

"EVERY QUEBECER can and must have the opportunity to take advantage of the scientific, esthetic, educational, and recreational values incarnated in our CULTURAL PROPERTY. That is the spirit of the law."

A Fresh Look at Cultural Heritage

Workbook



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A Word from the Minister

Heritage plays a significant role in our memory and is an integral part of the environment in which we live. The Québec of yesterday has shaped the Québec we will pass on to our children. This is why we are passionate about our shared heritage and committed to demanding that the right steps be taken to ensure its long term survival.

The *Cultural Property Act* (CPA) was created for this purpose. This act is outstanding in many ways and was on the cutting edge when it was adopted in 1972. But it is not enough to meet the needs of the 21st century. We must therefore develop a new approach that will embrace the extraordinary diversity of our heritage and help it survive the next decades, for ourselves and on behalf of generations to come.

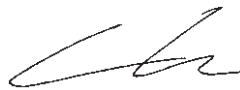
This new legislative framework must be societal in scope. Protecting our heritage is a task for which all of Québec society should take responsibility. This means encouraging government participation, seeking input from the public, and empowering local and regional elected officials to take action. In short, it means promoting a vision of a Québec that unwaveringly assumes responsibility for protecting and passing on the cultural property that reflects its history, values, and identity.

Achieving this vision will require broad support for a blueprint that all Quebecers can rally around. That is our goal in submitting for public consultation this green paper entitled *A Fresh Look at Cultural Heritage*, which I have the honor of presenting to you.

This paper provides a comprehensive overview of the issue. It includes a critical evaluation of 35 years of CPA enforcement, a clear description of the major challenges we will face, and a series of possible solutions that are both creative and realistic.

Over the coming weeks, we will be visiting the regions of Québec in order to present this green paper and listen to you—citizens, heritage partners, economic actors, elected officials, and heritage property owners. We wish to gather proposals, ideas, insights, and ultimately conclusions that the majority will support.

My hope is that many of you will join in taking a fresh look at the heritage that time has bequeathed to us. Québec's cultural heritage is a valuable gift from the past. If we do not protect it as a society, who will?



Christine St-Pierre

Minister of Culture, Communications
and the Status of Women

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Introduction

This green paper is the result of an analysis of 35 years of CPA enforcement and a reflection on cultural heritage protection in the 21st century. It was produced by an internal committee at Ministère de la Culture, des Communications et de la Condition féminine (MCCCF), with support, comments and expertise provided by an external steering committee chaired by Mr. Gérald Grandmont.

The external steering committee consisted of the following members:

Mr. Denis Boucher
Mr. Bernard Brodeur
Ms. Louise Brunelle-Lavoie
Mr. Dinu Bumbaru
Ms. Christina Cameron
Mr. Mario Dufour
Ms. Louise Dusseault-Letocha
Mr. Serge Viau
Ms. Dominique Vien

MCCCF was tasked with drafting a bill that would

- Ensure that principles like sustainable development guide government actions
- Be accompanied by increased support for the Cultural Heritage Fund, with a permanent budget similar to the green fund
- Be subject to a public consultation

Entitled *A Fresh Look at Cultural Heritage*, this green paper consists of two documents. The first is a study paper that presents the legal framework governing cultural heritage, as well as a critical review of the CPA. The second is this workbook, which summarizes the study paper and proposes a new legislative approach inspired by the Natural Heritage Conservation Act.

This workbook is yours to keep. It outlines the study and analysis process, as well as the proposal put forward for ensuring the protection of our cultural heritage. It raises a number of questions. We look forward to hearing what you think.

Study Paper Summary

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"Every Quebecer can and must have the opportunity to take advantage of the scientific, esthetic, educational, and recreational values incarnated in our cultural property. That is the spirit of the law," asserted cultural affairs minister Claire Kirkland-Casgrain when the CPA was adopted in 1972. Without calling into question the government's generous intention to grant citizens the right to benefit from the wealth and diversity of Québec heritage, we must nonetheless acknowledge that 35 years later, things have changed. In 2007–2008, given the scope of the task at hand, this right now comes with the responsibility of protecting our heritage. Since heritage fosters our sense of belonging, embodies a significant piece of our history, and enriches our living environment while giving it a distinctive identity, we must all work to protect it.

Hailed by observers as a veritable revolution at the time of its adoption, the CPA is now showing its age despite significant amendments introduced from 1978 to 1999. The first part of the green paper on heritage explores the historical evolution of Québec heritage protection legislation and discusses the scope and impact of the current act, as well as the legal framework governing Québec's cultural heritage.

In Québec, two levels of government—provincial and municipal—have the power to intervene in matters of cultural heritage protection. This power is exercised erratically under the CPA and four other acts: the *Act respecting land use planning and development*, the *Environment Quality Act*, the *Natural Heritage Conservation Act*, and the brand new *Sustainable Development Act*. Over time, the legal framework has grown increasingly complex and comprehensive in response to changes in the concept of heritage.

Heritage Legislation Since 1922

Preceded by the *Act respecting the conservation of monuments and works of art of historic or artistic interest* (1922), the CPA brought answers to numerous concerns of its time when it was adopted in 1972. In particular, it replaced the notion of *historic monuments* with the broader concept of *cultural property*. It also introduced new provisions such as land exemptions and regulations regarding archeological digs. Lastly, it instituted Commission des biens culturelles (CBC), which took the place of Commission des monuments historiques, created 50 years earlier, and whose decision-making powers as the protector of cultural property were entrusted to the minister.

It should be noted that CBC plays a key advisory role with the minister responsible for enforcing the CPA, and that it is firmly in the vanguard with respect to the changing notion of heritage thanks to its proximity to both the research community and the general public.

As currently enforced, the CPA enables the minister to protect buildings, objects, and land by granting them two types of status: *classification* and *recognition*. *Classified* or *recognized* protected cultural property is divided into two main groups: **immovables** and **movables**.¹ Under the CPA, the minister can also order the establishment of a protected area around a classified historic monument and recommend that the government designate *historic districts* like Île-d'Orléans, *natural districts* like Percé, *historic and natural districts* like Mont-Royal, or *national historic sites* like the Québec National Assembly.

1. They are also divided into six cultural property categories, i.e., *works of art, historic property, historic monuments, historic sites, archeological property, and archeological sites*.

Even the most general of overviews testifies to the scope of results achieved since adoption of the first act in 1922. In September 2007, types of classified property included 436 historic monuments, 63 historic sites, 12 archeological sites, 5 historic and archeological sites, 58 works of art, 21 historic properties, and 12 archeological properties. Types of *Recognized* property included 86 historic monuments, 62 movable historic properties, and 8 historic sites. Under the act, 108 protected areas have been established around classified monuments and a total of 13 districts have also been decreed. Moreover, these figures, which tell us nothing about the nature and significance of these treasures protected on behalf of the public interest, do not include immovables designated by the municipalities.

