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Department of Finance and  
Treasury Board of Canada

Ministère des Finances et  
Conseil du Trésor du Canada



*Conference Proceedings*

**CORPORATE GOVERNANCE:  
IMPROVING THE EFFECTIVENESS  
OF CROWN CORPORATION BOARDS**

Hosted by:

*Hon. Art Eggleton, President of the Treasury Board*

Chairperson: *David Culver*

Conference Speakers:

*Hon. Paul Martin, Minister of Finance*

*Peter Dey*

*Penny Collenette*

*Claude Taylor*

*Micheline Bouchard*

*Louise Vaillancourt*

*Gail Cook-Bennett*

*Maureen Sabia*

*Douglas Barrington*

*David Leighton*

*Patrick O'Callaghan*

*David Watters*

*Gary Sheehan*

Reception Speakers:

*John English, M.P.*

*Denis Desautels, Auditor General of Canada*

Canada

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Catalogue No. BT 77-2/1994E  
ISBN 0-660-15928-7

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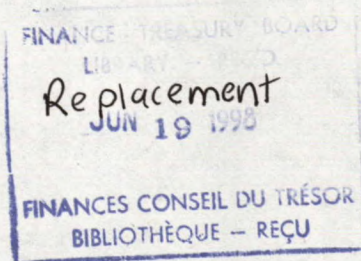
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Canada

October 1994

President  
of the Treasury Board



Président  
du Conseil du Trésor

Ottawa, Canada K1A 0R5

## The President's Message

These proceedings summarize the Reception and Conference *Corporate Governance: Improving the Effectiveness of Crown Corporation Boards* which I hosted in Ottawa on October 5 and 6, 1994.

The Conference provided a private forum for Crown corporation chairpersons and chief executive officers to meet with their peers, senior ministers, and government officials and to exchange views on the issue of corporate governance of Crown corporations. I thank my colleagues John English, Paul Martin and Marcel Massé as well as the Auditor General of Canada, L. Denis Desautels, for their support and contributions. I also appreciate the efforts of the Conference Board of Canada, who organized the Conference with the Crown Corporations Directorate.

By all accounts the Conference was a success. The participants gave us a solid understanding of the current issues related to corporate governance in the federal public sector. From this base, we can strive to improve the effectiveness of our corporate governance regime. Of course, as with all policy development, taking appropriate action involves striking the proper balance. It means balancing the interests of the single shareholder, the Government of Canada as represented by the responsible minister, with the duties and responsibilities of the board of directors. We must also consider the roles of management, employees, and the community of stakeholders who are the beneficiaries of the public policy purpose which each corporation strives to meet.

If the Conference gives us one message it is that "one size does not fit all". Flexibility is the key to meeting the divergent interests of the 48 parent Crown corporations. However, I suggest there are areas where we can make progress. Success depends upon improved communication — communication between the shareholder and the board of directors, and communication between the board and senior management of the corporation. Of equal importance is the appropriate education of newly appointed directors. Much work has been done by this Government to restore the confidence of Canadians in public institutions. I am confident that the comments and suggestions provided during the Conference will assist us in improving corporate governance at the federal level.

In conclusion, I believe that the Conference and these Proceedings make an important contribution to the continuing debate in Canada, and globally, on improving the accountability of public enterprises to the taxpayers who support them.

A handwritten signature in black ink, appearing to read "Arthur C. Eggleton".

Arthur C. Eggleton

January, 1995

Canada

# Corporate Governance: Improving the Effectiveness of Crown Corporation Boards

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DAVID B. WATTERS, Assistant Secretary Crown Corporations and Privatization Directorate, Treasury Board Secretariat and Department of Finance. Prior to assuming his current position in 1993, Mr. Watters was Assistant Deputy Minister for the Bureau of Consumers Affairs, Department of Consumer and Corporate Affairs.

# **Corporate Governance: Improving the Effectiveness of Crown Corporation Boards**

**Introduction by Conference Organizer, David B. Watters  
Assistant Secretary, Department of Finance and Treasury Board of Canada**

These Proceedings summarize the Conference and Reception on *Corporate Governance: Improving the Effectiveness of Crown Corporation Boards* held in Ottawa October 5 and 6, 1994. They contain the presentations of those addressing the participants and a synthesis of the views expressed by the participants in the four discussion groups and the plenary armchair discussion. They offer some feedback from participants.

The objective of the Conference was to provide a private forum for Crown corporation chairpersons and chief executive officers to meet and exchange views on the issue of corporate governance of Crown corporations. Discussions focused on recently released reports on the subject of corporate governance addressed to both the private and public sector as well as concerns unique to Crown corporations. The aim was to both inform and solicit suggestions from participants to improve the corporate governance of Crown corporations.

The Honourable Arthur C. Eggleton, President of the Treasury Board, hosted the Conference and opened it with a Reception held on Parliament Hill attended by chairpersons and chief executive officers, as well as ministers and senior government officials. The Crown Corporations Directorate of the Department of Finance and Treasury Board of Canada, together with the Conference Board of Canada, organized the Conference. Mr. Eggleton opened the Reception and introduced the topics to be addressed during the following day's Conference. John English, M.P.

and Parliamentary Secretary, spoke about the government's approach to renewal on behalf of the Honourable Marcel Massé, President of the Privy Council, Minister of Intergovernmental Affairs, and Minister Responsible for Public Service Renewal. The Reception also featured the presentation by Denis Desautels, Auditor General of Canada, of the First Annual Award for Excellence in Annual Reporting by Crown Corporations. Appendices A and B contain these presentations.

The Conference was held the following day at the Chateau Laurier Hotel. David M. Culver, Chairman of CAI Capital Corporation, Chairperson of the National Museum of Science and Technology and former Chairman and CEO of Alcan Aluminum Ltd., was Conference Chairperson. Mr. Culver set the tone for the day with his opening remarks discussing the objectives of the Conference. This was followed by an address by Mr. Eggleton who provided an overview of the government's perception of key challenges facing Crown corporations.

The first session was a presentation on the TSE Committee draft Report "Where Were the Directors?" Guidelines on Corporate Governance in Canada by the Committee Chair, Peter Dey. This was followed by a panel discussion on the application of the draft TSE guidelines to Crown Corporations by Claude Taylor of Air Canada, Micheline Bouchard of DMR, and consultant Patrick O'Callaghan. Followed by Group discussions by the participants on key topics



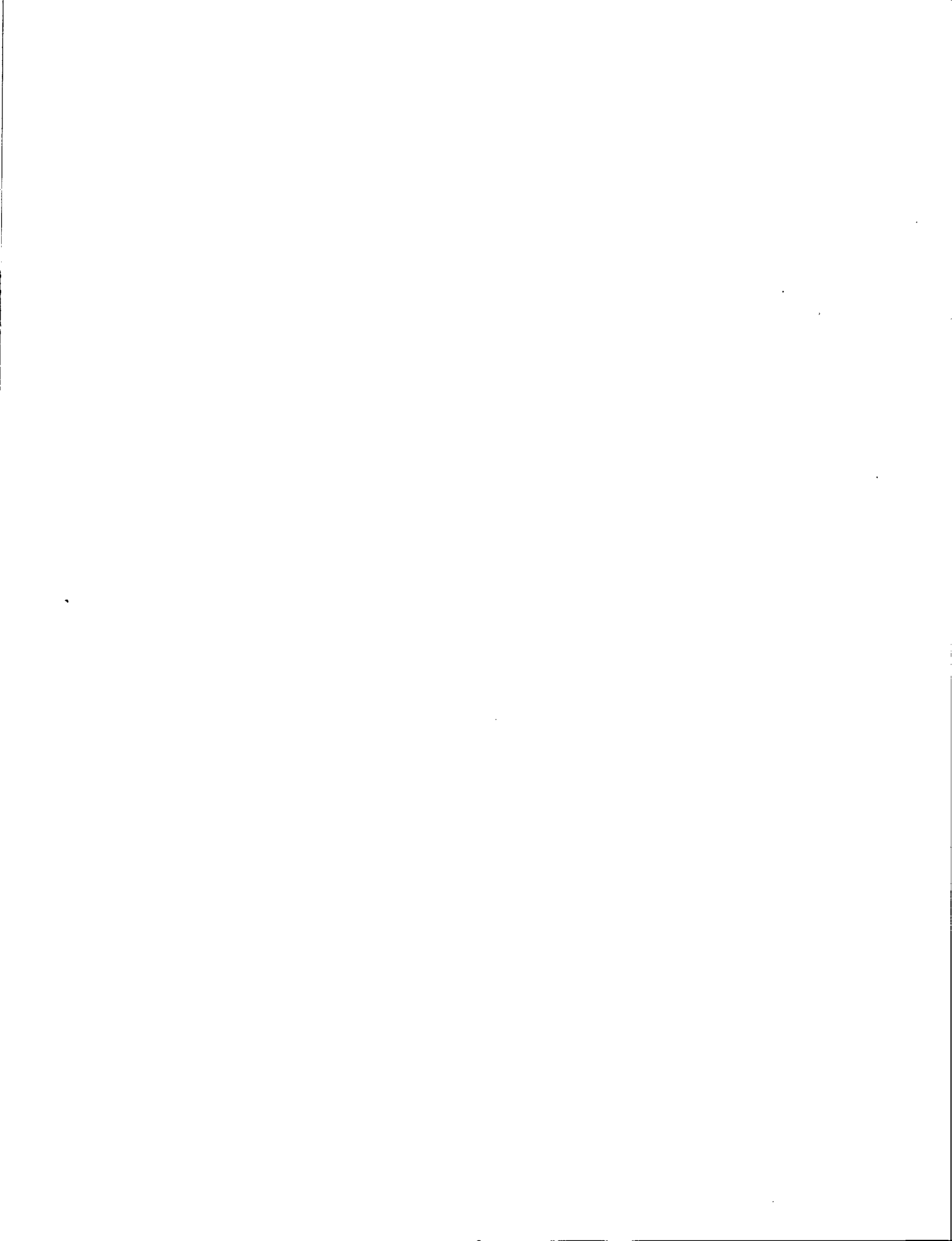
related to corporate governance. Each of the discussion groups was chaired by an expert in the area of Crown corporation governance. The topics covered were the development and approval of strategy; board composition and evaluation; balancing the corporate agenda with the public good; and meeting the information needs of the boards. Each participant had the opportunity to attend two of the four break-out groups.

