Latest developments in the Canadian infrastructure market / The privatization of Canadian airports: Why, how and what is at stake? / Canada Infrastructure Bank Act: highlights

July 20, 2017

TABLE OF CONTENTS

- The AMT grants a contract to Chinese firm CRRC .
- The U.S. transport Secretary, Elaine Chao, unveils the Trump Administration’s infrastructure plan
- Call for financial proposals for the Québec Nicolas-Riou community wind project

Latest developments in the Canadian infrastructure market

Ontario introduces a balanced budget which includes $30 billion in infrastructure investments

The government of Ontario introduced a balanced budget for 2017, which increases by $30 billion the investments pertaining to the 13-year infrastructure plan. The most significant investments relate to transportation projects across the province, with a focus on public transport.

Major infrastructure investments totalling $156 billion over the next decade include:

- $56 billion for public transport;
- $26 billion for highways;
- in excess of $20 billion for hospitals, including $9 billion for the construction of new major hospital projects;
- nearly $16 billion in capital grants for school boards.

The new public transit systems previously announced will be built using Ontario’s Alternative Financing and Procurement (“**AFP**”) approach, including: Eglinton Crosstown LRT, Finch West LRT, Hamilton LRT, Hurontario LRT (Mississauga), ION Stage 1 LRT (Waterloo), Confederation Line (Ottawa), Ottawa LRT Phase 2, York Viva (vivaNext), and several GO stations.

Furthermore, design and planning work is currently underway for operating a new high-speed rail system running from Toronto to Windsor.

Lastly, some road projects that use the AFP approach are at various stages of completion. They include Highway 401 expansion to Regional Road 25, Highway 407 East Phase 2 (under construction); and Highway 427 expansion (under construction).

Nova Scotia introduces its second balanced budget and increases investments in highways

The government of Nova Scotia introduced its second consecutive balanced budget which includes a $136.2 million surplus. The 2017 budget includes a supplementary $390 million investment over the next seven years to twin three highway segments in the province.

The highway projects are as follows:

- twinning the 38 km section of Highway 104 from Sutherlands River to Antigonish;
- twinning the 22 km section of Highway 103 from Tantallon to Hubbards;
- twinning the 9.5 km section of Highway 101 from Three Mile Plains to Falmouth, including the Windsor causeway;
- construction of the divided Burnside Expressway.

No new toll will be implemented to finance these projects. The tolls on Highway 104 (Cobequid Pass) will be removed.

The budget also reaffirmed the undertaking to redevelop the QEII Health Sciences Centre, possibly on a public-private partnership ("**PPP**"). basis.

Nova Scotia has two other operational PPP projects: the Central Nova Scotia Correctional Facility and the East Coast Forensic Hospital.

New LNG production capacity in Montréal resulting from a strategic partnership between Gaz Métro and Investissement Québec

On April 24, 2017, Sophie Brochu, President and CEO of Gaz Métro, and Pierre Gabriel Côté, President and CEO of Investissement Québec announced that the new liquefied natural gas ("**LNG**") production capacity of Gaz Métro GNL, a subsidiary of Gaz Métro and Investissement Québec, is now available at the Gaz Métro liquefaction plant located in Montréal..

Announced in September 2014, the project aimed to equip the plant with new loading facilities and a new liquefaction train that would triple the total annual LNG production and deliveries. The Gaz Métro liquefaction plant — the only one of its kind in Eastern Canada — now boasts a total annual production capacity of over nine billion cubic feet of LNG. It is thus able to meet the growing demand from a variety of markets for LNG, a competitive and cleaner energy source than petroleum-based products

The provision of LNG constitutes an advantage for all the companies that do not benefit from proximity to a pipeline network. It is worth noting that Gaz Métro LNG already supplies Stornoway's Renard mine, the heavy trucks of several transportation companies such as Groupe Robert, Transport Jacques Auger and Transport YN.-Gonthier, and the ferry F.-A.-Gauthier operated by Société des traversiers du Québec. For its part, Groupe Desgagnés has also ordered four ships that can run on LNG. Lastly, ArcelorMittal has announced an LNG pilot project at its Port-Cartier pelletizing plant.

