the heart of the issue of exclusion—what we won't cover.... If, for example, a foreign institution is insisting on coverage for acts of war, and we don't indemnify it, then that business would tend to go offshore to a company that would cover for acts of war. Generally it would be fairly expensive, but we don't deal with the insurance companies; that's the institutions.

Mr. Ed Fast: Thank you.

When you addressed the issue of the ceiling and also the cap—the cap being per exhibition, and the ceiling being for the overall program limits of \$1.5 billion—I noticed you did some analysis of the changes to the program that could be made, but there are no specific recommendations at this time. Can we expect there will be some recommendations forthcoming?

Ms. Lyn Elliott Sherwood: We're certainly hoping to hear your views, as broadly speaking members of the government, in the sense of what risk it is reasonable for the Crown to accept. In order to have that approved, we would need some form of cabinet approval, whether through a Treasury Board or cabinet submission, because it would be an increase in the contingent liability to the Crown. So this is probably the route that would be taken.

Mr. Ed Fast: Good. But this committee typically wouldn't act, and the minister wouldn't act, without some recommendation coming forward from the minister's staff.

This is all new to me. In fact, it really opens my eyes as to what happens behind the scenes of these travelling exhibitions. There's so much more there than I think the public knows. I'm not sure the public knows that they're actually risking taxpayers' dollars, although the risk seems to be fairly slight given our record.

Before we're expected to make a decision or have a discussion with you on that, perhaps your staff could come back with recommendations that you've thought through, because you have more knowledge on this than we do.

Ms. Lyn Elliott Sherwood: I think it's fair to say that we can talk about some of the trend lines. I would look out, for example, for the next five years. If we assume that the demand on the program will rise at the same rate it has risen, we would be in the order of \$3 billion, simply covering with the same cap. So the annual ceiling would be there. If we started to raise the cap as well, and we noticed that not only was demand increasing but also the value of exhibitions, there could be a higher....

We can certainly provide you with that kind of analysis around trend lines.

Mr. Ed Fast: That would be very helpful, for both caps and ceilings. Thank you.

•(1620)

The Chair: Just before we go to Mr. Kotto again—because I know he always has a long list of questions—I'm wondering if I might ask a question.

Again, so many times when government makes funding available or brings out a program, it's usually set at a certain level for five years and we find the very next year that the cost of living and cost of other things have gone up, as you expressed about some of the paintings, such as the \$95 million painting. Some of these things weren't heard of five years ago.

I wonder if there should be a cost of living allowance in a program, or an allowance for the program to expand so much each year, because we hear so many times of long-term sustainable funding. If all of a sudden you're at risk, or the museums or the various institutions that want to promote some of these things, and the trend lines show there is more demand for this, I would think that if we're going to be in the business of travelling museums, then it has to be reasonable and has to stay within at least the cost of living, or as things increase somewhat. So that's just a statement.

I know that the Petra exhibit is at our Canadian Museum of Civilization now. Would this be a particular program covered under your program?

Ms. Lyn Elliott Sherwood: The Museum of Civilization did not approach us to indemnify Petra, and I don't know why. I believe Rocket Richard is still circulating under indemnification, an exhibit they initiated, and perhaps they felt they'd had their dibs. But they didn't approach us for it.

The Chair: Okay.

Mr. Kotto.

[Translation]

Mr. Maka Kotto: I will give my time to Mr. Malo.

Mr. Luc Malo (Verchères—Les Patriotes, BQ): Good afternoon, and thank you for being here.

On page 4 of your document, you indicate that the fair market value of foreign objects is greater than 50%. Fifty percent of what?

Ms. Lyn Elliott Sherwood: That must be an error in the French version, and I do apologize. The English version clearly states \$500,000. On page 4, the fair market value of an exhibit, in other words of the content of the exhibit, must be a minimum of \$500,000.

Forgive me. I see that you are talking about the next bullet on the page. Indeed, if the exhibit comprises 100 objects, that means that 50 of those objects must be Canadian or foreign. It is the percentage of the objects included in the exhibit.