The Honourable Paul Martin, Minister of Finance, addressed the Conference with the government's views on rethinking the federal role in government and its relationship with Crown corporations. As well, he shared some personal reminiscences about having served as a board member of a Crown corporation.

The luncheon speaker, Penny Collenette, Director of Appointments in the Office of the Prime Minister, provided welcome insight into the process of appointments to boards of Crown corporations.

The afternoon armchair discussion built on the conclusions of the break-out group discussions and considered their proposals for improving corporate governance. David Culver and Gary Sheehan, the Director of Policy and Corporate Information Division, Crown Corporations and Privatization Sector, provided a wrap-up review of the Conference's observations and conclusions regarding corporate governance.

\* \* \*



DAVID M. CULVER is Chairman of CAI Capital Corporation, Chairperson for the National Museum of Science and Technology, former Chairman and Chief Executive Officer of Alcan Aluminum Ltd. Mr. Culver joined Alcan Aluminum in 1949 and retired as Chairman and Chief Executive Officer in 1989. At that time he formed CAI Capital Corporation, a Canadian-based equity investment fund. He is a Director of American Express Company, Lehman Brothers, American Cyanamid Company, and the Seagram Company Ltd. Mr. Culver is Honourary Chairman of the Business Council on National Issues and is a member of its Policy Committee. He was Canadian Chairman of the Canada-Japan Businessmen's Co-operation committee for 11 years.

# Welcome and Introduction

by Conference Chairperson David M. Culver

*Mr. Culver opened the Conference by welcoming participants and describing the objectives of the day.*

First of all, we are here to provide a forum for Crown corporation chief executive officers and chairpersons to meet and network with ministers, senior government officials and colleagues from other Crown corporations. Secondly, we are here to discuss contemporary corporate governance issues currently facing Crown corporations. And lastly, we are here to explore in greater depth the roles and responsibilities of the CEO and the chairperson.

We have a great country and we have to make it work better than it's been working. All of us can contribute towards that.

A friend and colleague of mine, Bill Bowan, has written a fine book called *Inside the Boardroom*. I'd like to take the liberty of reading from the beginning of the book.

*Governance is a fascinating subject. At bottom it has to do with power and accountability – who exercises power on behalf of whom, and how the exercise of power is controlled. It involves complex webs of personal as well as institutional relationships. It provides the voyeur with insights into human frailties and strengths at the same time that it provides the student of abstract organizational structures with conundrums. Governance also at least seems to be a relatively accessible subject, which may be another reason for its current popularity...*

*The full effects of "good" versus*

*"bad" governance can be hard to calibrate and are actively debated, but no one doubts that they are real. When things go wrong at major corporations such as General Motors and IBM, there are serious consequences for society at large as well as for workers, investors and communities affected most directly. The directors are accountable; it is up to them to guide a reassessment of strategic directions and, if need be, to replace the CEO, and see that other managerial changes are made. In the non-profit sector too, the media are increasingly critical of boards that seem to be "snoring" while performance deteriorates, as the New York Times recently characterized the situation of Empire Blue Cross. Governing mechanisms are, after all, the steering devices for complex organizations– with the potential to guide them down right or wrong paths.*

*Any reader of the daily press will be aware that interest in corporate governance has increased dramatically in this country in recent years, in part as the result of increased shareholder activism. Similar efforts to hold boards accountable are now beginning to be seen in other countries. In Switzerland, Japan, Germany and the United Kingdom, institutional shareholders have demanded that boards pay attention to them, open themselves up to ideas from outside, and even change their structures and habitual forms of operating.*

*While a variety of reasons may be advanced to explain this*

*In Crown Corporations, we have our hands in the taxpayer's pocket, and the taxpayer is getting pretty worn-out ... the taxpayer is going to demand low-cost excellence.*



*globalization of interest in governance, there is no denying the spread of curiosity about how organizations are governed, and how they should be governed.*

low-cost excellence will probably have the effect that there will be fewer rather than more Crown corporations.

\* \* \*

*"Curiosity" is a right word, in that governance is seen by many as a kind of black box that is hard for outsiders to penetrate. Even some of those most intimately involved with for-profit and non-profit organizations have only a dim sense of where power resides, how it is distributed and exercised and how it is limited and controlled.<sup>1</sup>*

That is a general setting for our day's affair. To be more specific about Crown corporations, let me make one other point . In private organizations, "for-profit" organizations, we live in a world where excellence alone won't get you there, it has to be low-cost excellence. Excellence alone will just keep you alive, but only low-cost excellence will make you profitable. After all, that's the way the industrial democratic systems should work. In Crown corporations, we have our hands in the taxpayer's pocket, and the taxpayer is getting pretty worn-out, and the taxpayer is going to demand not just excellence from us in our Crown corporations, the taxpayer is going to demand low-cost excellence.

To focus our minds for the rest of the day, I'll make a fearless forecast — if we have this meeting in five years, less than half the organizations that are in this room today will still be around. Hopefully, some of them will have been privatized, hopefully there will be some new ones developing from what are now government departments. My guess is,

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<sup>1</sup> William G. Bowen, *Inside the Boardroom: Governance by Directors and Trustees* (New York: John Wiley and Sons, Inc., 1994), p.ix.



THE HONOURABLE ARTHUR C. EGGLETON, President of the Treasury Board and Minister Responsible for Infrastructure. Minister Eggleton was first elected to the House of Commons in 1993. He was Mayor of Toronto from 1980 to 1991 and a member of Toronto's City Council for 22 years. Minister Eggleton has also worked as a consultant on urban management and policy issues, is a former member of the Metropolitan Toronto Police Commission, an honorary director and former member of the board for the Canadian National Exhibition, and is a member of the Society of Management Accountants of Canada.

# **"Corporate Governance: Improving the Performance of Crown Corporation Boards"**

**Address by The Honourable Arthur C. Eggleton  
President of the Treasury Board**

Good morning, bonjour et bienvenue, I'm delighted to be able to greet you once again, and I appreciate very much your involvement in this session today on performance of Crown corporations. I understand this is the first time that you've come together since 1989, and I hope, this reunion, so to speak, is one that proves to be of value to you. Certainly, if it's of value to you, it's going to be of value to us in government. As David Culver said, we all need to work towards excellence with less money.

Certainly, we know that with the kind of deficit situation that we face and yet the concomitant demand for more efficiency in terms of the services we provide, the way government and its entities, its Crown corporations, operate in the 90s, is going to be quite different from the way that is has before. I think you realize that. And so, I'm particularly pleased to be able to host this Conference on corporate governance as it relates to the board of directors for our various Crown corporations.

This is an important area for discussion, not only for participants, but for the millions of Canadians who are affected directly or indirectly by your decisions and actions.

Canadians have given our government, and governments in

other places in this country, a very clear message — they're saying, be relevant, be responsible, be efficient. We realize that to meet this challenge, we cannot continue to operate business as usual. We have to do our homework, and we are, as evidenced by the review of public policy and operational reviews that we are currently undertaking.

John English, last night, outlined the government's approach to renewal.<sup>2</sup> The Program Review, which Marcel Massé is heading, is determining what lines of business we should stay in, what programs or services we can continue to afford, what is relevant for the federal government in the 90s. There is a whole series of tests and questions that we're applying to all our programs and services. Flowing from that, we'll also be to determine how government should provide those services.

I'm looking at a number of areas that I hope you are as well, such as quality service standards, looking at "one-stop shopping" possibilities. We've set up Canada Business Service Centres, across the country. We'll be going into partnership with other levels of government working together instead of working at cross purposes, avoiding duplication and waste. People don't want that and we can't afford it.

We're looking at types of reforms

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<sup>2</sup> See Appendix A2



and changes in the way government services are provided to put them on a more businesslike basis. We need better systems of evaluation, to provide measurable goals, so that we can increase accountability. We don't want to get in and micro-manage these operations certainly not from our perspective at the Treasury Board, but we want to be able to make sure that the goals are clear, they're measurable, can be evaluated and we can determine what we are getting for the taxpayer's money. I think there are exciting opportunities for reshaping government in the 90s, and you're going to be a part of that as well.

We have to consider seriously the various options that are open to us, having due regard, of course, for the fiscal situation in which we find ourselves. Finance Minister Paul Martin has said, and the Prime Minister has said, we've all said, we have a target that we articulated in the election campaign of getting the deficit down to 3% of GDP in three years. We are absolutely determined we are going to meet that, and we are on course to meet it. We will continue to take the kind of measures necessary to meet it. But that's only an interim solution because obviously we have to get back into a balanced budget situation. We have to tackle that debt overall, particularly the foreign controlled aspect of the debt.

All of these things are paramount in our mind, as we also go through this exercise of trying to get government right. So, there's a lot on our platter. We need you to be a part of helping to make government right in the 90s.

We have to make clear and

consistent decisions that respond to the demands of the Canadian public, without jeopardizing our ability to provide leadership. In many ways, what we are doing for Canada Inc., is what you do as chairpersons, CEOs, and senior officials of our Crown corporations. And the parallel is not accidental because your organizations are the creation of the federal government — and the economic and the public policy environments that you face are the same ones that we face on an even larger basis.

The public has demanded integrity — and in our first year of government, the Prime Minister has made this value central to both the letter and the spirit of our actions.

The public has demanded transparency and accountability. They want to know who makes decisions, how they are made and why. That's one of the reasons we brought in reforms, for example, our proposed lobbyists reforms. It's also a reason that we reformed the *Auditor General Act*. The Auditor General is now not going to have one annual report, he now can report up to four times a year so that we continue to increase accountability. This helps ensure that we're providing good value for the taxpayers' dollars.