Municipal Initiatives

Added in 1985, the CPA chapter entitled *Protection of Cultural Property by Municipalities* was a significant step forward for heritage protection. It gave municipalities the same powers as the minister and government for adopting measures to protect the exterior of immovable heritage property. Under the law, municipalities can enact bylaws to designate historic monuments and establish heritage sites; grant financial or technical assistance; and acquire, transfer, and sell property or expropriate it with a view to protecting and enhancing a designated historic monument. The attribution of these powers to the municipalities has had a significant impact on heritage protection. Since 1986, over 180 municipalities have designated 449 historic monuments and established 139 heritage sites under this chapter of the CPA.

Current Financial Tools

Societal efforts to promote heritage are supplemented by financial tools that enable the minister responsible to fulfill the obligation of providing financial assistance to citizens and private developers who own heritage property or property located in protected areas, to regional and local municipalities, to organizations with a province-wide mission, and to partner organizations such as universities for the purposes of supporting heritage awareness, protection, and enhancement activities.

In addition to subsidies provided under MCCCCF programs, five different financial tools have been designed to increase government assistance. First, a tax measure put in place in 1973 grants a property tax reduction to owners of classified immovables that are not operated as businesses. Since 1986 this measure has included financial compensation to local municipalities for loss of income due to this reduction.

The Québec Religious Heritage Foundation was created in 1995 to support the conservation and enhancement of Québec heritage elements of religious interest. Between 1995 and 2007, some \$161.5 million in MCCCCF funding was allocated to over a thousand projects of varying scope in all Québec regions. Under the Placements Culture program, Conseil des arts et des lettres du Québec offers nonprofit cultural organizations matching grants proportional to donations and contributions received from foundations and private donors. To date, 28% of program beneficiaries have been museums and organizations dedicated to heritage protection.

In addition, the Québec Cultural Heritage Fund—created by an MCCCCF act in September 2006—has provided long-needed assistance to owners of cultural property protected by municipalities, as well as to owners and managers of works of art that are integrated into architecture and the environment. Partially funded by the tobacco tax, the overall budget of the Québec Cultural Heritage Fund is combined with private partner contributions, and resulting investments are expected to reach \$200 million by 2011.

Lastly, cultural development agreements signed between MCCCCF and local or regional municipalities have proven effective with respect to cooperative heritage management. Initiated to promote the adoption of the 1992 Québec Cultural Policy, these agreements have notably made it possible to draw up inventories—essential tools for planning regulations on protection and monitoring—and develop activities to showcase, publicize, and promote local heritage across Québec.

Municipal legislation clearly assigns municipalities a key role in the preservation and enhancement of heritage treasures within their boundaries. For example, Section 4 of the *Municipal Powers Act* (2006) upholds a longstanding tradition by stating that municipalities have jurisdiction in matters of culture.

Other Québec Legislation and Heritage

The *Act respecting land use planning and development* (1979)—certainly the act most closely tied to the CPA—contains a number of tools for land use planning and development, a concept that includes identified heritage areas. These tools include land use planning and development plans, designed for regional county municipalities (RCMs) and metropolitan communities, and planning programs for municipalities.² These tools used by municipal bodies foster a comprehensive vision of land use planning.

In addition to the *Archives Act* (1983) and the incorporating acts of the major institutions dedicated to cultural heritage conservation and enhancement, three other Québec acts illuminate the concept of heritage: the *Act respecting Bibliothèque et Archives nationales du Québec*, the *Act respecting the Montréal Museum of Fine Arts*, and the *National Museums Act*.

As part of the CPA renewal process, the following three acts not only impose certain rules, but also suggest perspectives and principles worthy of consideration and perhaps adaptation. The *Environment Quality Act* (1972) is the first piece of Québec's legal framework in this regard. Among the measures instituted by this act, the environmental impact assessment and review procedure introduced in 1979 for certain projects is particularly significant for cultural heritage. Before building roads, powerlines, certain types of plants, incinerators, etc., the act requires major project developers to consider the impacts on cultural heritage.

Designed to safeguard “the character, diversity, and integrity of Québec's natural heritage,” the *Natural Heritage Conservation Act* (2002) also aims to protect a perhaps lesser known heritage element—man-made landscapes that have been “shaped over time by human activities in harmony with nature and present outstanding intrinsic qualities, the conservation of which depends to a large extent on the continuation of the practices that originally shaped them.”³

Lastly, the recent *Sustainable Development Act* (2006) creates new rules aimed at ensuring cooperation, consistency, and coordination with respect to government initiatives. This act sets out sixteen guidelines for government action, two of which have a cultural dimension: One encourages access to

knowledge, while the other specifically addresses the protection of cultural heritage that “reflects the identity of a society. [Cultural heritage components] must be identified, protected, and enhanced, taking their intrinsic rarity and fragility into account.”

Next Steps

This historic and legislative overview reveals a complex reality that gives rise to an observation: The scope of the current act regarding cultural property, which has gone a long way toward ensuring the respect, conservation, enhancement, and sometimes even the rescue of unique heritage elements with public significance, is gradually being undermined/eroded. New ground broken by other acts and their interaction with the CPA, the emergence of new heritage concepts, the desire to modernize CPA enforcement and terminology, and the globalization of efforts to conserve a broader heritage that encompasses our own are a few of the aspects brought to light by the questions raised in the second part of the green paper on heritage.

Why modernize the CPA? Even though the act has few critics on the whole, and everyone agrees it is absolutely necessary certain misgivings expressed over the years have revealed irritants that could be boiled down to two opposing points of view: The act is poorly and inadequately enforced, lacks teeth, and is limited in scope or, on the contrary, it is too restrictive, complicated, and burdensome to enforce. Comments by the sixty-odd organizations and dozen specialists consulted by the author of the 2000 Arpin Report clearly point to “the need to amend the current CPA.”⁴

So, should the scope of the CPA be broadened to encompass new heritage elements? What statuses should be applied and by which bodies? How can we develop an approach that will help reduce the number of emergency decisions? How can the act and its enforcement be improved and made more administratively efficient? Lastly, how can we strengthen the commitment of all actors involved in protecting heritage? The second chapter of the green paper on heritage presents five main questions along with a number of answers, documentation, and a discussion rooted in contemporary realities, national and international expertise, challenges, proposals, a few certainties, and many subquestions.

2. Regulations can be enabled under the act in order to guide initiatives involving the built environment and round out development planning and coordination. There are a dozen such regulations, including two of particular importance with respect to heritage: the *Regulation respecting the site development and architectural integration plan* and the *Regulation respecting comprehensive development programs*.