The LNG comes from Gaz Métro's liquefaction plant in the East of Montréal, in operation for 45 years. It is stored in the plant's cryogenic tanks. The plant has two loading docks for filling tanker trucks, which supply refuelling stations or service customers directly. LNG can then be distributed to customers within a radius of over 1,000 km from the liquefaction, storage and regasification (LSR) plant or quickly vaporized and injected in the gas network to meet balancing needs during winter peaks.

SNC-Lavalin purchases British engineering firm WS Atkins

SNC-Lavalin completed the acquisition of British engineering firm WS Atkins for a consideration of $3.6 billion, $1.9 billion of which was financed by the Caisse de dépôt et placement du Québec ("**CDPQ**"). With this acquisition, the Québec engineering firm hopes to generate annual revenues of $12.1 billion.

Founded in 1938, WS Atkins is a consulting firm specializing in design, engineering and project management which generated revenues of £1.86 billion in 2016. Based in the United Kingdom, the firm has 18,000 employees and maintains offices in Europe, North America, the Middle East and Asia. It is the largest engineering firm of the United Kingdom, the 4th largest specialized in engineering and architecture in Europe and one of the 10 firms most present in the Middle East and the U.S. Its clients include companies such as Airbus, BP, EDF, Rolls Royce and Hitachi as well as many governments, including England, the United States, Denmark and even China (China Harbourg Engineering).

SNC-Lavalin completed the purchase of the entire share capital of the company for a cash consideration of $3.6 billion, that is, £20.80 per share, which gives WS Atkins an enterprise value of $4.2 billion.

The $1.9 billion financing from CDPQ includes a private placement of $400 million in equity and a $1.5 billion loan secured by the shares and proceeds of tolls of SNC-Lavalin from Highway 407 in Toronto.

The remainder of the financing will be obtained through $1.2 billion in warrants, a draw in the amount of £350 billion on its existing credit facility and a £350,000 unsecured term loan from a North American bank syndicate.

SNC-Lavalin will henceforth have 53,000 employees worldwide (compared to its current workforce of 35,000 employees), which will make it one of the largest engineering firms in the world. The Québec multinational wishes to expand into Europe, where its market share has reached a ceiling of 5.3%.

The Canadian parliament introduces a bill authorizing the establishment of the Canada Infrastructure Bank

On April 11, 2017, the House of Commons proceeded with the first reading of Bill C-44 pertaining to the Canada Infrastructure Bank ("**CIB**").

The Bill establishes the Infrastructure Bank of Canada as a Crown corporation which will invest and seek to attract private sector investments in revenue-generating infrastructure projects in Canada.

All bills must undergo three readings in the House. The House debates the bill on its second reading and votes on the third reading. If the House passes the bill, it is then sent to the Senate and undergoes a similar protocol. In order to come into force, the bill must be approved by both the House and the Senate.

The Minister of Finance, Bill Morneau, declared in March that the CIB would become operational by late 2017.

The Canadian government launches the process for recruiting the management team of the Canada Infrastructure Bank

The Canadian government launched the process for recruiting the management team of the Canada Infrastructure Bank ("**CIB**").

In a press release dated May 8, 2017, the Canadian government mentioned that it would first choose a chairman of the board. The board of directors and CEO will be chosen later. The Government expects the CIB to be fully operational by late 2017.

The Canada Infrastructure Bank will invest up to $35 billion in federal money in infrastructure projects as part of the Government's 12-year, $180 billion investment plan.

According to the Government's press release, the head office of the CIB will be located in Toronto and the new institution should have Crown corporation status. The Bank will collaborate with provincial, territorial, municipal, aboriginal and private investment partners to encourage pension funds and other institutional investors to invest in revenue generating infrastructure projects.

The Bill establishing the CIB is now at second reading in the House of Commons.

Rumours concerning the sale of the Toronto Pearson airport intensify

InfraAmericas reports some rumours – unconfirmed by Transport Canada – according to which the assets of the Toronto Pearson International Airport are up for sale.

However, Canadian pension funds acquiring a minority interest would seem to be a more likely scenario

It is to be noted that following the report of the federal Minister of Finance’s Advisory Council on Economic Growth, published in October 2016, which proposed the privatization of airports in the cities of Toronto, Vancouver, Montréal, Calgary, Edmonton, Ottawa, Winnipeg and Halifax, the federal government engaged Credit Suisse in 2016 to study the cost-benefit of privatizing Canada’s eight largest airports.