An equally important part of leadership, is letting the public know what we are going to do before we do it. **Creating Opportunity**, or the "Red Book", broke new ground in communicating exactly what our intentions would be once we were in office. And we've stuck to our plan; there should be no surprises as to what we are doing. The Red Book is our guide, and it's

*... what we are doing for Canada Inc., is what you do as chairpersons, CEOs, and senior officials of our Crown corporations ... and the economic and the public policy environments that you face are the same ones that we face on an even larger basis.*

important to the Prime Minister, and to the government that we keep the promises. This is an important part of re-establishing integrity and confidence in government in our country, and so, the things that we said we were going to do, are what we are working on and what we are doing.

Now the public has demanded relevance, and that means getting out and consulting on social reforms, on defence, on foreign policy. It doesn't just mean talking, it means actually listening. And we are doing the same process with the respect to the budget this fall, under the leadership of Paul Martin.

The public has demanded financial responsibility, and that means getting our fiscal house in order, living within our means. The public has demanded common sense, and that means providing government that not only "looks right", but also "feels right".

This decade has already demonstrated the unprecedented willingness of the public to challenge both governments and corporations to do what they say they are going to do. It is not accidental that we have seen a number of studies in this area of corporate governance in the past few years — including Peter Dey's significant work for the Toronto Stock Exchange earlier this year. The public has effectively been expressing its frustration at being left out, shut out, or ignored, in both the process and structures of governance.

The Auditor General did recognize in his 1993 Report that the government's regime for managing its Crown corporations as outlined in the *Financial Administration Act* is

working reasonably well based on the 10 years that we have been reporting to Parliament on the performance of Crown corporations.

But, I believe that what we are experiencing as decision makers and managers is part of the incremental "democratization" that has affected many other aspects of our lives — our families, our communities, our courts, our international relationships.

I think that the majority of our federal Crown corporations meet the public's expectations. But these expectations continue to increase, and performance no longer simply means delivering a necessary product or service, and where expected, producing an operating profit — but also meeting a whole spectrum of additional demands.

In the Peter Dey report, there is a particularly challenging concept of a modern business corporation put forward by the Canadian Centre for Ethics and Corporate Policy.<sup>3</sup> The Centre sees "*the modern business corporation, as both an economic institution and a social institution*". The role of the "*economic institution*" is "*to conduct its activities with a view to enhancing profit for the benefit of its shareholders*". So far, nothing new.

However it also says that "*as a social institution, a corporation, in the conduct of its business activities, take into account those ethical principles and considerations that are reasonably regarded as appropriate for the*

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<sup>3</sup> "Where were the Directors?" *Guidelines for Improved Corporate Governance in Canada*. Draft Report of the Toronto Stock Exchange Committee on Corporate Governance in Canada, May 1994, p. 17.

*...the majority of our federal Crown corporations meet the public's expectations. But these expectations continue to increase, and performance no longer simply means delivering a necessary product or service.*

*responsible conduct of business*".

The challenge is not unlike that faced by the head of each federal Crown corporation, and is further complicated by the need to balance the corporate agenda with the public policy agenda.

This approach creates pressures for more formal rules and regulations, values and ethics — for both the process and the people that influence corporate decision making.

Gérard Veilleux addresses a number of these important issues in his paper *"Unfinished Business": A Report on the Appointment Process to Boards of Directors of Crown Corporations*, released by Marce Massé in July 1994. Veilleux, of course, has seen the process from several perspectives, and he brings both the weight of his experience and his insight to the problems of the process of appointing people to the board of directors of Crown corporations.

I would be remiss if I did not mention the work of my own department, especially the Crown Corporations Directorate, who, jointly with the Conference Board of Canada and the Canadian Centre for Management Development, developed an important introductory document on roles and responsibilities — especially for newly appointed directors.<sup>4</sup>

But we have still not completed the corporate governance model, especially as it relates to federal Crown corporations. And that is why your input is so crucial at the

four sessions that are planned for today's proceedings.

The four themes of this conference correspond roughly to the four areas of responsibility which Mr. Dey's Committee attributed to private sector boards of directors:

- "The development and approval of corporate strategy" — perhaps the most important aspect in both the public and private sectors;
- "The composition of the board and the evaluation of performance of the boards and of the CEO and individual directors" corresponds roughly to Dey's "succession planning for senior management";
- "The information needs of the board" corresponds to the Dey Committee's requirement that board members have access to independent advice and expertise when required in order to be able to fulfil their responsibility and exercise their independent judgment; and
- The final challenge of "balancing the corporate agenda with the public good" is the public sector substitute to Mr. Dey's requirement that private sector boards of directors ensure communications programs with shareholders, stakeholders, and other affected parties.

I would not be surprised if your sessions generated more questions than answers.

*... your mandates, your products, and the size of your financial and human resources cover a wide range. So I do not expect that you will find uniformity or standardization on everything.*

<sup>4</sup> *Directors of Crown Corporations: An Introductory Guide to their Roles and Responsibilities*. (Conference Board of Canada, July 1993).

I also realize that your mandates, your products, and the size of your financial and human resources cover a wide range. So I do not expect that you will find uniformity or standardization on everything.

But today's work will be an important "start", and I know that many other executives federally and elsewhere will be looking at your deliberations for clues on how they can best manage their own operations, especially related to issues of corporate governance.

As I look at the people who will be leading the sessions, and the people in this room, I am confident that we can continue to break new ground in the organization and operations of federal Crown corporations.

\* \* \*



**PETER J. DEY, Managing Partner of Morgan Stanley and Chair of the TSE Committee on Corporate Governance. He is responsible for Morgan Stanley's investment banking business in Canada. Prior to joining Morgan Stanley, Mr. Dey was a senior corporate partner and member of the Executive Committee of Osler, Hoskin & Harcourt. Mr Dey is also the author of several academic papers on the Canadian securities industry and law. Mr. Dey was Chairman of the Ontario Securities Commission from 1983-1985.**

# Presentation "Where Were the Directors?" the TSE Committee Guidelines on Corporate Governance

by Peter J. Dey

**Managing Partner  
Morgan Stanley Canada**

**Committee Chair  
Toronto Stock Exchange Committee  
on Corporate Governance in Canada**

*Peter Dey, Chair of the Toronto Stock Exchange Committee on Corporate Governance in Canada, spoke on the Committee's guidelines and the draft Report "Where Were The Directors?". His presentation was followed by a panel discussion on the Report's applications to Crown corporations.*

## Introduction

I'm pleased to have this opportunity to participate in this program.

The TSE initiative was a private sector initiative. We came out with guidelines, (see Exhibit A, pages 34 and 35) designed for private sector corporations. We didn't deal with the needs of Crown corporations, we didn't deal with the needs of charitable corporations or indeed the needs of corporations that are not traded publicly, but that's not to say that some of our recommendations shouldn't have some application to Crown corporations. Indeed, I think that the guidelines we've tabled, probably would constitute a good starting point in identifying the aspects of the governance of any corporation for study.

I should make a couple of preliminary caveats though, to any consideration of the application of the guidelines we developed to Crown corporations. In both the corporations owned by the private sector and those owned by the Crown, the board of directors is central to governance. One of the

most importance differences between the two sectors is in defining the obligations of the board to the shareholder.

## The Board's Obligations

In the private sector, the board decides what business it wants to be in, defines its mandate and determines a strategy to execute its chosen business. And, ultimately, its objective in doing so is to enhance shareholder wealth. Ultimately, the board is accountable to the shareholders for its success in achieving or failing to achieve this objective.

In a Crown corporation, the mandate is handed to the board. The mandate is defined by the representatives of the ultimate owners, and the board's obligation is to define a strategy to execute and achieve this mandate.

The objective of the board in the Crown corporation will not normally be expressed in terms of enhancing shareholder wealth although this may be changing; it will be more defined in terms of

*In a Crown corporation, the mandate is handed to the board. The mandate is defined by the representatives of the ultimate owners, and the board's obligation is to define a strategy to execute and achieve this mandate.*

executing its mandate. The board will be accountable, but its accountability will be measured in terms of its success or lack of success in achieving its defined mandate.

Where this is important is in any discussion of the stockholder/stakeholder theory of the board's obligations, and we went to some length in the Report to spell out the obligations of the board. We were concerned about confusion in defining the board's obligations to a variety of groups that have a stake in the corporation. We said that the ultimate obligation, and the key to a private sector corporation being formed and functioning, is the knowledge of the investors that the board is ultimately accountable to the investors, and its objective in managing the business corporation is to enhance shareholder wealth. If that is not clear, then the whole system will break down. We recognize that it was important that in pursuing and achieving this objective, the board would have to factor in the interests of other stakeholders.

The obligations of the board of the Crown corporation would be expressed in terms of pursuing its mandate. You would substitute the pursuit of its mandate in place of enhancing shareholder wealth. I would expect, and perhaps this will become clear in the course of the day's discussions, that the board of the Crown corporation must also take into account the interests of other stakeholders, but ultimately, its accountability is in achieving the mandate that is defined for it. This difference should be factored into any discussion of the application of the guidelines that we developed for private sector corporations, in the application of these guidelines to

Crown corporations.

### Background

Now, I would like to give you some background on the process leading up to the draft Report. The Committee was established in May 1993. The theory of our process was to be efficient, and to get something out in a reasonably short period of time. So we did not go back and review all of the successes and failures of corporations that could be attributed to their governance systems. We took a prospective look at governance. We thought we should design a process that would have credibility. So we invited comments, we held meetings across the country and, we ultimately got some very thoughtful and helpful comments. We had eighty-odd written submissions. We published our Report in draft as part of the process.

This isn't an area where I think one should be creative or profound. I think it is an area where it is more important to gather all of the learning and try to come up with some kind of incremental approach to advancing governance standards. What was profound was not so much the guidelines that we came up with but that this group representing diverse experience in the governance spectrum could come up with consensus on what would constitute good governance. The focus of the Report is 15 guidelines on governance (see Exhibit A, see pages 34 and 35). We also took the opportunity to address the issue of liability of directors.

