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Chair

Mr. Bruce Stanton

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• (0900)

[Translation]

The Chair (Mr. Bruce Stanton (Simcoe North, CPC)): Good morning, colleagues, witnesses and guests. In this 15th meeting of the Standing Committee on Aboriginal Affairs and Northern Development today, we will be examining the Auditor General's report.

So this morning we have the Auditor General, Ms. Fraser, to discuss her report.

[English]

Madam Fraser, welcome to our committee. We'll be discussing your report this morning, of course, and in the course of your opening comments you can introduce your assistants who are with you here today. You'll have roughly 10 minutes. You're the only presenter this morning, so if you need a little extra time, that's perfectly acceptable. We'll then go to questions from members.

Members, I would like us to go until about 10:45 this morning, because we have about 15 minutes of committee business to wrap up before we finish at 11 o'clock.

Madam Fraser, the floor is yours.

Ms. Sheila Fraser (Auditor General of Canada, Office of the Auditor General of Canada): Thank you, Chair.

We appreciate this opportunity to discuss chapter 4 of our March 2009 status report, entitled "Treaty Land Entitlement Obligations". I'm accompanied today by Ronnie Campbell, assistant auditor general, and Frank Barrett, principal, both of whom are responsible for our work on aboriginal issues.

Treaty land entitlement agreements between the crown and first nations set out how the government will provide land to first nations that it failed to provide in accordance with historic treaties. The fulfillment of treaty obligations extends beyond the promise of land. Treaty rights are recognized and affirmed in the Constitution Act and, as such, are constitutionally protected.

Our office first examined the government's fulfillment of treaty land entitlement obligations in 2005. These obligations include the conversion of up to 1.4 million acres in Manitoba, and up to 2.7 million acres in Saskatchewan, to reserves once they have been selected for conversion. That audit specifically examined Indian and Northern Affairs Canada's progress in converting land selected under these agreements to reserve status in those two provinces. The audit also examined whether the department was managing the conversion

process in a way that was consistent with its legal obligations to first nations.

The 2005 audit found a number of deficiencies in the department's management practices for meeting its obligations, such as inadequate planning and an absence of targets for land conversion. The audit found that these deficiencies limited the department's progress in converting lands to reserve status, in particular in Manitoba. Our 2005 audit found that about 58% of acres selected by first nations in Saskatchewan had been converted to reserve status, while only 12% of these lands had been converted in Manitoba. In that audit, we made eight recommendations, most of which focused on the need for the department to improve its management practices. The department agreed with our recommendations, and in 2006 the Minister of Indian Affairs committed the department to converting 150,000 acres of land in Manitoba to reserve status in each of the following four years.

Our recent audit examined the department's progress in converting land to reserve status and in implementing the recommendations from our 2005 report. We found that Indian and Northern Affairs Canada had made significant progress in converting land selected by first nations to reserve status.

[Translation]

Since 2005, the Department has converted over 315,000 acres to reserve status in the provinces of Saskatchewan and Manitoba. This represents a 42% increase in land conversions in just three years. In Manitoba alone, over 227,000 acres have been converted to reserves since our last audit.

This follow-up audit also found that the Department has made efforts to improve its communications with First Nations and work more closely with them on plans to convert outstanding land selections. However, our 2009 audit also found that Indian and Northern Affairs Canada has not made satisfactory progress toward implementing several of our recommendations for improving its management practices to meet its obligations to First Nations, in particular in Manitoba.

For instance, in that province, the Department has not developed a plan that outlines how it will manage its operations to process outstanding selections within a reasonable period of time. It has also not tracked processing times, and could not demonstrate that these times have improved over the last three years.

• (0905)

[English]

The continuing management weaknesses identified in this follow-up audit are of particular concern, as they relate to treaty obligations that Canada incurred more than a century ago. Our audit found that over 430 selections representing close to 650,000 acres of land remain to be converted in Manitoba. In Saskatchewan, over 700 selections representing 451,000 acres remain to be converted. Our audit concluded that without sustained management attention to correct the weaknesses we have identified, the department risks being unable to sustain its progress in converting land to reserve status.

We understand that you may also wish to discuss recent audits we have undertaken that focus on Indian and Northern Affairs Canada's responsibilities in Canada's north. In recent years we have conducted three audits in this area.

In November 2003, we reported on the department's progress in transferring federal responsibilities to the north. This audit found that the department's performance on implementation of both the Gwich'in and Inuit of Nunavut land claims left considerable room for improvement. We found the department's processes for managing its responsibilities under these agreements to be incomplete. They lacked clear milestones and feedback mechanisms to assist in meeting its obligations. Most notable was the department's focus on completing specific activities required in the land claim's implementation plans, rather than on respecting the spirit and intent of these agreements.

In April 2005, we reported on Indian and Northern Affairs Canada's development of non-renewable resources in the Northwest Territories. This audit concluded that the department was not adequately managing its responsibilities for approving the development of non-renewable resources in the Northwest Territories. The department failed to provide public boards playing a key role in the development of these resources with adequate direction and the appropriate management foundation necessary to carry out their responsibilities.

In October 2007 we reported on the Inuvialuit Final Agreement. We found that the federal government had not met some of its significant obligations under this agreement, often because it had not established the necessary processes and procedures, or identified who was responsible for taking various actions. The audit also found that 23 years after the agreement came into effect, Indian and Northern Affairs Canada still had not developed a strategy for implementing it and had taken no action to ensure that progress toward achieving the principles of the agreement was monitored.

[Translation]

Mr. Chair, some of our observations in both the Treaty Land Entitlement and Northern audits highlight the importance of critical factors that we identified in our 2006 Status Report. In that audit, we identified seven factors that appeared to have been critical in implementing our recommendations. The presence of some of these factors enabled the successful implementation of our recommendations. The absence of some of these factors hindered the

implementation and, in turn, impeded significant change in the lives of First Nations people and Inuit.

The seven critical factors we identified in 2006 were: the need for sustained attention on the part of senior management to effect lasting change; the importance of coordination among federal organizations delivering similar programs; the need for meaningful consultation with First Nations; the value of developing capacity within First Nations communities; the importance of establishing First Nations institutions; the potential for conflicting roles of Indian and Northern Affairs Canada in its relations with First Nations; and the necessity for an appropriate legislative base for First Nations programs.

• (0910)

[English]

Our experience in conducting audits of Indian and Northern Affairs Canada has shown us the importance of these factors in ensuring success of first nations programs.

This concludes my opening statement. We will be pleased to answer any questions committee members may have.

Thank you.

The Chair: Thank you very much.

We'll now go to questions from members, beginning with the Liberal Party and Mr. Todd Russell.

Mr. Todd Russell (Labrador, Lib.): Thank you, Mr. Chair.

Good morning, Ms. Fraser, and to Mr. Barrett and to Mr. Campbell. I'm glad to have you here. I want to thank you for your ongoing work, particularly on this file.

You did mention a number of different audits you conducted, and I want to refer to one from last year, which is the first nations child and family services program. I want to particularly focus on your comments about the funding of services under this particular program. In your audit, when you talk about funding you say the funding program is inequitable, you say the funding formula is outdated, the formula leads to funding inequities, the formula is not adapted to small agencies, and the program funding is not properly coordinated. All of this, I guess, is against a backdrop of over 8,300 first nations children in care. There is no doubt, when we talk about inequities from your report and from many reports, that the funding of family and child services on-reserve does not meet the standard of those off-reserve. They do not receive adequate funding.