Mr. Luc Malo: You seemed to be saying earlier that when the program was set up, some museums had complained about the wait times for approval of the facilities hosting the exhibits. Could you tell me if this situation has been corrected?

Ms. Lyn Elliott Sherwood: We now have a base of pre-approved institutions, which is an improvement. We require several months to gather humidity or temperature-related data, for example. Three further months might be required to carry out repairs and rehabilitation work. Bringing a locale up to standard can also take some time, which is a major problem.

Mr. Luc Malo: Does that limit the number of new entrants?

Ms. Lyn Elliott Sherwood: The standards are quite high. The number of institutions in Canada that meet strict museum standards is limited. That is indeed the case.

Mr. Luc Malo: Once five years are up, you must review the safety and security of the various facilities. Has this process begun?

Ms. Lyn Elliott Sherwood: We will be undertaking this process in cooperation with our colleagues from the Canadian Conservation Institute. We have two programs that require a review of the facilities. The Moveable Cultural Property Program, for cultural gift tax credit purposes, also requires the attainment of certain standards, so as to ensure the long-term preservation of buildings. We have linked two programs together and we have begun a review of our certification process under each one of them.

• (1625)

Mr. Luc Malo: How much time do you think this will take?

Ms. Lyn Elliott Sherwood: That is a good question.

Keith, do you have an answer?

Mr. Keith Wickens: You want to know how much time the renewal process will take?

Mr. Luc Malo: Yes.

Mr. Keith Wickens: We cover fire prevention, the security and preservation of collections, including looking at ambient temperature and ambient moisture. In principle, this process takes less than two months. It is a simple matter of obtaining information. Even before institutions apply for another exhibition, we must remind them that this review is required. Given that it is a five year timeframe, they cannot even launch the process before the five years are up.

The applicant must supply us with the pertinent information required under this process. Generally speaking, you are looking at two months or less.

Mr. Luc Malo: And does...

Ms. Lyn Elliott Sherwood: With your permission, I would like to add something.

We are talking here of international standards for collection conservation. If Canadian institutions wish to conserve their collections, it is in their interest to bring their systems up to date. It is trickier to apply the standards the first time, because that is when we detect the greatest number of problems.

It is however our hope that, after five years, institutions will have continued to do regular checks of the ambient temperature and humidity in their facilities. It is therefore our expectation that there would be fewer problems the second time, the verification practice being in place.

Mr. Luc Malo: But if an institution...

[English]

The Chair: That's it for right now. Thank you.

Mr. Warkentin.

Mr. Chris Warkentin (Peace River, CPC): Thank you, Mr. Chair.

Thanks to each one of you for coming out today; we really appreciate it.

I wanted to ask a bit on the same train of thought as Mr. Malo was talking about. Who pays for the assessment of these local museums, or the museums looking for the accreditation, or whatever is necessary in order to get all the inspections, and so on?

Ms. Lyn Elliott Sherwood: The institution needs to have the facility in place to monitor its humidity, etc. The Canadian Conservation Institute does carry out the inspections. In certain cases, if it's part of a larger renovation project, they may charge a fee for the time, because it's a benefit to a single institution, rather than something they're doing for the community as a whole.

Mr. Chris Warkentin: So this is at no cost to the indemnification program.

Ms. Lyn Elliott Sherwood: That's right.

Mr. Chris Warkentin: I'm curious about the \$1 million per year that is used to operate.

Ms. Lyn Elliott Sherwood: I'd like to be clear; it was \$1 million over five years, or \$200,000 per year.

Mr. Chris Warkentin: Oh, \$200,000. It's fantastic that you're able to run things with that amount of money.

Do you expect that's going to rise as more people apply for the program? Or is there any necessity for us to review that portion to see if any additional funds would be required?