Based upon the comments received on the draft Report, I would say that we probably

*We recognize that our guidelines propose a process and structure for managing the business of a corporation and that these guidelines are no substitute for constituting boards with individuals of strength, integrity and commitment to managing the enterprise.*

## **Guidelines to Good Governance**

I think it is important for all corporations to recognize the limitations of corporate governance. Corporate governance obviously is not the objective of managing a business corporation. I talked about what the objectives of managing a private sector corporation or a Crown corporation should be. Although it is not an objective of managing a corporation, the committee tried to relate governance to performance. We said that while good corporate governance will not in and of itself guarantee good corporate performance, the committee is convinced that effective corporate governance does make an important contribution to corporate success and to realizing the objectives of the corporation. We are also confident that, over time, poor corporate governance will lead to poor corporate performance.

We recognize that our guidelines propose a process and structure for managing the business of a corporation and that these guidelines are no substitute for constituting boards with individuals of strength, integrity and commitment to managing the enterprise.

### **The Responsibilities of the Board of Directors**

Let me table what I think are the most important guidelines. Minister Eggleton concurred in his opening comments as he pointed to one area of the Report that I think is particularly useful to Crown corporations — that is defining the

landed pretty well in the middle of the spectrum. There were a number of corporations that said that we have gone too far, particularly in pushing for more independence of the board from management and from shareholders. And, then there were a number of other commentators that said that we had not gone far enough, particularly from the investors side of the street.

The Report is the report of the committee, not a Toronto Stock Exchange report. We will table our recommendations with the TSE. As you are probably aware, the enforcement mechanism is to require listed companies to disclose at least their systems of governance, and then have the market regulate the effectiveness or the adequacy of the system of governance.

We will probably try and produce a final Report in the form of a supplement to the draft Report.

The title of the Report "*Where Were The Directors?*" is perhaps the most exciting part. This was a theme that ran through all of our discussions. With the diversity of backgrounds and experience on the Committee, you can imagine that the discussions would range over a number of areas of corporate management, and corporate accountability. But whenever we needed to get back on track, someone would sound the cry and say, "Yes, but where were the directors?", so we thought that we should carry forward that theme and give it some profile in our recommendations.

*... the board of the Crown corporation must also take into account the interest of other stakeholders, but ultimately, its accountability is in achieving the mandate that is defined for it.*

*... ultimately, the board's responsibility is to make sure that there is a strategy in place to pursue the corporation's mandate and a strategy against which management's performance can be measured.*

*... effective corporate governance does make an important contribution to corporate success and to realizing the objectives of the corporation. We are also confident that, over time, poor corporate governance will lead to poor corporate performance.*

board's responsibilities. There is a generic discussion in the Report of board responsibilities. We characterize the board as stewards of the company overseeing the conduct of the business, setting standards of conduct for the business, and ultimately preserving the corporation's assets.

We identified four specific board level responsibilities:

- I think the most important of these is adopting a corporate strategy. The strategy will respond to the mandate of the corporation. The strategy will probably be defined by management that lives the business day in and day out. But ultimately, the board's responsibility is to make sure that there is a strategy in place to pursue the corporation's mandate and a strategy against which management's performance can be measured.
- There are provisions for succession to senior management including appointing, training and monitoring senior management.
- The board should be responsible for a communications program so that the various stakeholders that are affected by the corporation's business understand what is going on, that the corporation communicates effectively with its owners and with other stakeholders.
- And the board should be responsible for the integrity of the corporation's internal control and management information systems.

These responsibilities change the emphasis of how boards of directors would function. Boards would be less focused on transactions. Historically, I think boards spent a lot of time looking at various transactions whether related to capitalizing the company or making an acquisition or a divestiture. The more the modern board of directors focuses on systems the better it will meet its responsibilities — making sure that there are systems in place to execute the strategy as it understands it, and monitoring the types of transactions that the corporation engages in, to ensure that they're consistent with that strategy. So, that sums up the first major guideline defining board responsibilities.

### **The Independent Functioning of the Board**

The second guideline, which is a main theme of the Report, is to ensure the independent functioning of the board — independent principally from management. Many boards are captives of management. This arises because of a number of dynamics that exist at the board level starting with the way new directors are identified and recruited. This is the most controversial part of our Report. We've said that a majority of directors must be "unrelated" directors. We say an individual that is connected to the management of the corporation, for example, a lawyer to the company, is a "related" director. Indeed, any individual that is connected to a significant shareholder is also a "related" director. And that's where we've received many passionate submissions stating that many shareholders invest because they

*The more the modern board of directors focuses on systems the better it will meet its responsibilities — making sure that there are systems in place to execute the strategy as it understands it, and monitoring the types of transactions that the corporation engages in, to ensure that they're consistent with that strategy.*

know that a significant shareholder is in effect directing the corporation and they want that significant shareholder to constitute a board that will carry forward the strategy of the significant shareholder. Therefore, there should be no restrictions upon the constitution of the board. I think that's a legitimate concern. Now, many people have also said they really like our recommendation. Some believe that Canada is a country where groups and corporations are too much under common control and any measures to ensure that the board is more independent from the significant shareholders are worthwhile. It's an area of lively debate.

We clarified the responsibility for identifying and appointing new recruits to the board away from management. We proposed that every corporation have a nominating committee that would have that responsibility.

#### **How Would These Guidelines Apply to Crown Corporations?**

There's more about this that meets the eye. At first I thought they don't apply — Crown corporation boards are constituted with individuals not connected to management. That makes sense because you want that partnership between the board and management but you also want that sort of healthy tension, so management understands that it's accountable to the board and the board will monitor its performance. So there has to be some distance. Constituting boards of Crown corporations with individuals that have some distance from management makes sense. Then

I considered the connection to the shareholder. That's more difficult to speculate on, just as it is with private sector corporations.

The final guideline that I will highlight is imposing upon a board the specific responsibilities for the governance system of the corporation. Again, I think that is transferable to the board of a Crown corporation.

I'll conclude by saying that I commend Crown corporations for giving governance a higher priority on their busy agendas. If we've achieved anything in this exercise, I think we've provided an incentive for virtually every corporation to look at its governance system and make some improvements. There's no question that that kind of dynamic is going to exist at the Crown corporation level as well. This meeting is good evidence of that. We live in an era of increased accountability and the public sector is no exception. It's obvious that public sector Crown corporations would be better equipped to meet these demands by reviewing their own systems of governance and improving them where appropriate.

Thank you very much.

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CLAUDE I. TAYLOR, Chairman Emeritus of Air Canada. Mr. Taylor is also member of the Board for CGI Group, the Montreal Neurological Hospital, and Chairman of the Board of the International Aviation Management Training Institute. He is a former Member of the Board of Governors of Concordia University and Honourary President of the Boy Scouts of Canada, a Life Governor of the Douglas Hospital Corporation and a Governor of the Montreal General Hospital. He is on the Advisory Board of the Salvation Army. Mr. Taylor is a Fellow of the Society of Management Accountants of Canada, the Chartered Institute of Transport, and the Institute of Corporate Directors in Canada.

# The Applications of the Dey Report to Crown Corporations Panel Discussion

by **Claude I. Taylor**  
**Chairman Emeritus, Air Canada**

*Peter Dey's presentation was followed by a panel discussion on the Report's application to Crown corporations. The panelists were Claude Taylor, Micheline Bouchard and Patrick O'Callaghan.*

*The central question for this gathering today is whether the single shareholder is prepared to embrace the guidelines in the Report and what you can do to encourage the shareholder in that direction.*

*The Report says the nominating committee should ensure there is an evaluation of the directors and the board itself. That's a great idea, but not an easy one to implement.*

I have been associated with the board of Air Canada in one capacity or another for 19 years. Therefore, I come at the issue of corporate governance from a variety of perspectives. The Dey Report is about empowerment — empowerment of the boards of directors. In dealing with the significant shareholder, or the single shareholder in the case of Crown corporations, I'm not sure the single shareholder is ready to empower the boards of Crown corporations.

Since privatization, we at Air Canada have embraced an improved system of governance. Our board today feels far more empowered to act on behalf of the shareholders than it did as a Crown corporation board.

I am satisfied with the Report's discussion of the mandate of the board, however, under communications I would stress not only good communications with shareholders and stakeholders but good communications between the board and management.

The central question for this gathering today is whether the single shareholder is prepared to embrace the guidelines in the Report and what you can do to encourage the shareholder in that direction.

One area I would focus on is the role of the nominating committee. We struggled with this in the transition to privatization. We put a limit on the time a person could serve on a committee and as a committee chairperson. We are still wrestling with the length of term of directors.

A sensitive issue in the role of the nominating committee is the "related" as opposed to the "unrelated" director. This is a particularly significant issue for the Crown corporation. It is a most important issue for the Crown itself as the single shareholder.

Another important element of the Report is evaluation. The Report says the nominating committee should ensure there is an evaluation of the directors and the Board itself. That's a great idea, but not an easy one to implement. As CEO I had a score card on every director. As Chairman I did also, but not necessarily the same scores as when I was CEO; evaluation is an important issue.

We have been encouraged to be candid here this morning. So let me say I have seen situations in which the shareholder has removed some of the very best directors and replaced them with directors of less strength on particular boards. That's another



example of why the issue of evaluation is very important.

In addition to approving the strategy and providing oversight, it is the responsibility of the board to provide good leadership. The board should ensure that management is planning for its succession even while the board is planning its own succession. I'll mention two sub-issues: The board must mount appropriate challenge to management on major issues; it needs to recognize when it is being made a "patsie" or when it is being given a "snow job".

Given my experience in all corporate roles, I come down strongly in favour of the Report's separation of the roles of the chairperson and the CEO. This is not a major problem for Crowns, as most of them are separate. There needs to be a clear understanding of the roles of the two people and the relationship between them must be a very positive and respectful one.

My last point on corporate governance is not dealt with in the Dey Report and that is the matter of the corporate culture of the enterprise. The Treadway Report<sup>5</sup> places a high priority on establishing the right kind of environment to support effective corporate governance and internal control. It's a matter of setting the "tone at the top". The Treadway Report raised three questions which I would leave with you and which are well worth thinking about:

- What is the Board's role in setting the corporate values and philosophies?
- Should the Board monitor corporate culture to ascertain whether it is supporting good corporate governance practices?
- How should the Board link its boardroom culture with the corporate culture of the organization?