You also make the point here that in Alberta they're negotiating a tripartite enhanced prevention approach and that, when fully implemented in 2010, this is going to increase the funding maybe by 74%. You also make the point that even that increase may not be adequate to meet the needs.

So that's Alberta in 2010, and we have a hell of a lot of other provinces besides Alberta.

Just recently the public accounts committee commented on this particular issue and basically made the point, well, we already have provincial standards in place; why doesn't the department adopt those provincial standards and then adequately fund them? The response from the department was, no, we're really not going to go to that approach; we're going to look at the Alberta model and see what happens with the Alberta model and maybe look at negotiating other agreements across.... So we're looking at 2010, then a further rollout of these tripartite enhanced prevention approaches.

I don't see our getting there quickly enough to help save the lives of children. What's your sense about that? Is there a better approach to achieving the objectives of this particular program?

I would also like your comments on this. As with many programs, there's no legislative mandate or approach to it. Would it be far better to have legislation in place that clearly outlines roles and responsibilities, deliverables. We talk about accountability all the time. Wouldn't legislation help from an accountability perspective and also hold the government to greater account, and not on a wing and a prayer sometimes, in trying to deal with crises?

I want your comments on that because I think it's a hell of a blot. I don't give a damn what colour of government we have in our country; something needs to be done.

● (0915)

Ms. Sheila Fraser: Thank you, Mr. Chair. If I could, I'll spend a couple of minutes just explaining some of the problems with the funding formula.

That formula was 20 years old and had not been modified in 20 years. It is, as I say, formula-based, so there is a presumption that a certain percentage of children and families will require this care throughout the various communities. We note in the report, of course, that the percentage varies significantly. I think the base was 6%, and we saw in some cases that the communities actually went up to 23% or 28% of children and families who actually needed these services. So if they're only receiving based on a formula of 6%, there's obviously a gap in that.

One of the other difficulties that arise from the formula is that it hasn't been adapted to take in new services and new kinds of services, so while provincial agencies and governments have gone much more toward preventive services, those were really not being funded under the funding formula. What was being funded, in fact, was taking children into care. So one has to question it. We make the comment that there are so many children in care. Well, that's perhaps a consequence of the way the funding is done. If you can't get preventive services and the only way you can provide services is to take them into care, it's perhaps not surprising that there are so many being taken into care.

I should point out as well that the department's policy is that these children and families should receive comparable services. They've never actually defined what they mean by comparable services. But we would sort of interpret that to at least look at what the services are that are being provided by the various provinces in this area.

There is clearly, in my mind, an underfunding in the program, and I think the agreement with Alberta shows that quite starkly when the funding is going to go up by 74% or 75%.

Some of the services are already provided by provincial agencies. In those cases the federal government will pay, if you will, the bill from the provincial agencies. So they will fund at that higher level. It's when it's first nations agencies that they fund at a lower level. I think it raises a lot of questions. It's not surprising that these agencies are struggling to deliver the services if they're being funded so much less than their provincial counterparts.

The departments certainly should have the information to be able to do the comparison with provincial, asking what the provincial rates are in the services, because in many cases they are actually paying those. We didn't find that they had done that kind of analysis and we would have expected them to do that.

As for the legislative approach, that is one issue we have raised. Most of the programs are based on policy. Very few have an actual legislative base to them. In almost all of the audits we do, the question always comes up of roles and responsibilities. It's a question of who is actually responsible for what, and what level of service should the federal government be providing. So if there was more clarity around that, I think that would also help. But then of course the resources have to be commensurate with that responsibility.

[*Translation*]

The Chair: Thank you, Mr. Russell.

We'll now go to Mr. Lemay, of the Bloc Québécois.

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Ms. Fraser, thanks to you and your team for being here.

I read your opening statement, Ms. Fraser, and I have a question about it. You say, "The seven critical factors we identified in 2006 were: ..." and then you enumerate them. You seem to restrict them to the relations the government must have with the northern aboriginal communities. Shouldn't that apply to all the files the department handles, whether it be those concerning land claims or those involving northern development?

Ms. Sheila Fraser: It applies to everything.

● (0920)

Mr. Marc Lemay: All right. So my perception was correct.

Ms. Fraser, I read your document. We were also given a document entitled, "Road to Improvement: The Review of the Regulatory Systems Across the North". It's the department that prepared it. I was wondering whether you were aware of it. In 2007, the minister appointed Mr. McCrank to conduct a study. This is what's called the McCrank Report. I would understand it if you hadn't read it, but someone on your team may be aware of it.

Ms. Sheila Fraser: My colleague probably is.

Mr. Marc Lemay: Do you believe that the McCrank Report and the responses that the department could give to it might be able to respond to the concerns you have regarding the department's actions in the North? I don't know whether my question is clear.

Mr. Ronnie Campbell (Assistant Auditor General, Office of the Auditor General of Canada): That's a difficult question because the McCrank Report doesn't really talk about that problem.

[English]

He doesn't really talk about the problem that we're trying to resolve. It's as if everyone knows what the problems are with the regulatory regime and he's developed some proposals to improve it.

[Translation]

Mr. Marc Lemay: I don't mean to interrupt you, but I believe you're absolutely right: the seven factors are real.

The second factor talks about "the importance of coordination among federal organizations delivering similar programs." We have a serious regulatory problem. I was wondering whether the McCrank Report could, at least in part, respond to those remarks, which I think are appropriate.

You can give me an answer later; I don't need an answer today.

[English]

Mr. Ronnie Campbell: We haven't really looked at that report. We're aware of it and we've discussed it with the department. We will be looking at it as part of future audit work, but we haven't really looked at it in detail.

[Translation]

Mr. Marc Lemay: I know you're going to conduct other evaluations because a lot of things are going on in the north. May I suggest that you consider this report in your next evaluation? I sincerely admit I find it very hard to see how the department will be able to implement this report and how much time it will take. After three years, I still have some doubts about that. What do you think?

[English]

Mr. Ronnie Campbell: Most of what Mr. McCrank is proposing would require changes to some of those land claims agreements, which are constitutionally protected.

[Translation]

Mr. Marc Lemay: You read it and you understood.

Ms. Fraser, I listened to what you said and I've read a lot. I told you I did my homework. Whether it's the Liberals or the Conservatives who are in power, the problem dates back a number of years. Some agreements and treaties are signed and binding on the Crown. Don't worry, in Quebec we can resolve a lot of things, but, for the moment, we are in Canada.

The problem that arises is that, currently, agreements and treaties have been signed. You say that, since 2005, the department has not accounted for all the time it devotes to converting lands into reserves. These are commitments.

What can we do to force the government to comply with those agreements?

Ms. Sheila Fraser: I think that's an excellent question. The government signs agreements and seems to think it has succeeded, whereas that's just the start of a process. That's a major problem.

On a number of occasions, we've noted that there was no plan to implement the commitments. We even had a major debate with the department to tell it that it should not dwell on the objectives of the agreement but rather on specific conditions.

I'll give you the example I always cite. An agreement was reached in the north to increase the number of aboriginals working in the service sector. One of the conditions of that agreement was that a meeting would be held every year to assess the progress made. We asked them what progress had been made and how they had gone about evaluating it. They told us that their commitment was to hold one meeting a year. We won't get far with an attitude like that.