Ms. Lyn Elliott Sherwood: It's a fair question. We don't anticipate a huge rise; I think we're talking about the addition, perhaps, of another one or two exhibitions a year, and that's certainly manageable within the framework we have.

The cost of what we do for the external advisers is in bringing together a panel periodically to look at everything together. So that might add, for example, a day to the panel's work and an associated cost. But we would not anticipate that it would generate so much more work that we would need to add a significant number of staff, if any.

Mr. Chris Warkentin: Okay, that's great.

I'm just curious if there's a necessity from your perspective to start to look at issues surrounding legal ownership of the artifacts as they're coming in, and also at issues arising from our importing artifacts in which we might have some type of illegal or endangered species material.

•(1630)

Ms. Lyn Elliott Sherwood: The issue of provenance is certainly an important one, and has become increasingly important as attention has been paid both to Nazi-era changes of ownership and to some of the current issues of perceived looting. Part of the evaluation process for an individual exhibition is an examination of provenance. So that's part of the process and part of the documentation that needs to be supplied in the plans for the exhibition.

The same thing is true when you speak of material, for example, that may be composed of elephant ivory or an endangered species. The examination of the plan for an exhibition is actually an object-by-object examination, with a full description. The peculiarities or the particular conservation requirements of individual objects are part of the risk assessment. As part of that, the core documentation would include the material. That's an opportunity to use that.

We certainly do look at the implications for things like the Cultural Property Export and Import Act, in the event that there's any crossover, and the Customs Act. That's all part of the evaluation that's conducted.

Mr. Chris Warkentin: So your sense is that the evaluation will take care of, or mitigate, any risk that may be experienced if indeed something actually slips through the cracks. I guess you would assure the committee that nothing will slip between the cracks—or that is the hope, I guess. There's no exact—

Ms. Lyn Elliott Sherwood: I believe that to be true, given the quality of the evaluators and the requirement for information. I think it is important to note that right now, in the event of a claim against the rightful ownership, this is not something we accept to indemnify right now. So that is not part of the risk. Part of managing that risk to the Crown is that it's an exclusion under current indemnification.

Mr. Chris Warkentin: And there are no plans to make that an inclusion?

Ms. Lyn Elliott Sherwood: It's one of the issues. People have said, cover everything. A number of the American lenders would like us to be covering gross negligence. Part of the risk analysis, as we go through, is what is reasonable to cover and what is a reasonable limit of risk for the Government of Canada?

Mr. Chris Warkentin: Thank you very much.

The Chair: Thank you.

Before I go to Mr. Angus, I do have two small questions too. Because I have the chair, I'm going to take the advantage.

I know that in the fiscal year, the program cannot exceed \$1.5 billion. Where is this money? Is it in a fund, or is it just fictitious? Where is the money?

Ms. Lyn Elliott Sherwood: I'm tempted to give you a facetious answer, which is that it's the Department of Finance's magic money, but the contingent liabilities are actually booked as part of the

estimates, so that the potential for payment on the part of the government is actually calculated as part of it.

The Chair: It's part of the contingency funds. Okay.

There are some 2,500 museums in Canada, small museums, and there are fewer than 40, I understand, that use this program. Is the program there primarily for the big museums, then? And would those big museums be primarily, then, provincial museums or other federal museums across the country?

Ms. Lyn Elliott Sherwood: I would say it's certainly true that it was intended for the major exhibitions. The cost of insurance for these exhibitions would be a barrier to a museum's ability to create them. So I think it's fair to say it was targeted.

We are seeing some smaller venues being approved for exhibitions. I mentioned the Rocket Richard one, and that's going to Alberni Valley Museum, the Red Deer Museum, Musée de Chicoutimi, Musée de Val d'Or. So we're starting to see some smaller institutions, and I think one of the contributing factors is actually the cultural spaces Canada program in the Department of Canadian Heritage, which will finance the remedial work needed to bring institutions up to standard. We're certainly aware of a number of institutions that are benefiting.

Keith is part of the recommendation-making process for the cultural spaces Canada program, so we do see the correlation there.