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*I come down strongly in favour of the Report's separation of the roles of the chairperson and the CEO.*

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<sup>5</sup> *The Report of the National Commission on Fraudulent Financial Reporting, sometimes referred to as the Treadway Report, dated October 1987. The Report focused on fraudulent financial reporting in the United States.*



MICHELINE BOUCHARD, Vice President, Marketing, DMR Group Inc. Prior to joining DMR Group Inc. Ms. Bouchard was employed at Hydro Québec. Ms. Bouchard has been very active in professional, business and community organizations as Vice-President of the Montreal Chamber of Commerce, Board Member of the Chamber de Commerce Français in Canada and Vice-President of the Montreal Board of Trade. She is a founding member of the Public Policy Forum and she sat on the Quebec Advisory Council on Science and Technology. She recently became a Fellow of the Canadian Academy of Engineering and is Co-Chair of the Advisory Committee to the Prime Minister of Canada on Government Restructuring. As well, Ms. Bouchard was President of the Canadian Council of Professional Engineers, was Vice-Chairman of Canada Post, and is a member of the boards of London Insurance Group, Monsanto Canada, Gaz Métropolitain and Corby Distilleries.

# The Applications of the Dey Report to Crown Corporations Panel Discussion

by **Micheline Bouchard**  
Vice President, DMR Group, Inc.

*This unique environment is imposed on boards of directors of crown corporations to meet the difficult task of balancing policy objectives with commercial objectives, and also to ensure a level of transparency, rigour and objectivity in conducting the affairs of Crown corporations.*

Crown corporations are unparalleled to any other corporations in Canada. They play a significant role in the development and evolution of Canada's cultural, economic and social identity. And they are owned by a single shareholder — the government. Canadians perceive Crown corporations as belonging to them. Therefore, they expect Crown corporations to meet a wide range of diversified needs and interests, sometimes conflicting interests. And they expect, too, that public money will be well spent; that Crown corporations will be well managed and tightly controlled. This constant public scrutiny is a unique feature of Crown corporations. Also, Crown corporations have to report to their responsible Minister, to Parliament, sometimes to parliamentary commissions, regulatory bodies, and various interest groups. This creates pressure to become accountable, transparent and productive; and bring rigour in the manner they conduct their business.

This unique environment is imposed on boards of directors of Crown corporations to meet the difficult task of balancing policy objectives with commercial objectives, and also to ensure a level of transparency, rigour and objectivity in conducting the affairs of Crown corporations. The Dey Report proposes a number of avenues and I would like to add also some personal suggestions.

I will concentrate my points on a

number of issues that I feel are quite important to Crown corporations — specifically, the roles and responsibilities of directors, the composition of the board, appointments and training of directors, and the assessment of board performance.

I would say that roles and responsibilities for Crown corporations are very similar to those described in the Dey Report. Those are: to adopt a corporate strategy, to plan a succession of senior management, to monitor corporate performance and to report to the shareholder. What really differs is the manner in which responsibilities are carried out by a Crown corporation director.

One of the major duties is to approve the strategy, the Corporate Plan actually, for the Crown corporation. In a rapidly evolving world, there is a need for directors to be constantly, or at least on a continuous basis, apprised of changing conditions of the Crown corporation business context. But, there's also the responsibility to put together, with management, the best possible Corporate Plan.

In reality, it's the government who decides if a corporate strategy will actually be approved and implemented as proposed by the board of directors. It's sometimes a frustrating exercise because you may have to reconcile, or revisit, some corporate strategies. For example, creation of jobs may be

a top government priority, which might be in conflict with cost reduction, a strategy approved by the board of directors.

It is quite difficult to set corporate strategies within Crown corporations because you may put in a lot of effort, personal intellectual effort, into developing a solid corporate strategy, but you never know, in the end, exactly what direction the Crown corporation will take. So, I think there is a need here to have better communications and a better way to exercise this particular duty of a director.

*I suggest that no more than one-third of the board should be new appointees [each year], because three years is a short time to familiarize oneself with the complexity of a Crown corporation.*

I totally subscribe with the separation of the role of the chairperson and the CEO. It's important to ensure the transparency and the objectivity of managing the corporation. It is one way to ensure that there is this independence from management. But, as was pointed out earlier, this is the case in most Crown corporations, if not all the Crown corporations at this time. I also subscribe to part-time job status for the chairperson of the board.

Another major recommendation of the Dey Report is that the majority of shareholders of directors should be "unrelated" directors, and Mr. Dey described what he had in mind about "related" directors. One could say that boards of directors of Crown corporations are the best example of totally unrelated directors. But, in reality, there is some relationship between those who have been appointed on the boards of Crown corporations and the shareholder, that is, the government. I had the privilege to serve on two Crown corporation boards. I had colleagues who had a political background and were capable of demonstrating political

sensitivity, which is important in operating in a Crown corporation environment. But, on the other hand, you don't want to have a board that is uniquely represented by just politically sensitive people. You need balance. This is an area that has to be revisited by the Treasury Board and by the government. My colleagues, on boards of directors were highly qualified and competent, and exerted their best judgments. It's a question of the degree of sensitivity one should have to political issues but yet give some room for other considerations.

That brings me to the need of having a board with a diversity of talent and experience. The Veilleux Report<sup>6</sup> suggests that profiles be developed on the potential candidates that corporations would want to see on their boards. And I totally agree with that. I think the chairman of the board and the CEO should discuss those profiles with the minister. Mr. Veilleux proposed an approach — and I won't get into the details of what is the best mechanism of accomplishing that task. Certainly, there is a need to reflect the business conditions and the particular environment of the Crown corporation to profile the set of talents required. If marketing is a major issue, then we should have people with good marketing backgrounds. If the question of acquisition or mergers is an issue, then we should have people with such experience on these boards.

Typically, Crown corporation boards of directors comprise a

<sup>6</sup> Gérard Veilleux, "Unfinished Business": A Report on the Appointment Process to Boards of Directors of Crown Corporations (Canadian Centre for Management Development, March, 1994).

majority of directors with no prior experience in corporate directorship. In the private sector it's the opposite. We have a majority of directors with prior experience on other boards. That brings me to the need to have proper training of new appointees.

Even the ones with corporate experience need to know the policy and legislative framework within which Crown corporations operate. It is important to understand that. It's also important for those having no prior experience to be introduced to the fiduciary responsibility of any incumbent director.

The *Financial Administration Act* states that no more than half of the board appointments should expire in any one year. Since directors of Crown corporations have terms of three years, I would like to suggest that no more than one-third of the board should be new appointees, because three years is a short time to familiarize oneself with the complexity of a Crown corporation. When half the Board are new and the others have been there for just one year, it's difficult to ensure the effective stewardship of the Crown corporation.

Finally, I come to my last point — the assessment of board performance. I believe that the notion of the nominating committee is particularly difficult to establish in a Crown corporation, because the process of appointment is quite different. Notwithstanding, there could be participation of the board, (or some members of the board and the chairperson), in defining the kind of talents and qualifications that we are seeking for a new director. I still believe that the

nominating committee is not necessarily appropriate for a Crown corporation. Therefore, the nominating committee, as such, would not exist to assess the board's performance. The Veilleux Report suggests the President of the Treasury Board, in collaboration with the Privy Council Office, develop or examine ways of reviewing the board's performance. I subscribe to the idea of having guiding principles, but it should be undertaken by the chairperson. My preference would be that the chairperson would work with outside consultants to establish the review so that it will be clear to the public-at-large that this process is taking place in a transparent and objective way.

In summary, Crown corporations have come to a critical time in corporate governance as much as other public sector and private sector corporations. The time is right for examination. Crown corporations should adopt and apply rules and mechanisms that will ensure that corporate governance is conducted in an effective way, in an open way, that serves the interests of the shareholder, the corporation, and above all, the interests of all Canadians.

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PATRICK F. O'CALLAGHAN, Managing Partner of Patrick O'Callaghan & Associates, a firm specializing in board and director effectiveness and director recruitment. Previously, Mr. O'Callaghan was the President and Managing Partner of The Caldwell Partners Amrop International, Canada's largest executive search firm. He spent two years with CUSO in Zambia and held sales and management positions with Xerox of Canada prior to joining The Caldwell Partners in 1978.

# The Applications of the Dey Report to Crown Corporations Panel Discussion

by Patrick O'Callaghan  
Managing Partner, Patrick O'Callaghan & Associates Ltd.

In commenting on the Dey Report and its application to Crown corporations, and following Claude and Micheline, it's difficult to find something that we have not yet already touched upon.

But let me note a few general themes in the context of my own experience. My own experience is that of sitting on the boards of several private companies, many non-profits, and one public corporation. For the last three years I have worked with boards both in the private and public and in the Crown corporate sector, assisting them in identifying ways to be more effective.

Let me pick up on the independence and accountability themes in the Dey Report. One of the issues that I think needs to be thought through carefully with respect to Crown corporations is the issue of accountability. In publicly listed companies, the accountabilities are much clearer. Management is accountable to the board and the board is accountable to shareholders. In the Crown corporate sector it's not that clear, — Is management, in fact, accountable to the board? Think of the private sector environment where the board, in fact, elects the chief executive officer, evaluates the CEO's performance, and determines compensation. Then apply these to the Crown corporate sector. Do these in fact take place? Does the board appoint the chief executive officer? What role does the board play in the evaluation of the CEO?

What role does the board play in the compensation of the CEO? You can see that there are some problems that need to be dealt with when you consider the issue of accountability.

I think the other aspect that you can look at in this regard is the accountability of the board to the shareholders. In what way do the shareholders communicate to the board their mandate or their thoughts regarding how the corporation should operate? Now this is confusing enough in publicly listed companies. Throughout North America major publicly listed corporations are really struggling with the way in which they communicate with the shareholders. Coca Cola has appointed a shareholder ombudsman. Dow Chemical has appointed, through the board, a vice-president of shareholder relations — not investor relations — but simply someone who is going to be a sounding board for shareholder concerns. Now again, take that issue and apply it to the Crown corporate environment and one has to ask: How in fact does the government communicate to the board of directors the policy framework that it should be operating within? What is the process?