The Inuvialuit agreement was signed 26 years ago and there are still lands that have not been transferred and others that have been transferred inappropriately. The agreements are not well administered, and the managers don't pay enough attention to them. In many cases, there is no plan accompanying the treaties.

• (0925)

The Chair: Thank you, Mr. Lemay.

[English]

Now we go to Madame Crowder for seven minutes.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Thank you.

Thank you for coming before the committee. I apologize for being late. Unfortunately, I was meeting with citizens from Garden Hill about the death of a child.

In preparation, I went through the report. Since 1998 we have had a litany of failure on the government's part—it doesn't matter which government—to meet its obligations. In the most recent report, under the treaty land entitlement, you talk about the disparities between Manitoba and Saskatchewan, for example.

Earlier, in response to Mr. Russell's question, you also touched on funding. I know that you appeared before the Senate committee last night, and one of the questions that came before you was roughly around why the department isn't able to deal with this.

Funding seems to be a constant thread, whether we're talking about health care, treaty implementation, education, or water. It doesn't matter what it is. I think there's an acknowledged disparity between what first nations receive versus what Canadians off-reserve receive from municipalities or provincial governments or their federal government.

In your view, is it possible to get a reasonable estimation of the funding that would be required in order that first nations would receive funding comparable to what Canadians off-reserve receive?

Ms. Sheila Fraser: I think it is a responsibility of the department and the government to know the level of services that they should be providing. Regarding child and family welfare or education, if they have made a policy decision to give comparable services, they should know what that level of service means and what that translates into, and they should be able to cost that. We have never seen that being done.

I said last night at the Senate hearing that I think if that exercise were done, we would probably all be shocked at what the gap is. We don't often talk about funding, and it's kind of unusual for the Auditor General to be talking about funding, but it's becoming very clear that it is a major issue in this department. In some of the reports, we mention that the first nations population is growing by about 10% or 11% a year, and funding is growing by 1% or 2%. Just on the face of it, the disparities are likely to get greater.

The department should be able to say, for each service they provide, what the level of service is, what the service standard is, and how much that costs. They can easily get the comparatives from provincial governments, or municipal governments, or whoever else provides those kinds of services.

Ms. Jean Crowder: So would there be a role for the Auditor General's department in that? Could we request the Auditor General's department to do that, in the absence of the department doing it?

Ms. Sheila Fraser: We were actually talking about that last night. We've done a number of audits on specific programs. I think we have to think about our approach going forward, and maybe by continuing to do these specific programs we aren't getting at the real issues. We are raising issues, obviously, in specific programs, and we are making recommendations, but we have to do something broader. Is it some kind of funding comparison like that? Is it looking at management frameworks and structures? I think we have to try to dig deeper into why we are seeing the same problems coming up consistently.

Ms. Jean Crowder: When you mentioned funding, you also talked about the department's funding. Are you suggesting not only that the first nations are underfunded but that the department itself is underfunded in terms of its attempt to deliver?

Ms. Sheila Fraser: Well, yes and no. When we talk about funding, we're talking about both. If you have an expectation about what the department should be doing to meet land obligations, or provide education, or do the monitoring to ensure that the services are being...it takes people, and it takes management oversight of all of that. I suspect the department itself is underfunded as well.

• (0930)

Ms. Jean Crowder: I'm sure others experience the same degree of frustration when the Auditor General raises concerns, and the department responds and says, "Yes, we're going to do something about it", and you come back a couple of years later, review the report, and there's still no response. I struggle with this: what is the mechanism to actually have an adequate response to ongoing

concerns that are consistently identified audit after audit after audit? Do you have any suggestions?

Ms. Sheila Fraser: As I often say, we can only make recommendations. To be quite frank, much of this is policy decisions around the level of resources that are provided and the choices that have to be made between different priorities of government. The department, I think, tries to manage the best it can within the resource levels that it is provided.

I worry sometimes that when we do an audit, for example, on child and family services, it puts attention on that and then more money will be put on that, but that money is going to come out of housing or something else. I think it's only through the kind of parliamentary debate that perhaps more attention can be brought to some of the issues, and then of course there are the larger policy decisions.

Ms. Jean Crowder: I want to focus on something very specific for a moment. In your audit on the treaty land entitlement you identified this huge gap between what happens in Saskatchewan and Manitoba. Can you talk about anything you may have observed about why they haven't looked at the successes of Saskatchewan and used some of those techniques in Manitoba?

Ms. Sheila Fraser: We didn't really go into that in any great detail. As you point out, I'd say that the regional office in Saskatchewan was being more proactive and had a much better communication relationship with the first nations. As well, they helped to resolve what we call third party interests, which is one of the major stumbling blocks, whereas I think in the Manitoba regional office the attitude was more that that's not really our responsibility and so we're not going to do it. It's a difference, I think, in the attitude of the managers there. These issues, why there are these disparities in practice between two regions and whether they plan to use some of the better practices in Saskatchewan in the Manitoba region, would certainly be something to ask the department about.

The Chair: Thank you, Ms. Crowder and Ms. Fraser.

We'll now go to Mr. Albrecht for the Conservative Party.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you, Mr. Chair.

I welcome our witnesses today.

Thank you for the report. I also want to acknowledge that obviously there's a long way to go in continuing this process, but at the same time, there have been significant improvements. I noted in your conclusion, especially in paragraph 4.59, that overall Indian and Northern Affairs Canada has made satisfactory progress, with a 42% increase in three years. In addition, the next paragraph talks about the improvement in the relationship with first nations on plans to convert their outstanding selections enabling better coordination of its environmental assessments, etc.

Flipping back to page 10 of your report, paragraph 4.32 talks about the 42% increase and then paragraph 4.33 talks about the difference, with 159,000 acres converted between 1997 and 2005. Certainly 159,000 in one year compared to that number in eight years seems to be significant progress. I think we need to keep in mind that we can celebrate those successes.

Your report points out involving several partners in the process. I would like to follow up on paragraph 4.8, where you talk about treaty land entitlement agreements setting out the necessary responsibilities for INAC, the provinces, and the first nations. The first nations are responsible for land selection and third party interests. I'm wondering if there's any advice you could give us or that we as a committee could encourage first nations groups to take in helping themselves in expediting the TLE process.

It takes three partners. I recognize that, and I want to come back to the provinces in a bit. We've already said what INAC can do to improve, but could you help me understand what some of the other pieces are that we could address in terms of expediting the TLE process?

• (0935)

Ms. Sheila Fraser: Thank you, Mr. Chair.

We didn't specifically look at the first nations' role in this. We were looking at the management process of Indian and Northern Affairs.

I would say on the selection process by first nations that I don't get the sense that it's problematic at this point, because as we mentioned in the opening statement, over one million acres have been selected but still have not been converted. It's not a question that they're not doing the selections and that's why it's taking time; the selections are being made and the conversion process is very long.

One of the stumbling blocks that still remains to be resolved is the third party interests. That can be a number of factors. It could be municipalities, right of access, or water authorities, a number of issues, and at times the first nations have difficulty resolving these. We saw that when the department, particularly in Saskatchewan, became involved as a bit of a facilitator they were able to help the first nations resolve those issues more quickly rather than having the two parties just come to a standstill and not agree.