The federal government has been analysing this possibility for over a year but has yet to announce its position on the issue.

Waterloo launches a call for tenders for a PPP transit centre

On April 28, the Region of Waterloo launched a call for tenders for establishing a new multi-modal transport hub in downtown Kitchener, in Ontario.

The King Victoria Transit Hub infrastructure should be divided into two lots, the first one including a transit hall, 100 parking spaces, a public area and a transit area and the second one, GO and Via rail platforms located in the Metrolinx rail corridor

Interested parties are required to submit their qualifications for the project no later than June 30, 2017. The municipality plans to announce its choice of up to three teams on August 31, 2017

Infrastructure Ontario issues request for qualification for the Rutherford Station project

On May 2, 2017, Infrastructure Ontario (“IO”) issued a request for Qualification (“**RFQ**”) for selecting private sector promoters to design, build and finance the Rutherford Station project, which includes the expansion of the rail corridor and parking infrastructure at the facility.

The project is part of the IO and Metrolinx Regional Express Rail joint project, which aims to improve transit infrastructure throughout the Greater Toronto and Hamilton areas. Other projects recently launched under this program include the Cooksville Station, Union Station and the Stouffville Station.

The RFQ should be issued this fall.

The RFQ is IO’s first PPP operation this year. According to the 2016 fall report of the Crown corporation, approximately nine PPPs should be entered into during calendar year 2017.

The AMT grants a contract to Chinese firm CRRC

The Agence métropolitaine de transport (“**AMT**”) opted to have Chinese company CRRC build 24 commuter train vehicles instead of Bombardier Transport.

The Chinese state corporation has been making a breakthrough in North America since 2014, having won rolling stock contracts in Boston, Chicago and Philadelphia, for which Bombardier was also bidding. However, the AMT contract is CRRC’s first major contract in Canada.

According to Les Affaires, CRRC proposed to build for $69 million the 24 two-story vehicles, for which the AMT had budgeted $103 million. CRRC likely benefitted from the decision of the AMT to lower from 25% to 15% the Canadian content requirement in order to attract more bidders.

The first commuter train vehicles must be delivered to the AMT in 24 months, that is, in spring 2019.

It is to be noted that in 2009, Zhuzhou Electric Locomotive, a subsidiary of CRRC, had wanted to participate in the call for tenders for the cars of the Montréal metro, which had been refused. The contract has finally been granted to a consortium formed by Bombardier and Alstom.

The U.S. transport Secretary, Elaine Chao, unveils the Trump Administration's infrastructure plan

During various interventions, particularly in a May 15, 2017 speech at the U.S. Chamber of Commerce and on May 17 in a testimony before the U.S. Senate Committee on Environment and Public Works, the U.S. transport Secretary, Elaine Chao, declared that the Trump Administration intends to release its infrastructure plan in the next several weeks.

Ms. Chao declared that the plan would concentrate on "principles" rather than on specific projects.

The plan is expected to include $200 billion in direct federal funding, which would allow the raising of US$1 trillion (thousand billion) in investments in infrastructure over the next decade.

She did not explain the process through which states could obtain federal funds, but noted that the Administration sought to associate public and private financings for future projects.

The Secretary said that 16 different departments, including the Treasury, the Department of Labor and the Department of Defense are looking beyond the transportation sector to explore opportunities for private investment in energy, water and broadband Internet and even veterans hospitals.

Although recognizing that there is no "one size fits all" solution to meet the infrastructure needs of the U.S., she declared that the authorization process required to be reformed for the Administration to carry out its plan. She particularly noted that the Federal Highway Administration established a working group whose mission is to explore means to streamline the process for approving infrastructure projects.

"Private-public partnerships will be one of numerous financing options that the Administration would consider" said Elaine Chao.

According to Ms. Chao, "It is not the location of the project that's determinative in a VFM (Value for money) but the availability of economies of scale and opportunities for private sector innovation and efficiency". In other words, she states that the issue is not whether projects must be financed by tolls but rather whether the potential for financial partnership between the federal government, the states, the local communities and the private sector would provide the taxpayers with better value than the conventional way of carrying out projects.