My experience in working with Crown corporation boards is that many Crown boards feel somewhat abandoned by the government once they are appointed. They're appointed and then expected to get on with the

*... many Crown boards feel somewhat abandoned by the government once they are appointed.*



job! There is no communication between the government, the shareholder, and the board. Surely there needs to be a much better defined, much clearer role for that communication process. This is a point that both Claude Taylor and Micheline Bouchard have touched on. But it seems to me to be one of the issues that needs to be addressed very specifically in today's discussions.

Let's pick up another theme of the Dey Report which I think is important for Crown corporations to take into consideration. This is the theme that corporate governance is not an end in itself and every size does not fit all. One of the problems with the Dey Report is that publicly listed companies are looking at these guidelines and saying: "My gosh, we've got to follow these line by line". There's some sense of urgency to meet the guidelines per se. Now, the Report does a good job of elaborating that these are guidelines only. It's very important for each individual corporation to customize its method of governance based on the size of the corporation, the nature of its mandate, the length of time that it's been in existence, the particular culture, as Mr. Taylor talked about, that exists within that organization. Corporations should not rush to meet these guidelines dead on, but rather think about these guidelines in the context of providing a framework for their own organization.

There are legitimate reasons why various major public corporations will not follow these guidelines — and they will publish them. That is a good and healthy process. There'll be very good reasons why, in particular circumstances, a

small Crown corporation may respond quite differently from a large Crown corporation. So it's important to keep in mind that one size does not fit all. These are just guidelines and really this is something to look at and measure yourself against, but not necessarily adopt completely.

I think that there are some themes, and specific recommendations, within the Report, that are very good conceptually. Let me use the example of the evaluation of the board of directors. Conceptually, it makes good sense that the board should evaluate its performance and that individual directors should evaluate their performance. But do you rush right off and create an evaluation process for individual directors? In my view — absolutely not. You think very carefully about this process and plan it. In some circumstances, it may be something that you can implement immediately. In other circumstances, board evaluation may not be something that you get to until two or three years down the line. If you don't have a good performance evaluation process for the chief executive officer that effectively engages the board, then don't rush out and try and develop a board or an individual director evaluation process. I could give you specifically two or three examples of major Canadian corporations who have made a move towards either individual director evaluation or board evaluation and had it completely blow up in their face because they haven't thought it through in terms of the implementation of the process.

The other thing I want to touch upon is the nominating process, which again my colleagues on the panel have discussed. One of the

*It's very important for each individual corporation to customize its method of governance based on the size of the corporation, the nature of its mandate, the length of time that it's been in existence, the particular culture ...*

things that I find key in an effective board is when the board recognizes that board effectiveness is made up of components. It's made up of how the board is composed; of the information that goes to the board; and the committee structure. It's made up of the terms of reference as they are defined for the chief executive officer and the board of directors. And if you start tampering with any one component, it will affect others.

Care has to be taken that when you make adjustments in the nomination process that you also make adjustments with respect to the terms of reference for the board or that it is able to take on with respect to the mandate that is going to be given to those directors. How are directors involved in committees? Are those committees relevant?

Finally, I agree with Claude and I'm not so sure I agree with Micheline on the composition or the formation of a nominating committee. My view is the nominating process should be broadened to include a range of governance responsibilities in with a number of other aspects and called a "governance committee" which is one of the recommendations of the Dey Report.

Another of its recommendations, which I think is fundamental to effective boards, is that you need to have a focal point that reviews corporate governance on an annual or regular basis. You can't just set terms of reference or establish committees and think that they're going to be good for life. You need to have a process that is constantly reviewing the effectiveness of the corporate governance system. I think that a

corporate governance committee is an excellent home for that responsibility. It looks at terms of reference on a regular basis, it looks at the committee structure on a regular basis, it looks at the board evaluation and assessment process on a regular basis, and it assumes the responsibility for the nominating process.

I think the nominating process is a very legitimate and real process that can be utilized by Crown corporations. Following the line of thinking expressed in the Veilleux Report that says: Think carefully about the requirements for each corporation. Think of the criteria for directors that can really make a contribution in assisting that organization to meet its objectives. Someone needs to, at least on an annual basis, provide that framework to the federal government who is ultimately going to make the final appointment. But, they need to make that final appointment in the context of criteria that have been well thought out, in a transparent, comprehensive way, by the board of directors themselves.

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**"Where Were the Directors?"  
TSE Committee on Corporate Governance  
Draft Report (May 1994)**

**GUIDELINES FOR IMPROVED CORPORATE GOVERNANCE**

The following are the proposed guidelines for effective corporate governance:

- (1) The board of directors of every corporation should explicitly assume responsibility for the stewardship of the corporation and, as part of the overall stewardship responsibility, should assume responsibility for the following matters:
  - (i) adoption of a corporate strategy;
  - (ii) succession planning, including appointing, training and monitoring senior management;
  - (iii) a communications program for the corporation; and
  - (iv) the integrity of the corporation's internal control and management information systems. (paragraphs 4.2, 4.3 and 4.6)
- (2) The board of directors of every corporation should be constituted with a majority of individuals who qualify as unrelated directors. An unrelated director is a director who is free from any interest and any business or other relationship which could, or could reasonably be perceived to, materially interfere with the director's ability to act with a view to the best interests of the corporation. (paragraphs 5.7 and 5.8)
- (3) The application of the definition of "unrelated director" to the circumstances of each individual director should be the responsibility of the board which will be required to disclose on an annual basis which directors qualify as unrelated directors and will be required to disclose the analysis of the application of the principles supporting this conclusion. (paragraph 5.18)
- (4) The board of directors of every corporation should appoint a committee of directors composed exclusively of outside, i.e. non-management, directors, a majority of whom are unrelated directors, with the responsibility for proposing to the full board new nominees to the board and for assessing directors. (paragraph 5.25)
- (5) Every board of directors should implement a process to be carried out by the nominating committee or other appropriate committee for assessing the effectiveness of the board as a whole and of committees of the board, and for assessing the contribution of each individual director. (paragraph 5.28)
- (6) Every corporation, as an integral element of the process for appointing new directors, should provide an orientation and education program for new recruits to the board. (paragraph 5.37)
- (7) Every board of directors should examine its size and, with a view to determining the impact of the number upon effectiveness, undertake a program to reduce the number of directors to a number which facilitates more effective decision-making. (paragraph 5.43)
- (8) The board of directors should review the adequacy and form of the

compensation of directors and ensure the compensation realistically reflects the responsibilities and risk involved in being an effective director. (paragraph 5.5 1)

- (9) Committees of the board of directors should generally be composed of outside directors, a majority of whom are unrelated directors, although some board committees, such as the executive committee, may include one or more inside directors. (paragraph 6.3)
- (10) Every board of directors should expressly assume responsibility for, or assign to a committee of directors the general responsibility for, developing the corporation's approach to governance issues. This committee would, amongst other things, be responsible for the corporation's response to these governance guidelines. (paragraph 6.4)
- (11) Every board of directors should have in place appropriate structures and procedures to ensure that the board can function independently of management. These structures and procedures may involve the board meeting on a regular basis without management present or may involve expressly assigning the responsibility for administering the board's relationship to management to a committee of the board. These means are described in guideline (13). (paragraph 6.10)
- (12) The board of directors, together with the CEO, should develop position descriptions for the board and for the CEO, involving the definition of the limits to management's responsibilities. In addition, the board should approve or develop the corporate objectives which the CEO is responsible for meeting. (paragraph 6.14)

- (13) Every board of directors should either (i) appoint a chair of the board who is not a member of management or (ii) adopt alternate means for implementing Guideline (11), so that the board is able to function independently of management; this could include assigning the responsibility to ensure the board discharges its responsibilities to a committee of the board or to a director, sometimes referred to as the "lead director". (paragraph 6.16)
- (14) The audit committee of every board of directors should be composed only of outside directors. The roles and responsibilities of the audit committee should be specifically defined so as to provide appropriate guidance to audit committee members as to their duties. The audit committee should have direct communication channels with the internal and external auditors to discuss and review specific issues as appropriate. The audit committee duties should include oversight responsibility for management reporting on internal control. While it is management's responsibility to design and implement an effective system of internal control, it is the responsibility of the audit committee to ensure that management has done so. (paragraphs 6.20 and 6.21)
- (15) The board of directors should implement a system which enables an individual director to engage an outside adviser at the expense of the corporation in appropriate circumstances. The engagement of the outside adviser should be subject to the approval of an appropriate committee of the board. (paragraph 6.30)

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The Honourable Paul Martin, Minister of Finance and Minister Responsible for the Federal Office of Regional Development - Québec, has been the Member of Parliament for Lasalle-Émard, Québec since 1988.

After his call to the Ontario Bar in 1966, Mr. Martin worked in the legal branch of the European Coal and Steel Community. The greater part of Mr. Martin's career in the private sector was as a business executive, first with Power Corporation of Canada, in Montreal, and later as Chairman and Chief Executive Officer of Canada Steamship Lines. He also served as a corporate director for seven major Canadian companies.

# **"Rethinking the Role of the Federal Government and of Crown Corporations"**

## **Address by the Honourable Paul Martin Minister of Finance**

*The Honourable Paul Martin addressed the participants at the Conference on the changing role of government and the importance of Crown corporations, and their boards.*

*If you look at Canada, Crown corporations are one of our unique contributions to the world in terms of governance ... there's no doubt that we have pioneered the use of the Crown corporation; we have been immensely successful at it.*

From our point of view as a government, it is clear that your discussions on corporate governance are very important. The next budget is going to contain some pain, we must cut spending. For too long, governments in Canada have been drifting — postponing action, pushing the day of hard decision ahead. We've been pretending that the status quo can be sustained. We've been hoping that luck will shield us from the winds of change. The fact is, the world economy has been transformed — and no matter how strong the current recovery — the need for structural change in Canada has not been met. The needs of Canadians have evolved — but our governments have not.

We talk glibly about a sea-change in the economy — I want to talk to you about the need for a sea-change in the government. Our country is suffering from several deficits. We have a fiscal deficit. We have a human deficit. We have a deficit in innovation. We must address these head-on, together, and now.

Our new framework for economic policy will determine what, as a government we will do in the future — and what we won't. It is a test that we will apply to every economic program of the

government new or old. It is a test that says — will this make us a more productive country or not?