Mr. Harold Albrecht: I was wondering if there could be any preemptive way that when the areas are selected, maybe first nations could be made aware of potential obstacles that may—

Ms. Sheila Fraser: Perhaps Mr. Barrett can explain a bit about the process.

Mr. Frank Barrett (Principal, Office of the Auditor General of Canada): Mr. Chair, to answer the member's question, I believe that when first nations are selecting land, generally speaking they are aware of potential third parties. Often, for example, in Manitoba we'll be dealing with hydro wires that are around Lake Winnipeg, so they'll know there are issues there. In some cases, in fact, they'll even suggest partitioning land selections to scope out, if you will, the third party interests.

There are ways around that, and first nations are aware of that, but of course they are issues to be dealt with.

Mr. Harold Albrecht: The other question I wanted to raise is this. On page 11 of the report, you refer to the size of the land selections in Manitoba contributing to the department's success in converting a large number of acres. Then later in the report it says that the department's priority for converting large volumes of land has an adverse impact on the time required. I'm just wondering if there is another mechanism that INAC could use in terms of setting a goal for conversion, as opposed to just acres, because as we all know, you can get a large acreage but it may not be as meaningful as resolving some longer-standing issues.

Ms. Sheila Fraser: I do agree with the member that we are pleased to see that so many acres have been converted in a relatively short period of time, certainly compared to the progress previously. The difficulty is that going forward it will likely become more difficult because the size of the selections is likely to be smaller. It's easier when you have a really large land mass.

What the first nations can do—it's all based on acreage, but there's a minimum that they have to acquire—is make the decision to have fewer acres in a more expensive area, if you will, closer to a city, rather than more acreage in an area that may not provide them the same opportunities for economic development. In those cases they would generally be purchasing the land from another party. So it's really up to the first nation and their strategy as to how they want to position themselves, and I would suspect most of that is tied to economic development opportunities, if they want to be closer to a large urban centre.

Mr. Harold Albrecht: Thank you.

The Chair: You have 30 seconds.

Mr. Harold Albrecht: I will pass on my last 30 seconds.

The Chair: Thank you, members.

We're going to our second round now for five-minute question and response. We will begin with Mr. Bagnell.

Hon. Larry Bagnell (Yukon, Lib.): Thank you.

Thanks for coming. I love when we get an objective analysis of government.

I have two quick questions, and if you can keep your answers short, I'd like to share my time with Mr. Bélanger.

The first one is on the northern land claims. We still have a bit of a philosophical disagreement on the spirit of it, but I want to get into the letter of it. There are problems even in the basics. We have a nine-year review going on, and I think we're in year 14 just to provide the basic funding for the programs.

One of them allows a first nation to take down justice, and now they are in 10 years of negotiations to get something we have already signed off that they could have.

I wonder if you see faults in the northern land claims—in the implementation, almost in the letter of the law, as opposed to the spirit.

● (0940)

Ms. Sheila Fraser: We have noted difficulties. With the Inuvialuit, certainly it is very clear that 26 years after the agreement was signed there were still some basic things that had not been done, and in that case—I'm sorry to go on—it was interesting that when we asked the department what their obligations were under that agreement and what they had done, they didn't even have a list. They didn't know what the obligations were. So it's not a surprise.

It comes to the whole question of implementation and understanding what they've committed to. One is contracting. They're supposed to give preferential treatment to contracting. Well, the Department of Public Works and Government Services hadn't been involved in that and wasn't aware of it.

So there are real issues around implementation, as you said, of just the basic things.

Hon. Larry Bagnell: Do you come upon the problem that I come upon, where the Government of Canada signs a treaty under the honour of the crown for all departments, but only Indian Affairs seems to know that they've signed it, while all federal departments are supposed to live up to those obligations?

Ms. Sheila Fraser: Absolutely. There are issues that the other departments are not aware of. We mentioned the contracting one. There were no provisions put in place to be able to operationalize the commitments that had been made in that treaty.

Hon. Larry Bagnell: Could you comment on the 2% cap on Indian Affairs? Then I'll turn it over to Mr. Bélanger.

Ms. Sheila Fraser: All I can say is that it exists. There's a policy decision that has been made.

Hon. Larry Bagnell: No, I mean the effect it's having. Do you think it should be changed? Is it having a negative effect?

Ms. Sheila Fraser: It is having an effect when the population is growing by 10% or 11%, and there were already disparities there. There's a commitment to provide certain services, but the funding is not appropriate. So either you change the funding or you change the level of service. The government has to define clearly what is the level of service that can be provided, and then the resources have to be commensurate with that.

The Chair: Mr. Bagnell, there is sufficient time and we can get to Mr. Bélanger on the next round, so if you want to use your whole five minutes, you're welcome to do that.

Hon. Larry Bagnell: Well, Mr. Lemay took my question on the McCrank report, so I can't ask that one.

Mr. Marc Lemay: I'm sorry. You can discuss the Quebec situation, the Cree.

Hon. Larry Bagnell: Have you looked at Nunavut at all? The situation there seemed to be sort of left out.

Ms. Sheila Fraser: No, we have not looked at that.

I would mention that we are beginning an audit on economic development in the north and the whole regulatory framework, so I sure hope that will be of interest to the committee going forward.

The Chair: Go ahead, Mauril.

Hon. Mauril Bélanger (Ottawa—Vanier, Lib.): I want to thank our research staff. I'm new to this committee, Madam Fraser, and I'm trying to learn. I'm not sure I'm being successful, but I'll give it my best shot.

One of the questions they had suggested we raise is an interesting one. It's about evaluating the impact of the land claim agreements, and they refer to the fact that the department was supposed to conduct a pilot evaluation of land claim agreements by 2007. I want to know whether or not this was done. If so, did you monitor it, and do you have comments on that?

Ms. Sheila Fraser: As I recall, in our audit on Inuvialuit they were supposed to have done an evaluation. One was done, or there were a number of issues raised. Perhaps Mr. Campbell might remember more.

There were a number of issues raised and recommendations, I believe. Frank, can you respond?

Mr. Frank Barrett: I would simply comment, Mr. Chair, that when we began the audit, we were aware that the department was beginning an evaluation of the Inuit programs and the Inuit land claims and northern work. The plan in doing the audit was to be monitoring progress on that. At the end of the audit that had not been completed, so there was nothing for us to review or monitor.

I believe there's evaluation work going on now, but might I suggest that be a question to put to the department?

● (0945)

Hon. Mauril Bélanger: With our silly rules of how we conduct ourselves, my time is up, so I have to wait and come back to it. So hold on to that thought.

The Chair: Very good.

We'll now go to Mr. Clarke for five minutes.

Mr. Rob Clarke (Desnethé—Missinippi—Churchill River, CPC): Thank you, Mr. Chair.

Thank you, Ms. Fraser, for attending.

You mentioned some interesting points, similar to those from across the table here. My home province is Saskatchewan, so it's involved in the treaty land entitlement claims in the speeded-up process in Saskatchewan. My home reserve is Muskeg, and we have treaty land entitlements in Saskatoon. It's very progressive and it does make a substantial amount of money because of economic factors.

The 2% to 3% cap was mentioned here today. When was that cap first brought into place?

Mr. Todd Russell: 1996.

Mr. Rob Clarke: At this rate, has the current government been exceeding the expenditures of the 2% and 3% cap?