3. To date, no land with these characteristics and qualities has been protected.

4. Advisory Committee on Québec's Cultural Heritage Policy, *Our Heritage, A Present from the Past*, November 2000, p. 137.

Expanding or Redefining the Scope of the CPA

In a field in constant flux, concepts evolve, change in scope, become more refined and focused. Heritage is no exception. For example, in recent decades new heritage elements have gradually emerged. These include intangible heritage and heritage landscapes, both of which embody significant identity values and over which the CPA has little or no jurisdiction.

The concept of intangible heritage is worth defining. In 2003, UNESCO enshrined the term when it adopted the Convention for the Safeguarding of Intangible Cultural Heritage, which nearly 80 member states have ratified to date.⁵ The Convention defines “intangible cultural heritage” as “the practices, representations, expressions, knowledge, skills—as well as the instruments, objects, artifacts, and cultural spaces associated therewith—that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature, and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity [...]”

Intangible heritage is transmitted first and foremost by people who tell, explain, teach, and present their knowledge. Should we attempt to protect these witnesses, these bearers of traditions, as well as the knowledge they transmit and perhaps even the events and activities that showcase their know-how? Belgium, Japan, South Korea, Thailand, Romania, and Haiti recognize the importance of certain bearers of intangible cultural heritage by designating them “treasures” or “living national treasures,” a title bestowed as a sign of protection, rather than a tribute.

In Québec, intangible heritage is currently being documented and identified by various researchers and organizations, many of which are part of Conseil québécois du patrimoine vivant. To date, the CPA has been limited to recognizing property and collections with a view to preserving the memory of certain Québec customs and traditions; Only the related objects are protected. These include a violin, boats, a cheese factory, stations of the cross, etc. Who made them, how, why, and for whom? What were their particular uses? In short, what have we preserved of their ethnological and symbolic dimensions and, above all, what role should an updated heritage act assign this type of heritage?

The same question may be asked regarding heritage landscape protection, but the lawmaker’s very first task will be to define this type of heritage. Given the current diversity of landscape concepts, it is essential to determine, for example, how to distinguish a heritage landscape from a man-made landscape and agree on a common definition and name, if only to avoid overlap between the laws in effect in Québec.

Moreover, heritage landscapes—like their immediate surroundings—are subject to change, and it is worth asking whether they should be frozen in time with legal protections that effectively prevent their further evolution. How can we determine what makes a heritage landscape authentic? And if tomorrow’s landscape heritage will be shaped by standards and requirements enacted today, shouldn’t we be farsighted and start now to promote high standards of quality in architecture and urban design as well as exemplary practices in land use planning and the design of public spaces? Lastly, should Québec undertake to provide legislative oversight in this field when other countries have rejected this approach, considering it instead a matter of administrative management and the development of a new culture, particularly through the melding of disciplines (architecture, design, urban planning, etc.) and cooperation between government decision makers? Where does Québec fit in?

Determining Statuses to Apply

Earlier we reviewed the eight forms of protection or status that can be assigned under the CPA by the minister, the government, or municipalities.⁶ Revising the act provides an opportunity to make these titles more consistent and complementary, as well as to simplify vocabulary and clarify criteria.

Since the adoption of the first act in 1922, the terms used to designate forms of protection have followed trends in heritage. But today, as citizens are called on to take greater responsibility for heritage protection, the lawmaker should aim for clarity and transparency. Shifts in meaning, ambiguities, and definitions too close to those found in other acts and regulations cause confusion and lead to misunderstandings by the public and administrative bodies, who are less familiar with the subtleties of the CPA.

5. Canada has not yet ratified this convention.

6. Classification, recognition, protected area, designation, site establishment, natural district, historic district, and national historic site.

For example, in the wake of the municipal mergers of 2002, when Montréal and Québec City were divided into boroughs (*arrondissements*), should we still use the term *historic district* (*arrondissements historiques*)? Who can tell the difference between a *historic site* and a *heritage site*, as differentiated by the experts? There is no shortage of questions like this, and they provide a clear case not only for clarifying statuses, but for developing criteria not included in the current act.

In fact, the CPA has no criteria for more accurately establishing the heritage characteristics of property awaiting status attribution. Instead, it defines various types of cultural properties in order to determine their nature. But how can we decide which properties deserve protection? In practice, those tasked with this exercise refer to criteria and principles recognized in international charters. A number of countries have clearly established legislative criteria for determining whether a property or site should be protected. These criteria refer either to the significance (value, historic contribution, tie to a group or community) or physical condition of the property (integrity, fragility, rarity). Should Québec include such criteria in the text of an updated act?

In seeking to clarify statuses, we will need to consider their number and scope. We can legitimately wonder whether a single status—such as classification—could replace others currently in use, i.e., recognition and designation. However, the past 30 years of CPA administration have shown the benefits of having an initial, more general designation, such as recognition, in order to document the value of a property and promote efforts to preserve it. How can these two requirements be balanced?

Without going into detail regarding the many challenges mentioned in the green paper, the case of *protected area* and *district* is nonetheless worth singling out. The former, whose parameters lack flexibility, would benefit from harmonization with the rules set out in the *Act respecting land use planning and development*, while the latter would benefit from being renamed *heritage landscape* to ensure broader scope.

Developing a More Preventive, Better Planned, Less Reactive Approach

For various reasons, the CPA is often enforced in emergency situations, despite warnings by experts. Examples of last-minute rescues are legion and, although rare, several highly publicized demolitions (the Van Horne house in Montréal and the old convent in Montmagny) have called into question the effectiveness of this act, despite its essential nature. How can we adopt and promote a better planned, more effective approach?

Is drawing up inventories and supporting research enough? Obviously not, but these activities are crucial, and their importance must be reaffirmed. Documenting, assessing, and enhancing heritage property is the focus of some 1,400 associations and heritage groups, as well as 15,000 heritage activists across Québec.⁷ MCCCCF has developed an online directory of Québec's cultural heritage, and in 2003 it began an initiative to take stock of the many heritage inventories. But it seems that we need to do more to monitor protection once heritage status is granted.

Conservation plans used in the field of ecology and by UNESCO for world cultural heritage are yielding promising results and encouraging planning. These plans set out measures to ensure the long term survival of threatened property, and assign each measure a priority, a timeline, and a manager.

To create a conservation plan, decision makers and stakeholders must communicate with each other and share expertise in order to ensure initiatives are consistent. In this regard, the *Sustainable Development Act* and the *Natural Heritage Conservation Act* set the tone. As researchers, restoration experts, and curators make room for new and promising expertise fueled by ongoing scientific and technological advancements, there is a need for the kind of cooperative intervention strategies suggested by a conservation plan.