There is tremendous responsibility on all of our shoulders today to make the opening up of the budget process work, so that in the end, we make the right choices for the right reasons. What we need in this consultation process are people prepared to come together and say "yes" — not people practised in only saying "no".

Canada can't afford the old style of government — nor can we afford the old style of debate. We can't afford the usual chorus of "don't cut me" from special interest groups — who cannot deal with the question of who should pick up the burden they refuse to share.

We can't afford those who would say "don't cut now", because the fact is that if we don't cut now when the economy is strong, that simply means cutting more when the economy is weak. Nor, on the other hand, can we afford people saying "cut more now" — without saying precisely who or what they would cut.

This opening up of the process is essential. Because if there is broad support today to deal with the deficit, there is less understanding of what the

consequences of the necessary action will be. Canadians must understand the nature of the trade-offs that have to be made. Because the devil is in the detail. Yet it is detailed decision that we must make.

At the same time, we have to rethink the role of the federal government — its relationship with the provinces, its relationship with Crown corporations, its relationship with the nation as a whole. And as a result, if we're going to be rethinking our role, then very clearly there is going to be greater responsibility placed on our Crown corporations.

If you look at Canada, Crown corporations are one of our unique contributions to the world in terms of governance — how nations handle themselves. There's no doubt that we have pioneered the use of the Crown corporation; we have been immensely successful at it. Now government is beginning to disentangle itself from certain areas, and to focus its effort quite narrowly to do only what it can do better than anybody else and not what others can do. Quite obviously, the responsibility and the role of the Crown corporation will undergo change. Now I think it is really up to you chairpersons and CEOs to take that which previous generations created, to the next level.

Corporate governance as it relates to boards of directors is of considerable interest to me. I give you advice as one who has been on the board of a Crown corporation. I was on the board when the Canada Development Investment Corporation (CDIC) was set up under a previous Liberal government. It was really

set up as an oversight organization to a number of Crown corporations and its basic purpose was to begin to sell them off, to privatize them, and to rationalize them. They took representatives of the business community from across the country to sit on the board. Names that you know very well went on at that time. There were also two public servants on the board. We had very interesting discussions because you had all these hard-nosed businessmen on the board of CDIC with its stated purpose of privatizing Crown corporations. After about three meetings it became very clear that the public servants on the board of directors took that mandate very seriously. It was the directors drawn from the business community that consistently intervened saying these were the Crown jewels of the country and you cannot sell them off. It was quite interesting to witness the immediate transformation of these representatives from the business community when they went on this board and were confronted with the difficult public policy question of deciding what activities no longer require government ownership or delivery.

People are asked to go on these boards with little guidance and with little time to react. Based on personal experience, there is little understanding in the business community of what government is all about. I grew up in a political family, but spent most of my life in business. I can tell you that when I got inside government, as opposed to being in opposition, I suddenly found that the solutions which appeared so obvious to me were not quite as obvious. And I think that those who serve on your boards should be given a lesson in the workings of government, so that they can provide you with

*... the role that you chairpersons and CEOs have played so far is obviously a crucial and a very important one in this country.*

much better guidance.

I say it in all sincerity that the role that you chairpersons and CEOs have played so far is obviously a crucial and a very important one in this country. When we see what lies ahead of us, our obligations, the lack of money, the objectives which we must attain — when we rethink government you're going to be a very important part of that.

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PENNY COLLENETTE, Director of Appointments, Office of the Prime Minister. Mrs. Collenette has been active in a variety of fields including political, legal and human rights. Prior to her current position as Director of Appointments for the Office of the Prime Minister, she was Acting National Director and Director of Legal Services for the Liberal Party of Canada's campaign in 1993, National Campaign Director for the Jean Chrétien Leadership Campaign in 1990, Vice-Chair for the Liberal International Human Rights Committee, Founding Chair of the Human Rights Committee and Soviet Jewry Committee of the Parliamentary Spouses' Association, and Observer at the United Nations Human Rights Commission in Geneva Switzerland.

# **"The Appointment Process: A Value Added Approach"**

## **Luncheon Address by Penny Collette Director of Appointments Office of the Prime Minister**

As other speakers have mentioned, I too would like to commend the Honourable Art Eggleton and his staff for pursuing the idea for this Conference. It is not often that the chief executive officers and the chairs of Canada's Crown corporations are gathered together: in fact, I am told that the last time was five years ago in November of 1989. From the comments I heard at lunch, clearly this is something that should be done on a regular basis.

Since then, our country has had a change of government: last night, John English, on behalf of Marcel Massé, who unfortunately could not be with you, emphasized our mandate for renewal, which must of necessity, reach into all areas of government. This renewal is critical to providing government that is relevant, responsive and efficient. At the same time, we must retain the confidence of Canadians and ensure that the principle of integrity is integral to any change in process.

An essential element of this renewal is the appointment of individuals by the Governor in Council — individuals who are recognized as being able and competent and who are representative of the Canadian public.

I am therefore pleased to speak to you today, about the appointment process; a process which for far too long has been shrouded in

mystery; a process which has confounded and challenged many political leaders.

I'd like to read you a quote from the year 1801.

*Filling federal jobs, striking a balance between party loyalty, competence, and the pressures of friendship was one of his most wearisome presidential duties. He was constantly under siege by candidates for office, high and low. It was a battle never to be won, for every man chosen for office left dozens of unsuccessful candidates and friends disgruntled and unhappy. Once in exasperation he wrote, "For God's sake, get us relieved from this horrible drudgery of refusal." Once an appointment was made, however, he assumed a stoic reserve toward any recriminations that followed. My usage, he said, is to make the best appointment my information and judgment enable me to do and then fold myself up in the mantle of conscience and abide, unmoved, the peltings of the storm.*

Thomas Jefferson said those words. They are quoted in a book by Jack McLaughlin entitled *Letters to a President: To His Excellency Thomas Jefferson*.

But unlike Jefferson, I hope the appointments system is a battle that we can win. High quality or value-added appointments should be able to help you in your goal of better corporate governance and in turn help the government in its quest for efficient use of its resources.

*An essential element of this renewal is the appointment of individuals by the Governor in Council — individuals who are recognized as being able and competent and who are representative of the Canadian public.*

Before I outline for you the changes in the process that have taken place to date, I'd like to say a rather personal word to all of you.

Rightly or wrongly, the system of appointments has received a very rough ride in the last few years. The use of words like plums, perks and patronage have been a lethal combination for public focus. In many cases, I believe there has been a media bias which at times has inadvertently caused damage to individual reputations.

No one seems to have stood up and described appointments as jobs; jobs where people work hard and worry about decisions that will affect the lives of others. Remember the original concept of public service? That concept has somehow been lost to the winds of history.

In the last year, this government, I believe, has gone a long way to improving this situation. I have tried very hard to professionalize the system. I have spent hours talking on background to journalists and I have tried to answer as many questions as humanly possible. We have done extensive searches in many sectors in this country to find the best qualified and most competent people for heads of agencies and other senior positions. We also now regularly put out press releases announcing the appointments. We have been successful in receiving praise for many of these appointments and I don't say that in a boastful way, but rather to illustrate how we can and must turn the perception of a government appointment from a suspicious event into a proud moment.

Now I would like to briefly outline for you three points:

1. the improvements we have made to the process;
2. how the appointment process can support sound corporate governance; and
3. the role of Crown corporations within the appointment process.

### **1. Improvements In The Appointments Process**

As you know, our government promised in the "Red Book" to undertake a review of the appointments process to ensure the selection of qualified candidates for appointments made by the Governor in Council. This renewed process will be based on the principles of integrity, accessibility and transparency.

The significant element in these changes in the process is that of "gazetting" — that is, publication in the Canada Gazette. In fact, full-time, fixed-term vacant positions are usually announced in the Canada Gazette.

A job profile of the position in question is prepared before the notice is published. The profile describes the responsibilities of the position as well as the selection criteria.

A *crucial* element during the preparation of the profile is consultation with people affected by the appointment process, including the head of organization in question, the office of the responsible minister, the Prime Minister's Office and, on occasion, other interested persons.

The resource person in the Crown corporation is usually the CEO or the chairperson of the board of

*I believe Gazetting has had the effect of significantly opening up the appointment process.*

*... it is good politics to ensure good management of Crown corporations. If we do not have effective governance, we are putting at risk not only the performance of Crown corporations, but also significant sectors of the Canadian economy.*

directors.

We began the process of "gazetting" a year ago. To date, there have been 37 expired terms which have been published in 19 issues of the Gazette. These notices included three for chief executive officers of Crown corporations — Marine Atlantic Inc., the Canadian Broadcasting Corporation and Atomic Energy of Canada Limited.

I believe Gazetting has had the effect of significantly opening up the appointment process. For example, the Chairperson of the National Parole Board and the President of Marine Atlantic were named after a selection process following the advertisement. Short-listed candidates were interviewed by the responsible Minister, as well as other officials.

Additionally, résumés garnered from the Gazetting process have been an invaluable aid in our search for qualified potential appointees. In fact, over the last year, our office has pooled over 2,000 names. This process however has a downside in times of fiscal restraint. The current Prime Minister's Office (PMO) shares the same administrative burden that many of you face; more work, but less staff!

## **2. The Appointment Process And Corporate Governance**

Canada's 48 federal Crown corporations play a vital role in Canada's economy across a wide spectrum of activities.

Crown corporations have traditionally been symbols of our national heritage and pride. Canadians may not realize just how wide-ranging the responsibilities of Crown

corporations are. They include transportation, culture, energy, housing, resource management and financial services, amongst others.

With such a breadth of responsibilities in Canada's economic, social and cultural sectors, it is not surprising that any difficulties experienced by the Crown corporations are inevitably felt in the economy and the country as a whole.

Good management of the corporations is, therefore, important not only in its own right, but in the interests of all Canadians. It almost goes without saying that it is good politics to ensure good management of Crown corporations. If we do not have effective governance, we are putting at risk not only the performance of Crown corporations, but also significant sectors of the Canadian economy.