Ms. Sheila Fraser: I think the 2% cap was brought in.... One report we have here talks about from 1999 to 2004. I think it was even probably before that, so it has been at least a decade that there's been a cap on funding.

Mr. Rob Clarke: Has the government or the current government or INAC been exceeding the 2% or 3% cap on funding?

Ms. Sheila Fraser: I haven't done that analysis. I presume members might know better than I. I'm sorry, I don't have that information.

Mr. Rob Clarke: Would you be able to find that for me and present it back to this committee?

Ms. Sheila Fraser: Sure.

Mr. Rob Clarke: Also.... Sorry, I've lost my train of thought here for a minute.

Mr. Chair, is it all right if share my time with LaVar? Thank you.

The Chair: Sure, by all means, yes.

Mr. LaVar Payne (Medicine Hat, CPC): Thank you, Mr. Chair.

I appreciate the witnesses coming today.

After reviewing the status report, I'd like to refer to paragraph 4.9 of the report, where you underline that your audit did not include first nations or provincial governments. Given that fact that we're talking about a very integrated process involving the three partners, how would you account for the impact of the factors for the first nations and provincial governments on conversion times?

Ms. Sheila Fraser: You're right, we are not the auditors and have no mandate to audit first nations. They have their own auditors, as do the provincial governments. We are really looking at what the department is doing in all of this. We do agree there are three parties in all of this, but we're really looking at their management processes.

Presumably there is some impact from other parties, and as we mentioned, the third party interest often has an impact upon that. When we did our first audit, for example, there were some of the issues just in the management processes at Indian and Northern Affairs that were affecting the conversion process. One example I can give you—which they have since addressed, we're pleased to see

—was that an environmental assessment was required every two years. It was only good for two years. Because the process was so long, they would get to a certain point and then the environmental assessment would be outdated and they'd have to start all over again. That has now been extended to five years.

So we were trying to look at the management process within the department and how they were managing this, and whether they had a plan, targets, and how they were proceeding on that.

Mr. LaVar Payne: I guess it would be possible, because of the three partners, that this might account for some conversion rates between Manitoba and Saskatchewan. I'm not sure if you have been able to determine if there is any significance that has come out of that and was apparent in your audit.

Ms. Sheila Fraser: I would just point out for the committee that when we do any work dealing with first nations, we conduct extensive interviews and discussions with them. We always meet with first nations communities when we do this work. We don't do it simply within the department, and we have received excellent cooperation from first nations communities across the country. And they didn't mention anything particular there.

The main responsibility does lie with Indian and Northern Affairs to do these conversions. The department did not raise with us any particular differences between the two regions that could account for some of this. And as I mentioned earlier, there are still about a million acres that have been selected but that are not converted. If it were an issue of the first nations not making the selections, that would be another issue; but they are making the selections, and the conversion process is not occurring as quickly as it might.

• (0950)

Mr. LaVar Payne: You did mention that—

The Chair: I'm sorry, Mr. Payne, we are out of time.

We're still going along quite well here, and perhaps we'll be able to get back to Mr. Clarke and Mr. Payne.

Maintenant nous allons à Monsieur Lévesque.

[Translation]

Mr. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ): Good morning, Ms. Fraser. It's always a pleasure to see you. Good morning, gentlemen.

There are so many questions to ask that we don't know where to begin. I heard Larry talk about Nunavik. Even though I don't believe Nunavik is part of this report, is it still a land claimant?

Ms. Sheila Fraser: My colleague seems to be saying that they are all settled.

Mr. Yvon Lévesque: They are municipalities now.

In point 4.15 of your report, you state this: "...the Minister of Indian and Northern Affairs committed the federal government to converting 150,000 acres of land in Manitoba to reserve status for each of the following four years."

Can he catch up or do you think he won't be able to do so?

Ms. Sheila Fraser: In the first year, the departmental people had some success. They converted 159,000 acres. However, in the second year, 43,000 acres were converted. We don't yet have the results for the third year.

I hope they're be able to catch up, but we see they had trouble starting in the second year. That's why we believe they must solve the management system problems at the basic level in order to achieve that objective.

Mr. Yvon Lévesque: How do you explain why Manitoba has more than 430 selections representing 650,000 acres, whereas there are 700 in Saskatchewan, but only 451,000 acres? Are these extensions to existing reserves?

Ms. Sheila Fraser: Not necessarily. As I indicated, they may select the lands that are closer to the urban communities, which are farther removed from their reserve, if they believe that would be advantageous from an economic development point of view. It is possible that these are smaller lands, in urban areas, not necessarily large spaces near their reserve.

Mr. Yvon Lévesque: Now, in point 4.10 of your report, you list the department's key responsibilities. I was struck by the expression "conduct environmental site assessments".

Did you count the time they devoted to doing that research in the various areas and the cost that could represent?

Ms. Sheila Fraser: We don't have the answer, Mr. Chairman, but we could inquire. We don't believe they counted the time by activity.

Mr. Yvon Lévesque: In point 4.6, you state, and I quote:

Canada entered into this Agreement to fulfil longstanding commitments made in treaties signed by Canada and First Nations in Manitoba between 1871 and 1910. Eight additional First Nations in Manitoba have signed separate treaty land entitlement agreements.

Are there many more of these nations in Manitoba that have to sign agreements?

• (0955)

Ms. Sheila Fraser: We don't have that information, Mr. Chairman. We will try to find it and then give the committee an answer.

Mr. Yvon Lévesque: Note that I'm sorry to complicate your life.

Ms. Sheila Fraser: Those are excellent questions.

Mr. Yvon Lévesque: I'm going to hand over to—

The Chair: That's fine, thank you, Mr. Lévesque.

Now we'll go to Mr. Rickford, who has five minutes.

[English]

Mr. Greg Rickford (Kenora, CPC): Thank you, Mr. Chair.

Thank you to the witnesses for coming today.

In my private practice, just before this last election, I was involved in working with a number of first nations, primarily in Saskatchewan, in developing infrastructure around urban centres, obviously for their economic development, but also to improve access to various services like health and education. I was reading the 2005 report and the 2009 report comparatively, almost on that basis alone, because we identified a few challenges there. The treaty land entitlement agreements require that first nations negotiate a municipal service provision agreement with local municipalities. Obviously, if they need municipal services for reserve land that's attached to urban centres, there are cost-effective reasons for that. It absolutely may be required to be part of that urban infrastructure.

In your 2005 audit you identified that negotiating a municipal service provision agreement was a factor in delaying or undermining the selected land conversion process time—which is what a lot of chapter 4 focuses on—resulting in first nations paying taxes on the land selection out of settlement funds. I don't believe this issue was raised in the 2009 report, so I have two questions.

Does the negotiation of municipal service provision agreements continue to pose barriers for the selected land conversion process? And second, did the auditors follow up to examine what steps the department has taken since 2005 to resolve this issue?

Ms. Sheila Fraser: Thank you, Chair.

We may not have specifically mentioned municipal agreements, but we do talk about third parties, which would encompass—

Mr. Greg Rickford: Well, I'm just drilling down here, because obviously that's part of it. And as you mentioned earlier, we seem to be on the hook for selected land conversion process time, and I want to clarify for myself and for the benefit of the committee that third party is particularly complicated. In fact, the report talks about the federal government and the provincial government, and now we're talking about the municipal governments and the responsibility of the nation to negotiate with them under the TLE. So there seems to be a gap in information there.