7. Advisory Committee on Québec's Cultural Heritage Policy, *Our Heritage, A Present from the Past*, November 2000.

Despite all the planning efforts, new threats will continue to weigh on significant Québec heritage elements. The precautionary principle so important to environmentalists could also serve as a guide in the event of uncertainty, and encourage preventive action—an ounce prevention beats a ton of regrets. But how exactly should this principle be applied? Through a temporary status, a sort of truce decreed by the minister in order to give the experts time to assess the property, the danger it faces, and the relevance of protecting it permanently? Or would a notice of intent to classify be sufficient?

Experience gained over the years does suggest one thing: Whatever the new act calls for—drawing up inventories, calling on networks of experts and decision makers, or taking preventive measures despite uncertainties, in keeping with the precautionary principle—governments cannot protect everything. They can, however, give protection a more contemporary meaning that each citizen can relate to.

Improving the CPA and its Enforcement

From the outset, a number of solutions may be considered for improving the CPA. Below is a concise overview of these solutions. First, we believe the status assignment process must be made more transparent and efficient in order to diminish the consequences of today's often long delays (more than a year in many cases) without sacrificing the thoroughness of the assessment process. Quite the contrary, the objective would be to simplify this crucial step by using clear, known, and flexible criteria.

To this end, citizens who own property awaiting heritage status should have access to CBC notices before the minister makes a decision. In the interest of transparency and clarity, and in order to ensure better understanding and enforcement of the act, these notices could be made public.

A plan for making the authorization issuing process more efficient must also be developed. If municipalities and MCCCCF conducted their assessments simultaneously, the decision making process would be faster. An experiment in this regard is underway for protected districts and areas in Montréal, with the relatively recent implementation of a one-stop processing service.

In another field, an in-depth review of obligations tied to the disposal of protected property⁸ would help simplify the prescribed procedures, which are rarely used and above all poorly adapted. Lastly, introducing a decreasing scale⁹ in government contributions to reduce property tax, informing owners of the conditions for taking advantage of this reduction, and, above all, tasking municipalities with managing this measure would help simplify enforcement and clearly set out what is expected of owners in exchange for this privilege, while restoring to municipal authorities a prerogative that essentially comes under their jurisdiction.

Improving the CPA may also include revamping CBC. CBC's advisory role should be prioritized and strengthened. CBC's mandate and functions—which citizens too often confuse with those of MCCCCF—must be clarified and probably refocused. In addition to providing the minister with informed advice and helping to advance knowledge, CBC could become an ideal forum for hearing public opinion and discussion. In this regard, CBC would benefit from being renamed Conseil du patrimoine culturel du Québec, similar to its counterparts for education, health, and the French language, in particular.

Strengthening the Commitment to Heritage Protection

Protecting heritage is everyone's business. This statement has been repeated around the world by ministers responsible for heritage, spokespeople for well-known associations, and national and international bodies. In Québec, heritage legislation should give each actor—individual or institutional, private or community-based—their rightful role and prerogatives in order to ensure that everyone develops the sense of collective ownership that forms the basis of heritage protection.

Citizens

Whether property owners or heritage enthusiasts, citizens are central to protecting Québec's cultural heritage. Provincial organizations and associations, municipalities, MCCCCF and its sectoral and regional branches, government ministries, CBC, certain government corporations, the museum network, archives departments, historic and genealogical societies, the academic community, and many specialized firms round out the picture.

8. Change in ownership either by sale, assignment, etc.

9. Exemption amount decreasing from the first to the last prescribed year.

In seeking to better define the roles of these parties and clarify the act in order to facilitate and coordinate their efforts, solutions must be adapted to different realities while taking collective goals into account. For example, owners who feel burdened by legal obligations, believe they have not been sufficiently consulted, or do not have rapid access to studies by experts regarding their own property will feel powerless, and this will adversely affect their commitment toward heritage protection. Giving citizens the tools they need to make representations to the authorities would demonstrate the importance of citizen contributions. But which tools? And could they be used by other stakeholders?

The knowledge acquired by heritage experts can certainly provide valuable insight when selecting protection measures, making decisions, or engaging in discussion. Conservators, researchers, and independent consultants have the potential to increase knowledge and make it accessible to the public, not to mention significant clout. The same is true of associations and their hundreds of volunteers. Each year, this enormous pool of volunteers studies, manages, conserves, restores, protects, and enhances elements of our archeological, architectural, landscape, artistic, ethnological, and historic heritage. In 2006, Observatoire de la culture et des communications du Québec indexed 356 regional and local organizations. Eleven national organizations that receive recurring operations assistance from MCCCCF serve as standard bearers in their disciplines and provide vital institutional leadership. This cohort of thinkers and stakeholders should be further empowered to influence events and transmit knowledge. Providing proper funding and a place to present their questions and findings might be the first step toward increasing citizen participation—a vital part of protecting cultural heritage.

Municipalities

Clearly, municipalities also have a key role to play. In order to clearly enhance this role in new legislation, e.g., by coordinating the statuses granted by municipalities with those granted by the government and ensuring the future act is more consistent with the *Act respecting land use planning and development* (APD), certain requirements should also be tightened with a view to implementing comprehensive management of the built environment that takes into account local or regional heritage elements. To illustrate how requirements could be tightened, we note that neither the CPA nor the APD contain provisions regarding the qualifications of urban planning advisory board members.

Increasing the level and complementarity of heritage qualifications in the various bodies that deal with the built environment would make decision makers accountable while increasing awareness on the part of elected officials, governments, and individuals.

Government

A new act could probably help restore consistency to government decisions. As the owner of a building inventory comprising 1,065 structures and the repository of significant intangible heritage,¹⁰ the government must obviously set an example. Cooperating at the government level, monitoring the enforcement of measures and rules, and coordinating initiatives are significant structural challenges that must be overcome in order to effectively protect the heritage of which the government is the trustee on behalf of the public. In this regard, the *Sustainable Development Act* and the government sustainable development strategy have opened up new horizons that will benefit the future act.

Lastly, changes in this legislation will inevitably spark concern regarding funding for heritage protection. Public funds alone will not be enough. This widely documented finding is accompanied by another reality—the economic value of private and public investments. Job creation, economic spinoffs for tourism, higher property values, cultural product marketing, renovation and construction industry growth all make it profitable for governments to invest in cultural heritage protection.

The Need to Modernize the CPA

Thirty-five years after its adoption, the CPA must be modernized and substantially overhauled in order to support the cultural heritage protection goals of the Québec government, its partners, and citizens. The scope of this act must be broadened to include the most up-to-date, internationally accepted definitions of heritage. Certain principles could guide a government approach consistent with sustainable development goals. Protection statuses must be revised and streamlined, and their management simplified. The consultation process must be strengthened. The criteria and values to be protected must be clarified and generalized. Inventories, registers, and directories must be given renewed importance as tools of knowledge and updated for optimal public use.