Call for financial proposals for the Québec Nicolas-Riou community wind project

EDF Énergies nouvelles ("**EDF EN**") launched a call for financial proposals aimed at commercial banks and institutional investors for financing the Nicolas-Riou wind project in Québec.

It must be noted that the Nicolas-Riou wind project is a community project carried out through a partnership between EDF EN Canada, the Bas-Saint-Laurent RCMs, the Maliseet of Viger First Nation and the Régie intermunicipale de l'énergie – Gaspésie-Îles-de-la-Madeleine. EDF EN Canada holds 50% of the project.

Located in the Bas-Saint-Laurent region, on private and public lands, the Nicolas-Riou project will be comprised of 65 Vestas wind turbine generators for a total installed capacity of 224.25 MW. It will benefit from a 25-year power purchase agreement with Hydro-Québec. The approximate cost of the project is estimated to be $500 million.

Nicolas-Riou is one of the three wind projects granted by Hydro-Québec as part of the December 18, 2013 450 MW community call for tenders. It is the eighth wind project obtained by EDF EN in

Québec following the 2008, 2010 and 2013 calls for tenders. It is also the fourth project held by EDF EN in partnership with RCMs.

The project is currently in the construction phase – entirely selffinanced by the sponsors – and the beginning of commercial operations is scheduled for December 2017. The financing sought will therefore only apply to the operations phase.

The form of the financing sought is not specified as of yet: commercial bank debt, institutional long-term loan or hybrid structure, all options are on the table.

Pattern and Samsung close the financing of the North Kent Wind project

Pattern Development and Samsung closed on the $300 million financing for the 100 MW North Kent Wind project in Ontario in May 2017.

The syndicate of lenders include BMO, CIBC, KDB, KfW, the National Bank of Canada and Sumitomo Mitsui. According to the information published by InfraAmericas, the financing is of the construction plus 12 years type and bears interest at a rate of CDOR (Canadian Dollar Offered Rate) plus 162.5 base points.

The project is currently in the construction phase, and operations should begin during the first quarter of 2018.

North Kent was one of the renewable projects which Samsung carries out with the government of Ontario under the Green Energy Investment Agreement ("**GEIA**").

Metrolinx adds Alstom as a supplier for the light-rail project in the Toronto area

In a press release dated May 12, 2017, Metrolinx indicated that it had determined that Alstom has the required competence for acting as an alternate supplier to provide light rail cars for the Eglinton LRT and Finch West LRT.

Alstom has been contracted to supply 61 light rail vehicles at a price of approximately $529 million.

It must be noted that Metrolinx and Bombardier are going through litigation respecting the delivery schedule of the vehicles. The dispute resolution process could take from 8 to 12 months and Metrolinx wanted to have an alternate solution in the event that Bombardier would be unable to fulfill its contractual obligations

Eglinton LRT is a $5.3 billion project that should be commissioned in 2021. In 2010, Metrolinx had entered into a contract with Bombardier for the delivery of 182 vehicles, including 76 for Eglinton LRT and 23 for Finch West LRT.

Alstom will build 17 vehicles for the Finch West LRT project and, if necessary, 44 for Eglinton LRT. If Alstom's vehicles are not necessary for Eglinton LRT, they will be reassigned to the Hurontario LRT project.

Brookfield to launch a new infrastructure mega-fund in 2018

According to available information, Brookfield Asset Management plans to launch a new infrastructure fund in 2018, which may exceed $20 billion according to some analysts.

It must be noted that in July 2016, Brookfield closed the Brookfield Infrastructure Fund III ("**BIF III**") at US$14 billion with commitments from more than 120 investors. BIP III would be currently over

45% deployed.

The increasing size of infrastructure funds over the last few years reflects the growing interest in infrastructure assets worldwide. More investment opportunities may arise as the U.S. market is assessing how private capital can play a role in improving infrastructure assets such as airports, toll roads and bridges.

The largest infrastructure fund raised to this day remains Global Infrastructure Partners III, which closed at US$15.8 billion in January 2017.

Concert Infrastructure Fund closes its fourth round of funding

On May 15, 2017, Vancouver-based Concert Infrastructure Fund announced the completion of a fourth round of funding for an amount of $150 million, entirely raised from existing shareholders. This new financing raises the total capital of the fund to $505 million.