Ms. Sheila Fraser: I'll ask Mr. Barrett to give more specific information.

Mr. Frank Barrett: I'd be glad to, Mr. Chair.

Maybe it's worth clarifying one point in particular. Referring to the time it's taking to convert, when we looked at the Manitoba agreements from year one and how the average went, we focused specifically on phase two and phase three of the agreements. Whereas a lot of the responsibilities of first nations in terms of resolving third party interests, which would very often include the municipal services agreements, will focus on phase one, we left that out of our analysis. Recognizing that from the point at which the request goes into the department, the department will be doing a lot of the work, that's where we placed our emphasis and focus.

Mr. Greg Rickford: That's fair enough, Mr. Barrett, and I appreciate that. But if phases one, two, and three follow each other, it may not be that the nation understands, or that we understand, exactly what it is they have to negotiate until the other phases, which we're responsible for and which are measured in your report, are actually required. Wouldn't that be a fair statement?

Mr. Frank Barrett: I would perhaps want to clarify that, if I may. For that reason, we only looked at conversions that have completed the process. From those ones, we only looked back to the beginning of phase two. So when we said that the average was seven years, it was that limited amount. There may have been several years in phase one, but we wouldn't see that if it isn't through the process yet, and we wouldn't focus on that.

Mr. Greg Rickford: In the end, why doesn't this show up in the 2009 report? Is it because of what you're saying, largely?

Mr. Frank Barrett: I would say no. In 2009, the main focus was to consider the progress that has been made toward specific recommendations. We also tracked other things. But there was a lot of explanation and background and description in the 2005 report that we didn't think was necessary to repeat in the 2009 report.

• (1000)

Mr. Greg Rickford: I have no further questions.

The Chair: Thank you, Mr. Rickford.

We're going to go to Ms. Crowder in a minute, but I might make a brief interjection, if I could.

When members are questioning our witnesses today, I appreciate that there need to be some sidebar conversations from time to time. If you could keep those to the sort of inaudible level, that would be wonderful.

Let's continue with Ms. Crowder for five minutes.

Ms. Jean Crowder: Thank you, Mr. Chair.

In the 1998 audit, in paragraph 14.57, there was a note "that Indian and Northern Affairs Canada does not request an overall assessment from the Department of Justice on the final settlement agreement before it is signed. We believe that such assessments are necessary to enhance the accountability of the federal parties and to reduce the risk that unintended interpretations of the terms of the agreement could be made".

Do you know if that's still the case?

Ms. Sheila Fraser: We haven't done a follow-up. That is something that would have to be asked of the department.

Ms. Jean Crowder: That's very serious, and given what we know about the great challenges and difficulties in implementation, it seems that we almost have a philosophical difference. I know that what we've often heard from first nations is that they are looking at the spirit of the agreement. And it's not possible to outline every single detail in the agreement. I know that you identified in subsequent audits that the government often tries to maintain the letter of the agreement. If this practice is ongoing, it would seem that this in itself would contribute to the kinds of challenges we're seeing with agreements being implemented.

This is a fairly specific question. In the 2003 audit, there was a comment made about a database. There was a database called the LCOS, which was, I think, the land claim obligation system. There had been a number of findings in 2001 about the inadequacy of the existing system, and the government was replacing that database. This, again, was in 2003. Do you know if the data management process has improved? I know that in the TLE it identified some serious issues with data management, so it sounds as if even if they have replaced it, it hasn't actually substantially improved.

Mr. Frank Barrett: Mr. Chair, thank you for the question.

I will just make a couple of clarifications. In the 2009 audit, there are two important points. One, on the keeping of records, we found there were some significant problems, particularly in the Manitoba office; but we also noted that they are putting in place a new database that will capture a lot of the information needed—not all of it, but a lot of it.

But that is a very different system from the LCOS dealing with comprehensive land claims. I believe the department could speak more to that system, but it's certainly covering different issues, as I understand it.

Ms. Jean Crowder: Back to TLEs, do Saskatchewan and Manitoba have different data management systems?

Mr. Frank Barrett: They are putting in place, and have committed to having in place by April 2009, a new data management system that would capture system information from across the country. It would actually capture all of the information needed on additions to reserves in a consistent fashion.

What we have seen to date is that in the Saskatchewan office, at least the core or basic information was needed—that is, on how many acres were involved, which land claims, and where it was in the process, etc.—whereas in the Manitoba office, very often it was difficult for us to obtain that information, and it was much less consistent in terms of its file structure.

Ms. Jean Crowder: It's surprising that in a federal department, we have such huge discrepancies in how the files are managed. We know there has to be a reflection of regional differences—and being from British Columbia, I will be the first one to say that—but it's also of great concern that we're having to report back to Parliament that there are such inconsistencies.

Back to the 1998 audit again, which impacts directly on the TLE, paragraph 14.42 stated: "One report attempts to place an economic value on uncertainty. It discusses the cost of not settling land claims in specific sectors of the B.C. economy." But moving over to Saskatchewan and Manitoba on the TLE, I know that's a factor you talked about in your report. Was there any effort to actually talk about the impact of that economic uncertainty?

•(1005)

Ms. Sheila Fraser: We've only given certain cases—or almost anecdotes—of how resolving the treaty land entitlement has enabled first nations to continue with economic development. But to my knowledge, there has been no study done or any assessment of the economic impact of resolving these issues.

The Chair: That's about it, Madam Crowder. We're out of time. Thank you very much.

We'll go to Mr. Duncan for five minutes.

Mr. John Duncan (Vancouver Island North, CPC): Thank you very much.

Welcome to our committee. I'm one of those people who were around when this TLE process was really quite a hot political potato. So there is a lot of history at work here, which I think has affected the current status of the difference between Saskatchewan and Manitoba. The fact that the two tripartite agreements were signed five years apart, and that Saskatchewan went first, has a lot to do with that history, and I think the differences are still showing up. I don't think I need to dredge any of that up, but we are talking about implementation here, not initiation.

I have a couple of questions. In your 2005 report, you talked about that fund that was set aside for addressing third party interests, and you talked about how none of that fund had been disbursed. Could you give us the current situation? The 2009 report does not address that question.

Ms. Sheila Fraser: We did not look at that fund in this particular audit, so I'm afraid I don't have that information. That is something the department would have to provide.

Mr. John Duncan: Right, but would that not be a normal thing to do if you already had identified something in 2005?

Ms. Sheila Fraser: Perhaps I should have explained from the very beginning that the status reports are follow-ups to the recommendations that we had made in previous audits. We don't go back and re-audit everything. So if there were no recommendation about the fund, we would not have addressed it. So the status reports are really there to assess progress on recommendations that have been made and to give an assessment as to whether progress is satisfactory or not.

Mr. John Duncan: In the latest report, you are saying that 430 selections remain in Manitoba and 700 in Saskatchewan. I guess the question that would be logical to ask is, have all of the first nations in the two provinces now negotiated all of their TLE claims, or are more claims likely in the future?

Ms. Sheila Fraser: We believe all the claims have been negotiated, but of course not all the land may have been selected. There may be more land selections to come.

Mr. John Duncan: I guess that's my next question. Do you have any idea what that number would be?