10. For example, legal traditions, particularly with respect to civil law—of which Ministère de la Justice is the steward—are distinctive features of our identity and culture.

The management of protected areas and districts should be better coordinated with the urban and landscape environments in which they are located. The role and responsibilities of stakeholders at all phases of knowledge, recognition, protection, and enhancement must be recognized and coordinated to ensure they are more functional and consistent. Lastly, ministry funding and, more generally, funding at all steps of protection must be ongoing and sustainable, with better coordination between public and private funding.

The solutions considered in the second part of the green paper have been selected for their ability to address the problems and challenges presented above. They are proposed as part of a cultural heritage act that is more comprehensive and in step with today's reality than the current CPA. These solutions could be clarified, developed, modified, and even replaced by better proposals. They will also be reexamined with respect to their actual ability to improve the situations described above and be realistically implemented with the human, administrative, financial, legal, and political resources available in Québec society.

Cultural Heritage

Objectives, Definition, and Principles

Objectives of New Legislation

- a) Clarify and legally strengthen the responsibilities and powers of government and municipal authorities with regard to the protection of cultural heritage

The measures included in the future cultural heritage protection act will aim to seamlessly integrate the conservation of cultural heritage at every level and in every area of activity. They will also aim to ensure the government's cultural heritage initiatives are consistent and promote accountability among government ministries, public organizations, and the municipalities.

- b) Safeguard the character, diversity, integrity, and economic value of Québec's tangible and intangible cultural heritage through appropriate protection measures adopted by the Government of Québec; the Minister of Culture, Communications and the Status of Women; and the municipalities.

Definition of Cultural Heritage

Cultural heritage is comprised of property, sites, landscapes, traditions, and knowledge that reflect the identity of a society. It transmits the values of that same society from generation to generation, and its preservation helps foster sustainability in development. (*Sustainable Development Act*, article 6, principle k)

The word “**cultural**” is used to distinguish cultural from natural heritage, which is increasingly the subject of specific legislation and conservation measures. Moreover, failure to distinguish the type of heritage covered by the proposed legislation could engender confusion about the scope of the law, notably regarding genetic heritage (the safeguarding of living heritage species) or economic heritage, both of which involve other areas of human endeavor and other legal frameworks.

Principles

To integrate the conservation of cultural heritage more effectively at every level and in every area of activity, Government shall take into account all of the following principles in its various initiatives and actions:

PROTECTING HERITAGE FOR ITS VALUES:

- **Identify and commemorative value of cultural heritage:** Heritage protection aims to protect and use the identifying and commemorative values of cultural heritage in the public interest. Movable and immovable heritage property, intangible heritage, and cultural heritage sites are protected because they enshrine these values.
- **Economic value of cultural heritage:** Cultural heritage is a fragile, non-renewable resource that must be factored into all forms of economic development in Québec with a view to its social, cultural, and economic advancement. It is an asset to the development of a society.

RECOGNITION OF A MULTI-LEVEL ACTION FRAMEWORK

- **A citizen-based approach:** Citizens must be involved in the process of documenting, recognizing, protecting, and promoting cultural heritage.
- **Subsidiarity:** Powers and responsibilities must be delegated to the appropriate level of authority. Decision-making centers must be suitably located with a view to ensuring they are as close as possible to the citizens and communities concerned (*Sustainable Development Act*).
- **Division of responsibility and role complementarity:** The identification, protection, and promotion of cultural heritage are the joint responsibility of citizens and government authorities, and require the involvement of citizens and the groups representing them.
- **The government's commitment:** As with the *Sustainable Development Act*, each government ministry and agency is responsible for laying out in a document to be made public the specific objectives it intends to pursue to help protect the cultural heritage under its jurisdiction or affected by its actions, as well as the activities or initiatives it plans to implement to this end, either directly or in cooperation with actors from civil society.
- **Compliance with the principles and practices laid out in international conventions:** In its 1992 Québec Cultural Policy, the government undertook to “Confirm Québec’s compliance with the intervention principles laid out in the Venice Charter, the Cultural Tourism Charter, and the International Charter for the Conservation of Historic Towns and Urban Areas.”¹¹

IMPLEMENTATION IN KEEPING WITH THE PROTECTION OBJECTIVE:

- **Prevention:** In the presence of a known risk, preventive, mitigating, and corrective actions must be taken, with priority given to actions at the source (*Sustainable Development Act*). Due to the vulnerable nature of heritage, the impacts of development on it must be assessed at the planning stage. Given its contribution to sustainable development, its authenticity and integrity must be protected.
- **Precaution:** When there are threats of serious or irreversible damage, effective measures to prevent the degradation or loss of cultural heritage must be taken. The absence of full scientific certainty must not be used as a reason to delay such measures.
- **Knowledge:** Inventories, studies, and research are part of the ongoing process of acquiring the necessary knowledge on which to base decisions and actions.

QUESTIONS FOR CONSULTATION**Definition of cultural heritage**

Is the proposed definition an accurate reflection of the situation in Québec? If not, how can we improve on it?

Multi-level action framework

Is the defined action framework appropriate to the objectives of the *Cultural Heritage Protection Act*? What can be done to improve it?

11. Québec Cultural Policy, 1992.

Recognition and Protection

Conferring legal status on movables and immovables has long been at the heart of MCCCCF's actions with regard to heritage, and while not the only lever, it is certainly the most important. The new legislation on the protection of cultural heritage will be one of a group of tools designed to strike a balance between incentive and coercion, ministerial and government action, and government action and that of the cultural sector (municipalities and organizations). The minister, like municipal authorities, will retain decision-making power for proposals to recognize or protect cultural property, practices, and landscapes.

Furthermore, a principle of symmetry between actions taken at the municipal and ministerial levels will provide both levels with equal power to protect property whose heritage value may differ depending on the criteria used to evaluate it. Already, a single property or territory can appear on the UNESCO World Heritage list, be recognized by the Historic Sites and Monuments Board of Canada, and be classified, recognized, or designated according to the statuses provided for in the Cultural Property Act. However, there is clearly a form of hierarchy between statuses adopted at the local level and those adopted at a government or ministerial level. In urgent cases or where there is insufficient municipal commitment, ministerial action tends to be more frequently sought.

It is worth considering the concept of heritage conservation easements. In Ontario, easements are one of the means the government uses to conserve and restore its cultural heritage. They offer the advantage of compensating for the fragility or limitations of municipal bylaws (which may not be sufficient to prevent negligence or demolition of cultural property). Easement agreements define the mutually acceptable conditions governing any changes to protected property. They accompany the title of ownership and bind successive owners of the property, thereby ensuring its preservation in perpetuity. In return, owners are eligible for certain municipal tax benefits and subsidy programs.