•(1635)

The Chair: Thank you.

Mr. Angus, go ahead, please.

Mr. Charlie Angus: Normally when we have people before our committee, we zero in on the high cost of administration and whether or not the money would be better spent out in the field. My question to you is whether \$200,000 a year is enough, because it is, at the end of the day, a fairly high-stakes game if we're bankrolling a \$450 million exhibit. Do you have the resources to make sure you can do the due diligence necessary?

Ms. Lyn Elliott Sherwood: I would say yes. I am actually going to put Keith, as the program manager, on the spot. The reason I would say yes is that we have the staff and the expertise there, but also, we pull in the panel of external experts to examine every exhibition application. It is a fair question, and I don't actually know how Keith will answer it.

Mr. Keith Wickens: The \$200,000 is used to evaluate an exhibition and then recommend whether or not enough risk has been mitigated to make it feasible for the government to assume the remaining risk. In evaluating an exhibition, the staff has a number of things at its disposal. For instance—and this is just one example—there is a major book on just about every artist who's ever been and the last prices that they have sold to in public auctions. So if we get a particular painter who looks like he's out of whack—and this has happened, in fact the Canadian institution just turned down a lender flat because the price was inflated—we have indications. The actual cost of the assessment is for reading fees by experts who then come and compare their notes, etc. We have experts for security and for fire. We have three conservators who look at the particular fragility of aspects. We have experts in transportation and handling of exhibitions. We have experts who are curators and who are familiar with these kinds of works. We have experts who look at everything from how much light is going onto a delicate piece of paper or what particular company....

I can also add that many of my contacts are international, and certainly I'm on a virtually weekly contact basis with my colleagues in other countries, running indemnification schemes. We share our own experiences when it comes to particular problems that we're not sure we've covered.

Mr. Charlie Angus: So now that money comes out of the \$200,000 pot, does it?

Mr. Keith Wickens: That \$200,000 is the salary of three FTEs, three staff. It only costs between \$5,000 and \$10,000 to convene a committee. They convene maybe two or three times a year, and then we have teleconference costs.

Mr. Charlie Angus: That's interesting, because I would have thought the cost of that level of expertise would have been fairly high. I mean, these people don't—

Ms. Lyn Elliott Sherwood: Museum salaries in this country are not elevated.

Mr. Charlie Angus: So you're relying on museum staff, not outside art experts?

Ms. Lyn Elliott Sherwood: For the issue of practice for exhibition management, it would be museum staff. If it's a question of valuation, we may be calling in other expertise. If it's a question of how security functions in a museum, how things need to be crated properly, the experts in those fields are the practitioners.

Mr. Charlie Angus: Everybody has to work off a worst-case scenario at some point. What would happen if you had a \$450 million art collection and it was swiped? It wasn't water-damaged. Someone walked out with it in some high-stakes Robert De Niro-style movement. What steps are taken then to try to secure the loss? Do you have people you would deal with? Do you have a protocol? Have you gone through these scenarios, or do we just pay?

•(1640)

Ms. Lyn Elliott Sherwood: I'll go to the end of your question first. Any situation of potential claim would be the subject of very thorough analysis, and again, we would be looking at... For example, if there was negligence and we were not covering negligence, it's very clear that would not be a liability for the government.

So there would be, depending on the circumstance, a very thorough analysis involving, if it were necessary, police forces, fire services, or any other expertise, if we were analyzing what would be potentially either a crime scene or a catastrophic accident. The kind of loss you're talking about is catastrophic. That would determine where the responsibility lay and what would in fact be indemnified.

Mr. Charlie Angus: Do you have a standard set of procedures drawn up in terms of what you would do—step one, step two, step three—in order to identify the value of what you would pay out of that loss?

Ms. Lyn Elliott Sherwood: I'm going to ask Keith to give you the detail on that.