Ms. Sheila Fraser: No, but it would be a variable number. First nations, for example, could be entitled to 1,000 acres. But they could decide instead to have a smaller portion, or something closer to an urban centre and more expensive. There's a minimum that they have to select, but the number can vary. The department should be able to provide this information to the committee.

Mr. John Duncan: Did you become aware of barriers to the selection process for first nations?

Ms. Sheila Fraser: That's not something we looked at. We looked at the second phase of this: the process for conversion once the land had been selected.

Mr. John Duncan: Your report talked about the difference in the department's management of land selections in Saskatchewan and Manitoba. The words would indicate that the department supported dealing with third party interests in Saskatchewan but not in Manitoba. This doesn't seem to relate to the financial number I asked about. How was that demonstrated?

•(1010)

Ms. Sheila Fraser: We saw that the regional office in Saskatchewan was assisting first nations in resolving these third party interests. We became aware of this through discussions with department officials and first nations communities, who would then express to us that the department had been helpful to them in resolving these issues. In Manitoba, this was not the case.

In Saskatchewan, it was obvious that the first nations had a much closer relationship with the regional office. They knew the person they were dealing with in the regional office. They knew the status of the land that they were trying to convert. They would have regular meetings. They were very much involved in the process. We did not get that at all in Manitoba.

[Translation]

The Chair: Thank you, Mr. Duncan.

Now we'll go to the member for Ottawa—Vanier, who has five minutes.

Hon. Mauril Bélanger: Thank you, Mr. Chairman.

[English]

Mr. Barrett, the information I'm given is that in 2006 the Auditor General reported that the department had prepared a draft plan for evaluating the impacts of comprehensive LCAs, and that a pilot evaluation was due for completion in early 2007. Are you familiar with this?

Mr. Frank Barrett: Yes.

Ms. Sheila Fraser: This is the evaluation of the program, the one you were talking about earlier.

Hon. Mauril Bélanger: Has it been done?

Mr. Frank Barrett: We have not seen it. That would be a question to put to the department.

Hon. Mauril Bélanger: Were you not concerned that the benefits of the economic impacts of negotiated settlements were not being evaluated? Would this not be something you would naturally be following up on?

Mr. Frank Barrett: Just to clarify, on the economic benefits, part of the agreement for the Inuvialuit Final Agreement itself was that after five years there be a devaluation of the economic benefits of that agreement. We found in the audit that the first one was done and the second one had not been done. The department, in effect, had not done it.

There was also a program evaluation that was to be done of land claims, which was a separate thing.

Hon. Mauril Bélanger: But on the one that was supposed to be done by early 2007, you don't know if it has been done or not.

Mr. Frank Barrett: The program evaluation at the end, the conclusion of our audit, had not been done.

Hon. Mauril Bélanger: All right. Then that's something we'll go to the department about.

I have another question, Mr. Chairman, and it's for Madam Fraser. I verified the French text and it's the same.

Ms. Sheila Fraser: Good. I'm reassured.

Hon. Mauril Bélanger: I'm going to quote from paragraph 10. At the end of it you say, "They lack clear milestones and feedback mechanisms to assist in meeting its obligations". "They" is referring to...the department's processes for managing its responsibilities under these agreements to be incomplete.

This is the next sentence that I'm curious about: "Most notable was the Department's focus on completing specific activities required in the land claims' implementation plans rather than on respecting the spirit and intent of these agreements".

My question is this. How is completing specific activities that the land claim implementation plans require not in the spirit or intent of the agreement?

Ms. Sheila Fraser: I'll go back to the example that I use all the time. It's when we looked at the Nunavut land claim. One of the objectives that are clearly stated in that is to increase Inuit employment in the north, and under that there is a series of actions. At the initial time they had a percentage of how many people were employed. So we said to the department, actually expecting that they would have all of this information, "What progress is being made on that objective? Has employment increased?" They said, "Well, no, we have to do the specific actions that are listed, one of which is, for example, a meeting every year to discuss progress, and we've held the meeting."

We ask whether there has been progress. And they will say, "We held the meeting." So yes, there are a number of actions that will support an objective, but one would expect some measure of evaluation or some measure of progress on meeting an objective. Did you hold a meeting? If it was completely useless, have you done what you were set out to do?

So they're very much focused on the legal activity requirements in the act rather than saying these are things that are supporting—

•(1015)

Hon. Mauril Bélanger: All right. So it's like we've seen in other examples, where environmental assessments are done and basically they have a check mark, a bunch of things. So the criticism here is

that the department is more interested in check marks as opposed to actually getting results.

Ms. Sheila Fraser: Yes.

Hon. Mauril Bélanger: I understand now. Thank you.

Mr. Todd Russell: Thank you, Mr. Bélanger.

Now we'll turn to Mr. Clarke, who is going to share his time with Mr. Payne.

Mr. Rob Clarke: Earlier on, you mentioned community consultations for first nations, right? My perception of community consultations is going to the first nations and asking them for the information that you need to actually complete your report. In these consultations held, were they done in person or in a questionnaire format or in regular e-mail questionnaires? If so, what follow-up did your department have in verifying that this information obtained was correct?

Ms. Sheila Fraser: I would say almost all of our work, because there could be occasionally a letter, would be done in person by meeting first nations in their communities. We do not audit it, so we would not present it unless they obviously gave us all of the documentation required. We would not present it as audit evidence but more as that we were told this or that, or we would give little case studies. When we give those case studies, they would provide us with the documentation to support it.

Mr. Rob Clarke: So it would be someone from the regional office who would go out there and interview them. Or would it be someone from Ottawa who would physically have to travel out to the first nations?

Ms. Sheila Fraser: No, no, it's from our audit team. Our audit teams go out. In this case they would visit first nations in Manitoba and Saskatchewan because we would be there auditing those regional offices anyway. So they extend their audit work and go to visit various communities.

Mr. Rob Clarke: How many consultations were held in Saskatchewan?

Mr. Frank Barrett: Maybe I'll first just say a word of clarification. Yes, we always do meet with first nations. We don't take a representative sample and reach our audit conclusions; it's really the context. For this follow-up audit specifically, we visited, I believe, four first nations in Saskatchewan.

Mr. LaVar Payne: Thank you.

Because I have a bit of an auditing background, I have a great interest in that, and I just wanted to refer back to the comment you made in terms of the first nations and the province having their own audits.

My question is, did your department auditors and the first nations and the province share any of their own audit information around these?

Ms. Sheila Fraser: Let me just check. The first nations are required to produce audits to the Department of Indian and Northern Affairs. Audited financial information is one of the requirements, and in fact if they do not do that, they do not get their funding renewed.

So all first nations—some produce them, we've noted in the past, a little late—produce audited financial statements to the department. In fact, when we did a study on reporting requirements, we found that in some cases they had requirements to produce up to five different financial statements.

So they're producing it. We have done work on the reports themselves and how the department will deal with them, but we don't necessarily share information, for example, with the particular auditor.

As for our provincial colleagues, each province has a legislative auditor, and we act as the auditor of the three territories. We do work together. It's sort of collaborative or concurrent work. For example, when we audited the B.C. treaty process, the Auditor General of British Columbia looked at the same process from a provincial point of view. Our reports were released on the same day, and we had a common forward, raising common issues between the federal and provincial government.

So at times we will do collaborative work. For example, the Auditor General of Alberta did some work on child and family services in Alberta, so we're aware of what our colleagues are doing as well.