THE GREEN PAPER PUTS FORTH THE FOLLOWING PROPOSALS:

Knowledge and recognition:

- **Strengthen and streamline the roles of government and municipalities:** Heritage identification, commemoration, and protection at the local, regional, and government levels will be better coordinated. At the local and regional levels, municipalities will draw up territorial inventories, identify their intangible heritage, and protect heritage properties and sites. They will also commemorate important figures and events. In addition, the municipalities and organizations mandated by the ministry will register their data in Répertoire du Patrimoine Culturel du Québec (Québec Cultural Heritage Directory).
- MCCCCF and mandated organizations will draw up territorial and theme inventories to identify the properties and lands that require government protection, commemorate important Québec figures and events, and keep the Québec Cultural Heritage Directory up to date.

Protection:

- **Update and broaden the definition of heritage:** Take into consideration recent concerns that have arisen in Québec and abroad with regard to heritage landscapes and intangible heritage.
- **Landscape:** Include the status of heritage landscape and appropriate measures to ensure landscape conservation by sharing responsibility among ministries, municipal governments, and citizens.
- **Intangible heritage:** Acknowledge the importance of identifying and recognizing intangible heritage associated with traditional sites and cultural events or bearers of knowledge and tradition, and accompany this recognition with appropriate measures to ensure such heritage is commemorated and passed on. Attribution of classified or designated status to human practices would first require the persons in question to accept the status and any obligations it creates on them in terms of commemorating or passing on the heritage in question.

- **Simplify the statuses of protection and categories of protected properties:** The future act will have two statuses, accompanied by monitoring measures tailored to the specific level of intervention: classification at the government or ministry level, and designation at the municipal level. These two types of status, accompanied by context-specific conservation measures will apply to five categories: movables (any object that may or may not be part of an ensemble), immovables (buildings or structures), sites (an ensemble of immovables), landscape (a territory made up of natural and heritage immovables with landscape value), and intangibles.
- **Renew recognition of classified and designated properties currently listed in the Québec Cultural Heritage Directory:** Properties recognized under the Cultural Property Act (CPA) will be included since they are listed in the Directory.
- **Broaden the range of heritage protected by municipalities to bring it into line with heritage protected by MCCC:** The planned legislation will enable municipalities to protect the same types of property as the government. Municipalities will be able to grant status to movables they own, including the interiors of buildings on which they confer this status. They shall be able to grant heritage site status to historic and archeological sites, and landscapes. Once the municipalities have ensured the protection of their designated properties through the appropriate by-laws, the minister shall consider them as well protected as if they were classified. If the minister uses his or her power to classify the properties due to their significance for Québec as a whole, the control measures will remain the same and shall be applied at the local level.
- **Include criteria for granting status in the legislation:** Age, rarity, representativeness, authenticity, and integrity could serve as criteria. Values worth protecting include historic, artistic, architectural, engineering, environmental, emblematic, landscape, and other values.
- **Strengthen the protected area** by incorporating protection objectives into the mechanisms of the *Act respecting land use planning and development* as a way to control the environment surrounding the immovable heritage property. By setting out the specific values to be protected and the contextual elements of these areas it will be possible to establish an appropriate perimeter for each situation and jointly adapt the municipal bylaws governing them. If a request is made to the minister to this effect, the minister may transfer management in the spirit of section 98 of the existing act.
- **Heritage conservation easements** could be negotiated between heritage property owners and municipalities, as they have been in Ontario, to agree on the objectives and means to protect heritage immovables such as buildings and historic or archeological sites.

The future legislation for the protection of cultural heritage must contain transition measures with regard to status.

QUESTIONS FOR CONSULTATION

Knowledge and recognition

Do the respective roles assigned to the state and municipalities with regard to knowledge and recognition allow for effective interaction between these two decision-making levels? How can we modify these roles to ensure optimum sharing of responsibilities?

Protection

Is the list of principles and concepts with regard to heritage protection exhaustive? If not, which others should be included?

What do you think about new principles like ensuring symmetry between statuses granted by the minister and the municipalities, and heritage conservation easements?

Do you find the proposal to simplify the types of protection status and the categories of protected properties appropriate? Is the suggested simplification formula suitable?

Consultation

There are a host of factors that have made the world of heritage increasingly complex, among them the diverse nature of the issues, the growing number of stakeholders, the scope of studies and research, and the need to reconcile the needs and obligations of the various parties involved. From this standpoint, consultation is clearly a valuable knowledge and consultation tool, and an advisory function is essential.

THIS GREEN PAPER PROPOSES TO ESTABLISH CONSEIL DU PATRIMOINE CULTUREL DU QUÉBEC (QUÉBEC HERITAGE COUNCIL).

- The primary role of the existing Commission des biens culturels (Cultural Property Commission) is purely advisory. The name of the organization proposed to replace it should reflect its main role. Since the notion of heritage has taken on a much broader meaning, as we point out in this document, the term “cultural property” no longer seems appropriate.
- The Conseil would play a mainly **advisory role, and would perform studies and research** directly related thereto. Its advisory function would of course cover all general aspects of heritage conservation, but more specifically the granting of status. Conseil du patrimoine culturel du Québec would not be involved in any administrative processes under the responsibility of MCCCCF.
- It would be called on to **organize public hearings**—at its own initiative or at the request of the minister or municipalities—on the granting of status or on major projects likely to modify the heritage balance of sites or districts, or on determining protection areas for classified properties. The Conseil could also advise the minister regarding a municipality’s plans to revoke a designation bylaw. It could be a sounding board for the various parties concerned and for citizens worried about promoters’ plans or municipal intentions. This hearing procedure would be an obligatory part of the approval and support process for projects with an impact on the community.
- Unless otherwise requested by the minister, **its briefs and reports would be made public** within a timeframe to be specified in the planned legislation.
- The Conseil would still be mandated to **advise the minister on the orientations and objectives of public support programs**. In addition, it would be given the power to initiate studies and research, as is the case for Commission des biens culturels. It could also advise the minister on all matters dealing with the safeguarding of heritage covered by the future legislation.
- Moreover, in the event of agreements with municipalities to decentralize management of historic sites, protection areas, historic districts, and heritage landscapes, the act could mandate the Conseil to perform an **evaluation every five years to assess municipal management** of these properties. The Conseil would be responsible for making recommendations to the minister.
- In applying a **commemoration** policy, the Conseil could coordinate an advisory committee on the commemorative initiatives and actions while leaving management of these activities to MCCCCF.
- The Conseil would also be tasked with advising and making recommendations on the representativeness, reach, and impact of heritage organizations representing various groups, services, and sectors, whether discipline, theme, or territory-based.

Remarks:

- While the current work of Commission des biens culturels to certify the value of donations made to museums and authorized archives is not incompatible with its main mandate, MCCCCF should look into the matter to determine whether it could be done differently or by a different organization.
- The makeup of the Conseil should reflect the multidisciplinary required to perform its mandate. The Conseil should also have the resources it needs to properly fulfill its role.