It must be noted that Concert Infrastructure Fund was launched in 2010 and mainly focuses on direct, long-term investments in Canadian infrastructure assets, with an emphasis on social infrastructure and public-private partnerships. The unitholders of the Fund include ten union pension funds. The Fund holds portfolio investments with a total value of $2.2 billion.

Ontario closes its second offering of Hydro One shares

According to an announcement dated May 17, Ontario closed a second offering of Hydro One shares and raised $2.79 billion.

The province sold 120 million common shares at a price of $23.25 per share. Ontario now owns 49.4% of the common shares issued and outstanding of Hydro One. RBC Capital Markets and CIBC Capital Markets were the lead underwriters in the context of this transaction.

The province expects to raise a total of approximately $9 billion by progressively selling up to 60% of Hydro One. The provincial government intends to use $4 billion from the proceeds to finance infrastructure projects through a fund named Trillium Trust. The balance of the proceeds, that is, $5 billion, would be used to repay the existing debt of Hydro One.

It is to be noted that Ontario made its first sale of 12.1% of its shares of Hydro One on the public market in April 2016.

Blackstone launches a US$40 billion infrastructure fund

The Blackstone investment bank intends to take advantage of the Trump Administration's infrastructure plan and will invest US$20 billion in a fund focused on infrastructure with the Public Investment Fund of Saudi Arabia ("**PIF**").

With a focus on the U.S. market, Blackstone and PIF wish to build a US$100 billion portfolio in equity and debt investments.

Blackstone then intends to increase the capital of the fund by approximately $20 billion by raising this amount from other investors.

Offshore wind projects to launch soon in Canada?

Copenhagen Infrastructure II and Canadian developer Beothuk Energy have signed a joint venture agreement to carry out wind projects off Canadian coasts.

The first project under development is the 180 MW St. George Bay project, located 18 km off the shore of Newfoundland. If the new joint venture succeeds in financing the project, it may become the first offshore wind project in Canada./p>

The estimated value of the St. George Bay project during construction is $555 million. According to Beothuk Energy, its pricetag may double to $1.1 billion after commissioning.

The sponsors expect to obtain regulatory approvals by the fourth quarter of 2017. A power purchase agreement is expected for 2018. Construction should begin in 2019. The project is expected to use 8 MW Siemens turbines.

Other projects under development include Burgeo Banks (1,000 MW), Prince Edward Island (200 MW), New Brunswick (500 MW), St. Ann’s Bay (500 MW) and Yarmouth (1,000 MW).

Governments of Canada and Nunavut announce funding for 9 community infrastructure projects benefitting 19 communities

The governments of Canada and Nunavut will grant joint funding of over $230 million to nine infrastructure improvement projects across the territory. A total of 19 communities will benefit from these projects for the improvement of solid waste management and water and wastewater systems throughout the territory. Federal funding is provided through the Clean Water and Wastewater Fund (“**CWWF**”) and the Small Communities Fund (“**SCF**”).

These projects are in addition to the CWWF projects announced in September 2016 as part of the bilateral agreement signed by Canada and Nunavut and the SCF projects announced in February 2016 and February 2017.

Innergex completes the acquisition of three wind projects in France

On May 24, 2017, Innergex Renewable Energy Inc. (TSX: INE) announced that it had completed the acquisition of three wind projects in France with a total aggregate installed capacity of 119.5 MW from Velocita Energy Developments (France) Limited (a subsidiary of Riverstone Holdings LLC). Innergex holds a 69.55% interest in these projects and Desjardins Group Pension Plan holds the remaining 30.45%

On May 26, 2017, Innergex further announced that two of these wind farms, namely, Vaite (38.9 MW) and Rougemont-1 (36.1 MW), which were recently acquired, have begun commercial operation. All the power produced by these wind farms will be sold under fixed-price power purchase contracts entered into with Électricité de France (“EDF”) for an initial term of 15 years, which provide that part of the price will be adjusted annually based on inflation-related indexes.

Following the commissioning of these two projects, Innergex now holds 12 operating wind farms in France, just over one year after its first acquisition.

The privatization of Canadian airports: Why, how and what is at stake?