• (1020)

Mr. LaVar Payne: I was thinking more in terms of the conversion times. Is there any aspect there?

Ms. Sheila Fraser: We have not done anything on that, no.

And this is really a federal responsibility, to take the land and then do the conversion.

Mr. LaVar Payne: Yes, I understand that, but we have three different levels here. I guess I'm trying to look at it in a bigger picture and asking whether we should not be sharing that information. Or alternately, why wouldn't we do a three party audit to get all the facts all together for everybody at the same time and come to the same kind of conclusions?

The Chair: A brief response.

Ms. Sheila Fraser: I can just say that we consulted with, of course, provincial authorities when we did this audit, as we consulted with first nations. But of course the choice of audits is up to each jurisdiction, and this was a narrower, more focused follow-up audit of the previous recommendations.

[*Translation*]

The Chair: Thank you, Mr. Clarke and Mr. Payne.

Mr. Lemay, you have the floor for five minutes.

Mr. Marc Lemay: I'm going to try to be briefer than that, Mr. Chairman.

During the discussions on land claims, did you hear any remarks about the establishment of reserve lands in a national park?

Ms. Sheila Fraser: No, we're not aware of that.

Mr. Marc Lemay: Thank you.

[*English*]

The Chair: Okay.

Let's go now to Mr. Duncan.

Mr. John Duncan: Thank you. I wanted to follow up on my last set of questions.

You indicated the department supported first nations in Saskatchewan in addressing third party claims, but not first nations in Manitoba. From what I heard you say, you said that was based on conversations with first nations and with a conversation with departmental officials in Saskatchewan. I did not hear you say the department in Manitoba said they did not support first nations in addressing third party claims. I'm just wondering if that is definitely the case, and if not, then you're basing your evidence on outside interest.

I just found that statement to be very—

Ms. Sheila Fraser: Perhaps, Mr. Chair, I wasn't clear. I understood the question to be how did we know they were doing this in Saskatchewan.

But we did have discussions with officials in Manitoba and we also obtained evidence through a file review. What we say in our reports is not just based on conversations; it's also having documented evidence. We saw that in Saskatchewan they were doing this and we saw that in Manitoba they were not, and they confirmed that with us. The committee may not be aware that as part of our process in all these audits we provide draft reports to the department in the whole audit process. At the end of the audit, the department confirms to us that the facts are correct. So the department has confirmed to us in writing that they agree with what we have presented in the report.

• (1025)

Mr. John Duncan: Thank you for the clarification.

The Chair: Thank you, Mr. Duncan.

I'm going to use the remaining slot for a follow-up question, Madam Fraser.

You mentioned that you're looking at possibly doing an audit on the issue of northern economic development. This would be of some interest to our committee because we're in the stages of trying to scope down a direction that will be meaningful for this committee's considerations as well. I wonder if you could give us an indication of what the timing or the scope of that committee might be.

Ms. Sheila Fraser: We are planning to table the audit in May 2010. I can ask Mr. Campbell to give you the scope. If you have any suggestions, we would be more than happy to consider them as well.

Mr. Ronnie Campbell: Thank you, Mr. Chair.

As the Auditor General says, we're planning to report in May 2010. We're looking specifically at the Northwest Territories because we need to scope it in some manageable way. The Auditor General is also the auditor of the territories, so our territorial audit team is going to be doing some work on the actions of the territorial government.

Frank's team, under my direction, is going to be looking at what the federal government has done to prepare for economic development in the north. We're looking at the settlement of land claims, going back to the Berger commission, where Justice Berger had recommended settlement of land claims before development really got going. So we're going to look at action going back a fair bit in time. We're also going to look at the establishment of a regulatory framework. It looks as if one is in place. As the other member has brought out, the McCrank report is raising questions about how well that's working. We're also going to ask questions about what both governments have done in relation to building capacity so that the people who live in those communities are in a position to take advantage of development as and when it happens.

The Chair: Thank you. That's going to be helpful.

We'll finish up there. If there are a few remaining questions, we can go for maybe three minutes or so.

Ms. Crowder.

Ms. Jean Crowder: When you looked in 2003—and I think you've also identified this subsequently, about the dispute resolution mechanisms that were in place for Nunavut and Gwich'in—in your view, has there been any effort to improve those dispute resolution mechanisms?

Ms. Sheila Fraser: Unfortunately we have not done a follow-up specifically of that, though we are considering a pretty extensive follow-up for the spring of 2011. That could be an issue we would look at then.

Ms. Jean Crowder: On devolution with the transfer of federal responsibilities to Yukon, I know you had suggested in the past that there was some review and that lessons learned were applied, but my understanding is that there are also some challenges at this point in terms of the agreement between the first nations and the Yukon government and what the federal government outlined in terms of how some of those transfers should be used in light of first nations self-governance. Have you looked at any of that?

Ms. Sheila Fraser: No, we have not.

Ms. Jean Crowder: Are there any plans on looking at that?

Ms. Sheila Fraser: Not in the immediate future; perhaps down the road.

Ms. Jean Crowder: Thank you.

The Chair: Thank you, Ms. Crowder.

I think Mr. Russell has a brief question also.

Mr. Todd Russell: It's similar to some questions that have already been asked, Mr. Chair. And I want to thank you.

On comprehensive land claims, even since you've done your report there have been new ones signed—I mean the Nisga'a, the Nunatsiavut agreement that was in Labrador—and we often get into this debate within Canada. We sign all these agreements with native people. They say, you know, we pump the money out the door—this is what some people say—and we don't get a tangible result, when they look at it. And many times it's because of the obligations of the crown that haven't been fulfilled. Even since 2005 in Nunatsiavut, which I'm familiar with in Labrador, there are already complaints about the lack of implementation, the slow dribble of funds to deliver services, and things of this nature.

Because there are so many departments involved, have you made recommendations about how to improve the efficiency of the implementation of these land claims agreements? There's going to be a big conference here in May that talks about this. Something more must be done, because this criticism will inevitably fall back on aboriginal people, and this cycle continues when really the crown is not living up to its own obligations, in my view.

Ms. Sheila Fraser: Certainly when we looked at the Inuvialuit, which is more than 25 years ago, at that point there was no implementation plan even produced. Now, I believe that has changed since and there is a plan. We have not assessed, though, how good those plans are, how much attention is paid, and even if there is a plan, how it is managed after the fact. We haven't really done that in any of the newer claims. That's certainly something the office could look at.

One of the big issues as well, which members mentioned, is the coordination with other departments. That came up as well in the Inuvialuit one, where commitments were being made and the departments that would have to implement them weren't even really aware.

So it's around the planning of implementation, then how it is actually carried out, whether there are the required resources dedicated to doing this, and some sort of process of evaluation at regular points in time to see if things are going as they should be or whether corrective action needs to be taken.

• (1030)

Mr. Todd Russell: Thank you, Mr. Chair.

[*Translation*]

The Chair: Thank you, Mr. Russell.

On behalf of the members, I thank you for your presentations.

[*English*]

At this point, members, we're going to take a brief recess to allow our witnesses to pack up, and you can say your goodbyes. We'll reconvene in approximately five minutes. We will be going in camera for brief committee business. It shouldn't take more than ten minutes.

Thank you.

[*Proceedings continue in camera*]

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