



CANADIAN ARTS
COALITION
CANADIENNE DES ARTS

*Study on the impact and utilization of Canadian culture and arts in
Canadian foreign policy and diplomacy, and other related matters*

Appearance before the Senate Standing Committee on Foreign Affairs and International Trade

April 26, 2018

Witnesses:

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Opening Presentation

Merci, Madame la présidente, pour l'occasion qui est offerte à la Coalition canadienne des arts de comparaître devant le comité.

Notre discours d'ouverture abordera deux thèmes en lien avec l'étude du comité :

- Dans un premier temps, nous parlerons des liens entre la diplomatie culturelle et les enjeux d'intérêt national et les valeurs sociales;
- Dans un deuxième temps, nous parlerons des cadres nationaux et internationaux qui favorisent ou limitent l'utilisation de la diplomatie culturelle.

Nous avons retenu ces thèmes car ils nous apparaissent apporter des points de vue complémentaires aux autres témoignages entendus jusqu'à présent dans le cadre de cette étude sur la diplomatie culturelle.

Cultural Diplomacy and Values-Based Knowledge Exchange

One of the purposes of diplomacy is to advance matters of mutual national interest. For example, for more than 15 years, Canada has used diplomacy to establish the protection of the diversity of cultural expressions as a key human endeavour for Canada and its partner nations via the UNESCO. But whose interests are we talking about? Matters of national interest are so because they are of high importance to individual citizens living on this land. We would therefore like to bring the Committee's attention to the role that individual artists and arts organizations can play, in the context of cultural diplomacy, to advance such matters.

When artists and arts organizations participate in trade missions, a number of outcomes ensue. Quantitative outcomes such as tours, co-productions, and other cultural exchanges are expected, as the traditional measures of success of trade missions. Qualitative outcomes, in the form of knowledge exchange, are however too often disregarded. Yet, knowledge exchange naturally happens as one-on-one relationships are established through cultural diplomacy. This knowledge exchange can be left to serendipity, but it can also be the object of deliberate efforts around matters of national interest, such as the reconciliation between Indigenous and non-Indigenous peoples. For example, in the last year, trade missions in Australia have intentionally brought together artists and arts organizations engaged in reconciliation processes. The results – in addition to international tours of Indigenous artists – have been a heightened awareness of Indigenous worldviews and the exchange of ideas and strategies to take action towards reconciliation.

Of course, not all trade missions can or should be the focus of specific knowledge exchange efforts. However, one would hope, when values-based knowledge exchange happens around reconciliation – or around gender parity and anti-harassment work, for example – that this can be acknowledged as a very valuable contribution of cultural exchanges to Canada's diplomacy and foreign affairs.

Frameworks Supporting or Restricting Cultural Diplomacy

Last month, the Canadian Arts Coalition submitted a brief on reciprocity and regulatory frameworks affecting trade and cultural diplomacy. This brief examined three such frameworks:

- Foreign Workers Regulations;
- International Taxation; and,
- Intellectual Property.

Although Canada's Temporary Foreign Workers Program has been the subject of negative press coverage, the truth is Canada's work regulations are quite progressive and have made it easy for Canadian arts companies to invite foreign artists to Canada with the intent of being invited back. Unfortunately, other countries' work regulations aren't always as welcoming as ours.

There are opportunities, as Canada undertakes new trade negotiations, to remove or reduce these artist mobility barriers. For example, in the renegotiation of the North American Free Trade Agreement, Canada's negotiators have pushed for more cross-border mobility of business professionals, under the NAFTA Professional (TN) Nonimmigrant Status. CAPACOA and the Canadian Arts Coalition have advocated for an expansion of the list of TN professions, so it also includes live performing artists. We are keeping our fingers crossed as the renegotiation appears to be coming to a conclusion.

We are also hoping that considerations for artists mobility can be systematically included in future trade negotiations.

International taxation can also create significant administrative and financial barriers to artist mobility and hinder reciprocal relationships with foreign trade partners. The root cause of the problem, here, lies in our fiscal conventions. "Article 17", in the OECD Model Tax Treaty, creates a particular tax treatment that enables states to tax performing artists in the country where the artists perform. As a result, foreign groups and artistic companies performing in Canada have income tax withheld on their fees. They must also often withhold tax on payments made to their individual performers, they are required to complete T4A returns, and they must file a Canadian income tax return. The costs of compliance to this taxation regime are estimated to be at least four times greater than the tax revenues collected by the Canadian government.

Although tax treaties cannot easily be reopened, the government could take advantage of cultural diplomacy initiatives to negotiate voluntary bilateral suspensions of Article 17 and its replacement by more flexible administrative policies. The terms of this suspension could be captured in legally-binding side letters, such as were used in the negotiations of the Comprehensive and Progressive Agreement for a Trans-Pacific Partnership. We believe that this would effectively strengthen our diplomatic ties with our foreign partners, and reduce barriers that will otherwise hinder the success of our trade efforts.

Intellectual property is also a matter of trade and diplomacy, as an artist cannot collect royalties in another country unless the two countries have the same copyright regime, and a reciprocity agreement is in place between their collective management organizations.

In the visual arts, the Artist's Resale Right, is a market-based mechanism that entitles visual artists to a 5% royalty on the sale price, each time their work is resold through an auction house or a commercial gallery.

The Artist's Resale Right exists in 93 countries, including several of Canada's trade and diplomatic partners: the United Kingdom, Ireland, Mexico, Australia and India. The Artist's Resale Right is also enshrined in European legislation, and the EU requested that Canada implements it during the CETA negotiations. But to no avail.

Canada still hasn't adopted the Artist's Resale Right.

Canada's artists – and Indigenous artists in particular – are losing out on the tremendous profits being made on their work in the secondary market, in Canada and abroad.

Inuit artist Kenojuak Ashevak sold her piece, *Enchanted Owl*, for \$24 in 1960. This work was later resold for \$58,650. Mary Pratt had 36 artworks go to auction between 1996 and 2013 – the total Artist's Resale Right royalties she missed out on amounted to \$21,132.

Cultural diplomacy implies, but shouldn't be limited to, allowing for artists and their works to cross physical borders. It also resides in upholding to our social values, including fair compensation, and in advancing matters of national interest, including reconciliation and the protection of cultural diversity, throughout our trade missions, our trade negotiations and our other cultural diplomacy endeavours.

Thank you.