QUESTIONS FOR CONSULTATION

Consultation

Do the roles assigned to the new Conseil du patrimoine culturel du Québec allow it to fulfill the mandate it will be given under the new legislation on the protection of cultural heritage? If not, how can they be improved?

Role of Stakeholders

Citizens

Citizens may be owners; users; bearers of tradition, knowledge, and know-how; mediators; living memories; and/or volunteers. As such, they must be able to play an active role in the identification, recognition, protection, and promotion of all cultural heritage. Their interest and involvement depend on their education, culture, and awareness of matters of public interest, as well as on the democratic mechanisms and information, action, and funding tools made available to them by government.

As in many cultural and social activity sectors, volunteer work is of considerable value in the research, safeguarding, and dissemination of heritage. Historical societies, private museums, interpretation centers, and groups and organizations devoted to defending heritage are largely dependent on the time and efforts of volunteers. According to a study by Observatoire de la culture et des communications du Québec entitled *État des lieux du patrimoine*, 90% of those institutions surveyed rely on volunteers.¹²

Other significant findings from the same study include the following: 75.3% of heritage institutions recruit members—institutions, individuals, and others. They represent 46,789 members, 93.5% of whom are individuals. “Membership offers various benefits. In addition to generating income from membership fees and donations, it raises public awareness of the various types of heritage, and spurs public involvement to preserve and safeguard them” (translation).¹³

THIS GREEN PAPER PROPOSES THAT—

- Citizens who are owners or managers of cultural heritage property be urged to sign heritage protection or conservation easement agreements. These agreements should set out the respective commitments of the parties with regard to protection of the heritage in question. Once the owner undertakes to maintain the property in good order, the minister shall undertake to support him or her in various ways.

- The compensation program for municipal property tax exemption be revised to encourage the upkeep and renovation of privately owned built heritage and be accompanied by conditions of accountability.

Heritage Associations and Institutions

Consistent with the example of umbrella organizations formed to represent and serve the arts community, groups involved in heritage protection, research, promotion, and dissemination need to better coordinate their efforts—which are currently fragmented, segmented, and therefore weakened. Given the importance of their work for every aspect of heritage protection, the information, training, and action resources they have developed in every region of Québec, and the potential for partnership and dialog they represent for the government, it is worth developing, as recommended by Observatoire de la culture et des communications du Québec, a much keener understanding of their mission, specific characteristics, and position in the heritage system in order to provide them with the recognition and support they need.

Consequently, the future legislation on the protection of cultural heritage could give a Québec heritage council the mandate to advise the minister and make recommendations on the representativeness, reach, and impact of heritage organizations representing various groups, services, and sectors, whether discipline, theme, or territory-based.

Regional and Local Municipalities

A summary examination of municipal actions illustrates the essential role that regional and local municipalities play in the planning and management of important measures to protect built heritage. The municipalities act within the scope of the powers attributed to them under the *Act respecting land use planning and development*, the *Cities and Towns Act*, and the *Cultural Property Act*.

12. Observatoire de la Culture et des Communications du Québec, *État des lieux du patrimoine, des institutions muséales et des archives*, Cahier 2, *Le patrimoine au Québec, une réalité enfin révélée*, April 2007.

13. *Ibid.*

At the same time, it is clear that protection bylaws are reversible, that the policies adopted are not necessarily based on a thorough analysis of the situation, that decisions are too often made in response to emergency situations, and that actions are limited to heritage immovables. In keeping with the principle of subsidiarity, the future heritage protection legislation must propose solutions to these problems by delegating as much legal authority as possible to the RCMs and municipalities.

The following changes could be made. This would also require making amendments to the *Act respecting land use planning and development*:

- RCMs would be required to identify sectors of heritage interest (landscape, archeological, architectural, or historical) in their development plans and include measures to ensure they are documented, recognized, and protected.
- Municipalities would be required to inform the Minister of Culture, Communications and the Status of Women of any intentions they have to revoke a bylaw regarding heritage site designation or establishment.
- In all sectors covered by the future cultural heritage protection legislation, the municipalities would be required to implement conservation plans and appoint a person in charge of implementation. Municipal bylaws would be harmonized with the ministry's protection objectives and criteria for these same sectors, and the municipalities would be tasked with their application and followup. No amendments to the bylaws would be permitted without first notifying the minister within a timeframe prescribed by the act.
- The municipalities could be authorized to negotiate conservation easement agreements with owners of heritage immovables.
- The municipalities could draw up an inventory of the intangible heritage on their territory, and document and list it in Répertoire du Patrimoine Culturel du Québec, along with movables and immovables that help commemorate or transmit intangible heritage. The designation of persons as bearers of knowledge or traditions and the accompanying conditions and obligations for knowledge/tradition commemoration or transmission shall only be determined with the agreement of these persons.
- The municipalities could adopt bylaws introducing protection measures for municipally owned movable heritage (artistic, ethnological, archeological, archival, and documentary) and register it with Répertoire du Patrimoine Culturel du Québec.

QUESTIONS FOR CONSULTATION

Transferring management to the municipalities

Is it appropriate to transfer management of historic districts, heritage landscapes, and protected areas to municipalities, subject to certain specific conditions?

Ministère de la Culture, des Communications et de la Condition féminine

The roles and responsibilities of the Minister of Culture, Communications and the Status of Women on heritage matters are set out in the *Act respecting the ministère de la Culture et des Communications* and the *Cultural Property Act*. These include adopting policies and orientations dealing with heritage, drafting and updating legislation and regulations and overseeing their application, orienting the missions of and providing operating support to Québec government corporations and museums, and recognizing, protecting, and presenting heritage.

Since the adoption of the Québec Cultural Policy in 1992, the Minister of Culture, Communications and the Status of Women has also been responsible for the followup and harmonization of government actions to implement and evaluate cultural policy, one component of which is the affirmation of cultural identity and the promotion of cultural heritage.

Given these perspectives, the future legislation will include modifications or clarifications with regard to the following:

- Ministerial responsibility for inventories of property that is or could potentially be protected (*Cultural Property Act*, sect. 52) to determine the objective, update frequency, and eligibility conditions of Répertoire du Patrimoine Culturel du Québec, which would incorporate and replace the existing Registre;
- Ministerial responsibility for maintaining Répertoire du Patrimoine Culturel du Québec and municipal responsibility for ensuring the properties and sites they have protected are listed therein;

- Timeframes to be respected further to notices of intent or ministerial recommendations for natural or historic districts or for any other protection status;
- Regulation respecting the exemption of property tax (Cultural Property Act, sections 33 and 53h) to ensure this measure is managed in a more effective and targeted fashion;
- The disposal process and the minister's pre-emptive rights;
- To allow developers to submit permit applications for on-site archeological salvage operations during excavation work. Requests for advisory opinions from the future Conseil du patrimoine culturel du Québec will no longer be required;
- Municipalities with permanent staff resources in archeology could be authorized to issue permits in situations requiring an emergency response. They would be obliged to enter the request and permit issued in the computerized management system made available to them by MCCCFC;
- Conditions established for issuing archeological research permits in emergency situations should ensure the results are integrated into any future archeological research;
- The planning of archeological work should include artifact processing and analysis to ensure the dissemination of the knowledge resulting from any discoveries.