On October 20, 2016, the Advisory Council on Economic Growth published its report entitled “The path to prosperity - resetting Canada’s growth trajectory” in which it recommends the privatization of the Toronto, Vancouver, Montréal, Calgary, Edmonton, Ottawa, Winnipeg and

Halifax airports. This proposal aims to ensure the financing necessary to meet the maintenance, repair and improvement needs of airport infrastructure within the next ten years. Other reports on the same subject, particularly that of the Institute for Governance of Private and Public Organizations ("IGOPP"), published in 2014 and entitled "The Governance of Canadian Airports", acknowledge that the current status of airports and their capitalization method does not adequately meet their needs. We will therefore first review the objective of such a privatization, then the legal mechanism to achieve it and, lastly, the potential positive and negative impacts of such an operation.

The objectives

The main objective behind the privatization concept is the transfer, from the public sector to the private sector of the economic burden of maintaining and operating these infrastructures. Furthermore, the amounts raised by the government following the privatization process can be reinvested in other infrastructure projects, a principle commonly called "asset recycling". In Canada, in a report dated February 7, 2017, the C.D. Howe Institute estimated that the potential proceeds from privatizing Canadian airports would be between $7 and $16 billion. However, privatizing also entails several risks if the anticipated economic results fail to materialize and that the private sector is struggling to maintain and operate these infrastructures.

The legal and corporate status of airports in Canada

Most airports in Canada, except some small regional airports, are managed by airport authorities ("**AA**"), which are not-for-profit organizations, without share capital, incorporated pursuant to Part II of the Canada Corporations Act [1].The AA are the tenants of airports lands and buildings pursuant to 60-year emphyteutic leases with a 20-year renewal option. In this way, the Canadian government remains the owner of the airports and the infrastructure thus acquired during the lease by the AAs must be transferred to the Government at the expiry of the lease for a symbolic consideration of one dollar. Pursuant to section 8 of the Airport Transfer (Miscellaneous Matters) Act [2],AAs do not pay income tax but pay rent to the Government and part of the municipal taxes [3].

Possible means for privatization

There are many degrees of privatization of an airport infrastructure. It may be a full privatization pursuant to which the private sector entirely replaces the public authority. It then owns and manages the infrastructure. Other structures may also be considered, under which the public authority retains ownership of the infrastructure while partnering with the private sector through a management contract, a concession or a joint venture. There are many possibilities.

In Canada, airport privatization would first be achieved by the "corporatization" of the AA, namely, the addition of a share capital to increase their available liquidities. This "corporatization" could be made using one of the following methods, namely: (i) the federal government could pass a special law providing for the conversion of AAs into business corporations governed by the Canada Business Corporations Act [4],or (ii) it could pass a special law transferring the assets, debts and employees of the AA to a business corporation created in parallel.

These modifications to the structure of AAs would also have consequences on the rights and interests currently held by some creditors pursuant to already incurred financial debts: particularly financial institutions and bond holders. For instance, under the Master Trust Indentures, which are agreements governing the bond financings entered into by some AAs, the holders of the outstanding bonds would be required to consent to this privatization by passing a special resolution. Whether the process involves changes in structure or the transfer of assets, it would modify the corporate status of the AAs and, accordingly, require creditor approval.

Furthermore, respecting air regulations, Canada is subject to the international standards governing air transport. These standards are independent from the nature or control of the airports. In fact, whether public or private, airports are required to comply with specific policies under international agreements in respect of landing, overflight and clearance charges. These international requirements impose responsibilities on the Government, even where air infrastructures are privatized. The Government remains responsible even if it no longer owns the airports. This situation results in full or partial privatizations being governed by regulations. These regulations, which are mandatory to ensure compliance of the country with international standards, reduce the management freedom which a private corporation which owns an airport would otherwise have and accordingly, impact its business model and profitability.

Economic issues

The privatization of an airport requires an indepth economic analysis and a rigorous implementation process to ensure its viability. In this respect, the Chicago Midway Airport provides us with an example of a failed privatization attempt. This airport participated in a privatization pilot program, namely, the Airport Privatization Pilot Program. While the transaction was to become the U.S. standard in matters of privatization, it failed due to the capital markets breakdown following the financial crisis of 2008. The City of Chicago had, at the time, spent in excess of US$13 million in the privatization process and the bidder paid a US$126 million penalty. In 2013, after relaunching the call for tenders, the City of Chicago ended up withdrawing its candidacy for the privatization pilot program due to the lack of interest of the private sector.