Mr. Keith Wickens: That entire procedure is outlined in the regulations as well as in the guidelines to the program. It must be a valid claim. Obviously to determine that it was "valid", there would be a great deal of investigation to make sure it could not have been prevented. And if it could have been prevented, then we look at who was at fault for that happening.

The regulations point out that once there is validation that it was a true loss or damage that could not have been foreseen and prevented, then both the lending owner and the minister would engage an evaluator to determine the extent of the loss.

If they could not agree on what that loss was, then they could continue even further and appoint an objective third party arbitrator on whom they both concurred. And the arbitrator's decision, according to the regulations and the act, would be final.

The Chair: Thank you.

Are there any other questions, seeing as we still have some time?

Mr. Kotto, go ahead, please.

[*Translation*]

Mr. Maka Kotto: Thank you, Mr. Chairman.

I would like to come back to the point I was dealing with earlier. There is one aspect that troubles me with regard to coverage, given the tremendous fluctuations we see in the art market. It is quite, if not very, possible that a work that is not insurable today might be insurable tomorrow or in a few years' time.

Would it not be more appropriate, in order to adequately ensure the works of emerging artists, to cover all works of art?

Ms. Lyn Elliott Sherwood: Indeed, exhibitions are, by their very nature, temporary. In two years, an exhibition might very well include objects that today are not appraised at the required value. This is why we talk about the total value of the exhibit and not that of the various objects taken separately. You mention the possibility of prices going up. Obviously, in such a case, the overall value of the exhibit would it too increase.

The program however targets only temporary collections and not institutions' permanent collections. It is therefore based upon the value of the exhibition when it takes place.

Mr. Maka Kotto: Perfect. That is all I wanted to know. Thank you.

[English]

The Chair: Thank you.

There's just one more thing I've said—and I've been able to get a few things in here, being chair—and that is that I'm very supportive of our museums, but our small museums across the country, I feel, have been in some ways neglected over the years.

When I first saw this travelling museum, all I could think of was some of the great treasures that we have here as a nation, and how great it would be to set up some of those exhibitions and have them travel across the country, maybe to some museums that don't have all the “rightness” to accept some of these other artifacts. There are museums in which maybe the lighting is not quite right, or the temperature isn't quite right. But this is something that might be broken down, that might go across the country and help some of our smaller museums maybe energize themselves and create some finances to help them support themselves. Maybe there could be a small piece of this program itself set aside that would indemnify some of those smaller things. That might work across the country.

I could take a response.

• (1645)

Ms. Lyn Elliott Sherwood: I share your love of small museums. What I really admire is the level of entrepreneurship, frankly, that they exhibit to survive.

I think it's important to note that exhibits can move without indemnification. As the national museums look at their travelling exhibitions and their artifact loan program, their own insurance may

be an issue, or we can provide support financially. It may simply be much more efficient to make a small grant to buy insurance.

The other thing I'll mention, and that I think you've touched on too, is that the facilities may not meet all of the criteria. One of the things that the Canadian Conservation Institute is putting effort into is the necessary research to develop proposals for particular display cases that may overcome the fact that the building fabric itself doesn't support the museological requirements. There's no reason you can't protect an object within that building.

We look at the same thing through the moveable cultural property program. Generally, to be designated eligible to accept tax gifts that we can issue tax certification for, you need to have an acceptable building. We certify one-offs all the time. If you have a space in the building, a display case that will protect that object, you can qualify for that.

We have, for example, a number of first nations that have repatriated property. It's in a display case, maybe in the band office. That's not a museum, but they're able to protect it and to make it accessible to their people.

So I certainly take the point you're making.

The Chair: I thank you. I must say that everyone has had an opportunity to ask you the questions. Thank you very much for explaining the program. I'm sure we can make some educated decisions or maybe some suggestions that might be good as we go forward. Thank you very much.

Ms. Lyn Elliott Sherwood: Thank you. We will send the trend line information that we committed to. We thank you for the opportunity to talk about something we're proud of.

The Chair: Thank you.

The meeting is adjourned.

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