Government Ministries and Agencies

Government ministries and agencies may be responsible for immovables and movables with heritage value, and many of them are responsible for legislation, regulations, and measures with significant impact on the protection of cultural heritage. The recent *Sustainable Development Act* provides a concrete solution for ensuring that government ministries and agencies take these responsibilities into account, in compliance with the principle of protecting cultural heritage set out in the act. It also allows the Minister of Culture, Communications and the Status of Women to examine those parts of the Sustainable Development Commissioner's report that deal with ministerial and agency action plans and annual reports related to this particular principle. The minister will therefore have all the means to ensure the followup and harmonization of government actions to implement its cultural policy. The minister could

propose a mechanism allowing him/her to play a proactive role with the government ministries and agencies to achieve cultural heritage protection objectives.

Therefore, the future legislation to protect cultural heritage will—

- Maintain the obligation on all parties, including government ministries and agencies, to obtain authorization from the ministry before taking any action that could affect the protection of protected cultural heritage;
- Be harmonized with the *Sustainable Development Act* to set out the role of the Minister of Culture, Communications and the Status of Women with regard to monitoring the application of the principle of cultural heritage protection and ties to be created with the Sustainable Development Commissioner;
- Propose the creation of an interministerial standing committee to protect cultural heritage. This committee would be tasked primarily with drawing up an inventory of heritage property in the public domain, drafting conservation plans, naming a person in charge of heritage issues, and ensuring the government's heritage objectives are taken into account in ministerial and agency policies, directions, and measures. This interministerial committee would be coordinated by Ministère de la Culture, des Communications et de la Condition féminine;
- Be harmonized with the *Natural Heritage Conservation Act* with regard to the role of the Minister of Culture, Communications and the Status of Women in designating and adopting conservation plans for man-made landscapes (Category V of the World Conservation Union).

QUESTIONS FOR CONSULTATION

Role of stakeholders

Given the broad scope and diversity of heritage, do the proposed changes regarding the definition and sharing of responsibilities among citizens, heritage associations and institutions, regional and local municipalities, Ministère de la Culture, des Communications et de la Condition féminine, and other government ministries and agencies strike you as appropriate? If not, what changes would you propose?

Funding

Changes in the world of heritage have also created a need for diversified forms of funding. The domain of heritage has expanded, and conventional means of funding, whether local or governmental, are no longer able to meet demand.

This is an opportune time to rethink government support for heritage restoration. A recent study conducted by Ministère de la Culture, des Communications et de la Condition féminine found that a number of Western countries, including the United States and France, agree on the economic advisability of granting tax benefits to the owners of heritage buildings. Tax reductions in France and tax credits in the U.S. have been used since the 1970s to help support restoration projects. Other similar incentives have been introduced in Spain, Italy, and the U.K.

Donovan Rypkema, a prominent U.S. economic development and historic preservation consultant, writes that the five main economic benefits of restoring historic buildings are clear: job creation, downtown revitalization, cultural tourism, higher property values, and the emergence of specialized small businesses.¹⁴ Rypkema adds, "Tax credits help make the reuse of buildings a competitive alternative to demolition [...] There's been nothing like it for advancing historic preservation in the United States."¹⁵

Ministère de la Culture, des Communications et de la Condition féminine has launched a debate on the creation of a revolving fund for cultural heritage. It is worth exploring various options, including tax benefits, to help the state spur private investment.

Objectives for modernizing heritage funding levers:

- Renew and diversify sources
- Ensure program sustainability
- Reinforce private sector contributions to maintain and protect cultural heritage
- Optimize the economic value of heritage

TO ACHIEVE THESE OBJECTIVES, THE GREEN PAPER PROPOSES THE FOLLOWING:

- Create a revolving fund to protect cultural heritage;
- Identify the most appropriate tax measures at the government and local levels for the protection of cultural heritage;
- Adjust compensation for property tax exemptions according to the type of property and the nature of work on the immovables in question, with decreasing contributions over three years.

Revolving Fund for the Protection of Cultural Heritage

Establishing the fund

A revolving fund for the protection of cultural heritage would be established. It would be based on the existing Cultural Heritage Fund.

The fund would serve to provide financial support for measures or programs the minister is authorized to implement as part of his or her functions with regard to heritage. It would aim, from a sustainable development standpoint, to support projects to conserve and promote cultural heritage properties and provide financial aid, notably to municipalities and not-for-profit cultural heritage organizations.

14. Rypkema, Donovan, *Heritage Conservation and the 21st Century Economy*, Heritage Strategies International, 2005.

15. Cited by Christophe Wiebe in *Landmarks, Not Landfill! Federal Financial Incentives for Heritage Buildings*, School of Canadian Studies, Carleton University in Ottawa, 2006.

Funding sources

The fund shall be made up of the following sums:

1. Sums allocated by the Minister of Finance, and taken from the consolidated revenue fund with the government's authorization, and as per the conditions it sets
2. Donations, bequests, and other contributions to help achieve the fund's objectives
3. Sums paid into it by a minister out of the appropriations allocated for this purpose by Parliament
4. Revenues earmarked by the government for this purpose, or any contributions determined by the government at the request of the Minister of Finance, including **part of or all tax revenues and other economic instruments** determined by the government
5. The **capital** from the investment of fund sums
6. **Revenues from the investment of capital** constituting the fund

Use of fund

The fund could be used to finance the following activities:

- The restoration of heritage movables and immovables
- Conseil du patrimoine culturel du Québec activities
- Activities of heritage groups, services, and representatives
- Projects and initiatives developed by local and regional authorities
- Cultural heritage protection plans adopted by property owners for their immovables or classified movables and by municipalities for recognized or classified territories or for those designated as heritage districts or landscapes
- Existing or planned inventories produced up by partners (universities, research centers, Québec heritage organizations)
- Studies required to grant status or issue permits to allow work on properties of public interest
- Support for owners who open their immovables to the public

QUESTIONS FOR CONSULTATION

Funding

Do you feel the three funding proposals (revolving fund, tax measures, and adjustment of the compensation for property tax exemption) are relevant to attaining the objectives of the planned legislation?

Are there other more promising or applicable avenues worth exploring?