In an article published in 2006, entitled “Airport Privatization: Ownership Structures and Financial Performance of European Commercial Airports”, Hans-Arthur Vogel describes the challenge of privatization as follows: increase airport performance, while they no longer have the financial benefits associated to the moral backing of the public sector. He concludes that public-private partnership constitutes the structure which is most likely to ensure profitability. This conclusion is in line with the 2014 report of the Canada Minister of Transport entitled “Pathways: Connecting Canada’s Transportation System to the World – Tome 1” which promotes the implementation of protection against insolvency, concurrently with private sector investments.

Conclusion

The privatization of airports is an idea that has been around for a long time: many European airports operate under various private holding schemes. One example is the privatization of Heathrow airport in 1986 and that of the Frankfurt airport in 1997 or, more recently (October 2016), that of the Nice airport. Nevertheless, it is clear that the situation of Canadian airports is somewhat particular. The presence of an existing operational structure requires a two-step process: discarding the former structure and implementing a new one. Experiences elsewhere in the world in that respect will be very useful to Canadian authorities for making the decisions that are the most appropriate for the Canadian market.

Canada Infrastructure Bank Act : highlights

On November 1, 2016, in the wake of the announcement by the Trudeau government of major infrastructure investments, Minister of Finance Bill Morneau announced the establishment of the new Canada Infrastructure Bank (“CIB” or the “Bank”), planned for the following year. In

May 2017, the designated minister, namely, the Minister of Infrastructure, Amarjeet Sohi, ultimately selected Toronto for hosting the future Infrastructure Bank, despite the Couillard government's sustained efforts to bring the Bank to Montréal.

In this context, an analysis of Bill C-44 on the Canada Infrastructure Bank Act, at first reading, is relevant to understand the true mission of the Bank, its rules of governance, management and powers.

Mission

The primary mission of the Bank is to invest in infrastructure, particularly using innovative financial vehicles, but also to seek to attract investment from private sector investors and institutional investors in infrastructure projects in Canada and, more generally, to promote overall economic development and support the viability of the infrastructure sector across Canada. That mission first requires the Bank to receive and structure proposals for projects and negotiate with promoters. Secondly, the Bank must act as an expertise centre for infrastructure projects, which means that it will have to provide opinions to the government on projects, as well as collect and assess data on the state of infrastructure in Canada.

Governance

The Bank will have a board of directors composed of 8 to 12 directors, appointed by the minister, possibly after consulting the provinces. The directors will be appointed to hold office during pleasure for renewable 4-year terms. However, the chairperson is appointed with no specific term of office. The government may terminate the appointment of a director or the board may do so, subject to the government's approval. Moreover, under this bill, the designated minister may set up committees partly composed of members of the board of the Bank to advise him or to whom he may delegate particular powers.

Management and control of the Bank

As most Crown corporations, the Infrastructure Bank must submit annually a corporate plan to the designated minister for the purpose of government approval. In the same manner, it must submit annually to the designated minister an operating budget and a capital budget for the next financial year. This budget must be approved by the Treasury Board, subject to the approval of the Minister of Finance.

Powers

The Bank has many powers in order to protect the investments it makes. The investments of the Bank may be made under several forms; it can invest in the share capital of a business, lend money to a business, acquire derivatives, acquire and hold a security interest or acquire or dispose of rights or interests in movable or immovable property or entities. However, the Bank cannot provide loan guarantees except where the guarantees are approved by the Minister of Finance. Furthermore, the Minister of Finance is particularly authorized to pay to the Bank amounts of not more than $35 billion in the aggregate, approve loan guarantees and make loans from the Bank's treasury. Every five years thereafter, the designated minister must cause a review of the provisions and operation of the Canada Infrastructure Bank Act for this report to be then filed with each House of Parliament.

The future Infrastructure Bank will therefore have extended powers to match its ambitions: ensuring the sustainability and renewal of infrastructure in Canada while stimulating economic growth.

1. RSC 1970, c C-32.
2. S.C. 1992, c. 5.
3. An act respecting Aéroports de Montréal, L.Q. 1991, ch. 106.
4. R.S.C. 1985, c. C-44.