It was with this in mind that Mr. Veilleux initially undertook a study of the structure of boards of directors of Crown corporations. He then looked at the appointment process for the selection of members to these boards and ways to increase their contribution to decision making.

People who have been appointed by the Governor in Council have the responsibility to advise with wisdom senior management of the corporation. A director who has the required knowledge for the position can help to achieve the goals and the mission of a particular business.

The recommendation made by Mr. Veilleux to improve the management of the corporation will allow the government to meet its objective of improving the quality of appointments.

The profiles emphasized the

required abilities, experience and qualifications of candidates selected as members of board of directors. As far as I am concerned, their development will be a beneficial exercise for the Cabinet and the Office of the minister responsible for a particular corporation.

In addition, consideration should be given to Mr. Veilleux's recommendation to provide training to directors with regard to their responsibilities. This is especially true when those appointed are not culled from the network of known corporate directors. In order to open up the process, we must be mindful to include many in our society, individuals who have not had a chance to serve on Crown corporations or boards before.

Mr. Veilleux also recommended a review of the size of boards of directors in Crown corporations. As you know, this issue is being addressed through the Agency Review being conducted by the Honourable Marcel Massé. I assure you that Ministers are working very hard on this file and I would like to thank those of you who have taken the time to speak to me about your thoughts regarding the efficient use of your board's resources. In those cases where boards will be smaller in the future, it is obviously even more important that the right people be appointed.

I must say, however, that while profiles outlining selection criteria will help ensure the appointment of persons with the appropriate attributes, the selection process is not scientific and is unlikely to become so. Appointments are people. For example, the question of succession planning, I admit, has so far eluded me.

Strategic long-term planning (in

the area of appointments) has taken a back seat to short-term challenges in our first year. As you may remember, the former government had frozen appointments for nine months. This backlog is now under control and I hope to work closely with many of you in the future to improve this situation. I know its very important to you all.

### **3. Role Of The Chair And Directors**

Whether or not the directors' positions are advertised, the board of directors clearly have a role to play in developing profiles of the required knowledge and skills for new directors. Suggestions as to possible candidates are very welcome from both chairpersons and CEOs. I remind you that when making suggestions, it is very important to the Government to improve the representation of women, visible minorities, aboriginal peoples, and people with disabilities. Government renewal will not be achieved unless our institutions are truly open to, and representative of, the Canadian public.

In conclusion, I would like to say a word about our Prime Minister. Mr. Chrétien is determined that competence be a guiding principle for any government appointment. He welcomes your suggestions and respects your opinions. He knows about this Conference and I look forward to taking some of your comments back to him.

Together, I am certain that we can all instill pride back into this very important system.

\* \* \*

*... the board of directors clearly have a role to play in developing profiles of the required knowledge and skills for new directors. Suggestions as to possible candidates are very welcome from both chairpersons and CEOs.*

# Discussion of Corporate Governance Issues

## Introduction

The Conference emphasized corporate governance from the perspective of chairperson and CEOs by devoting fifty percent of the day to discussions among the participants. The discussions took place in break-out groups and in a plenary session.

Participants selected two of the four break-out groups. Participants discussed their views on the topics raised by the speakers and shared their personal experiences. Many observations and suggestions were offered on how corporate governance could be improved in Crown corporations.

Each break-out group was led by a chairperson. Feedback from the participants indicates that the chairpersons were successful in creating environments that encouraged open and frank discussions. A wide range of concerns and issues were put on the table.

The themes chosen for each of the break-out groups reflect the current interest and debate about corporate governance as it applies to public enterprises and the public policy agenda of the single shareholder, the government. As it happened, registrants selected relatively evenly among the four topics chosen for discussion:

**Development and Approval of Strategy** — This group explored the importance of the development and approval of strategy; the challenge of linking the development of strategy to the corporation's

mandate; the relationship of the board to management; and the factors which contribute to a board's success. It was chaired by **Louise B. Vaillancourt**, board member, Atomic Energy of Canada Limited.

**Board Composition and Evaluation** — Discussion in these groups centred on the roles of the chairperson and the CEO; the selection and evaluation of board members; the functioning of the appointment process; board self-assessment; the orientation and education of directors, and all the related communications issues. It was chaired by **Gail Cook Bennett**, Executive Vice-President, Bennecom Ltd.

**Balancing the Corporate Agenda and the Public Good** — Groups discussed the trade-offs between meeting the commercial (financial) objectives and achieving the mandated public policy objectives all within the constraints imposed by the accountabilities of a public enterprise. It was chaired by **Maureen Sabia**, former Chairman, Export Development Corporation.

**Meeting the Information Needs of the Board** — participants examined the information needs of the board from a variety of perspectives. It was chaired by **J. Douglas Barrington**, Chairman, Deloitte & Touche.

In addition to the four chairs of these break-out groups, the participants had the benefit of

*I've had the privilege and the pain of being a director of many things over many years and as I look back on it I have to tell you that less than fifty per cent of us are any good as directors, and of that fifty percent, they're only good fifty percent of the time. So that if you are a chairman and you can say that twenty-five per cent of the time I'm getting good value from my directors, you're a very lucky chairman.*

*(David M. Culver)*

comments and observations of two experienced consultants in the field of corporate governance, **Patrick O'Callaghan** and **David S.R. Leighton**. These two discussion facilitators also made summary comments at the plenary session.

Understandably, there were linkages among the topics. Participants raised parallel issues in different break-out groups. For readability, some points have been regrouped in the break-out group which best categorizes the discussion.

This section provides a synthesis of the views expressed in the break-out groups and the general discussions by the Conference participants, the chairs of the four break-out groups and the two facilitators. Selected extracts from the observations made at the Armchair Discussion by the four break-out group chairs and the two facilitators are highlighted in italics in the following four break-out group reports, where appropriate, to reinforce key points.

\* \* \*

# Development and Approval of Strategy

Chaired by Louise B. Vaillancourt

*This break-out group explored the following areas: the importance of the development and approval of strategy; the challenge of linking the development of strategy to the corporation's mandate; the relationship of the board to management; and, the factors which contribute to a board's success.*

## Ensuring Strategies Are In Place To Achieve The Mandate

*Recent trends in corporate governance suggest boards wish to play a more active and constructive role in their organizations and CEOs wish to use their boards more effectively. The optimum interface for meeting this need is the development and approval of the strategic plan which is a fundamental piece in the effective communication between the board and the CEO. (P. O'Callaghan)*

*One of the interesting questions raised was "Is the government ready to cope with Crown corporations and their problems?" (L.B. Vaillancourt)*

*Depending on where you sit, boards should be advisory or they should behave much more as "for profit" boards. One thing we were sure about was that, in most instances, boards have limits placed on their authority. (L.B. Vaillancourt)*

Developing and approving the strategic direction for the corporation and the board's participation in it was generally viewed as a principal duty of the board. The first question for a new board member to ask is: "What is the strategy and how does it fit with what we do?" Directors have to be adroit at both developing a long-term strategy and at the same time keeping those with a more short-term focus comfortable.

Many participants commented that, in approving the corporate plan, board members often acquire a deeper understanding of the corporation, its operating environment and the capacity of its management.

The groups discussed the difficulties created by the distinctiveness of a public enterprise compared to a private sector firm as enunciated in Peter Dey's address. In public enterprises the government, often through legislation, provides a Crown corporation and its board with a more complex mandate than that of merely creating wealth, the private sector objective. Another important distinction, widely endorsed, was that the financial viability of a Crown corporation must be

assessed with a different set of criteria from those applied in the conventional private sector corporate model.

There was general agreement that one of the primary responsibilities of the board is to lead the corporation into the future and to ensure that the necessary long-term goals and strategies are in place to achieve that mandate. While the board may advise management on the development of the strategy, management will actively initiate its formulation and presentation. It was acknowledged, however, that the ultimate responsibility for approval of the strategy, and monitoring its implementation, rests with the board. The board has a role in establishing benchmarks for monitoring future performance.

The importance of developing strategy was highlighted when one discussant observed that "the plans are nothing, but the planning is everything." This then led the discussion to the idea that the board should go away for a two or three day strategy meeting approximately every two years. The annual strategic review would then update the current strategy and test it against the major decisions and policy recommendations affecting the corporation.

The suggestion was made that we may be counting too much on the development of strategy.



*There was a desire for more communication with the government or with the minister responsible — the shareholder.*  
(L.B. Vaillancourt)

Strategic planning may be dangerous if it fails to effectively challenge or validate the current lines of business pursued by the corporation. Often strategic planning can degenerate into a rolling five-year forecast that might better be labelled operational planning with the **limited benefit of providing a benchmark against which to measure actual results.**

### **Linking Strategy and Mandate**

The challenge of linking the development of a strategy to the mandate of the corporation was viewed as critical. With the multiple objectives and changing priorities of a Crown corporation's sole shareholder, the government of the day, the establishment of an effective system of corporate governance is more difficult for Crown corporations than in the commercial world. Many commented on the need for the board to continuously interpret the mandate. For some Crowns, reaffirmation of the corporation's mandate by the incoming government was considered desirable.

The view was widely shared that both formal and informal avenues to the shareholder must exist for the corporation and the board to ensure the strategy fits well with the mandate.

### **The Relationship of the Board with Management**

One of the issues that came up frequently was that of building the best possible relationship between the board and management and between the board and the shareholder.

Striving for that flexible balance of

letting management manage and directors direct is easy to state but not easy to abide by. It was observed that directors sometimes inadvertently let themselves get drawn into day-to-day management issues. To avoid this, attention should be given to defining the respective authorities of the board and of management. Directors have to develop a clear understanding of where their responsibilities as a board end and those of management begin. This is critical. It determines the nature of the working relationship between directors and management. One of the suggestions for improving this relationship was that the CEO ensure all policy decisions affecting the corporation are brought to the board for approval.

The demanding nature of the CEO's job was also acknowledged. It leads most CEOs to welcome all the help they can get from their board. A board of directors composed of able individuals with diverse backgrounds and experience can be an enormous ally to the CEO.

It was also noted that directors should have the opportunity to know management, to evaluate them and to meet them in a variety of situations. Board members should have the opportunity to discuss matters with the CEO on a regular basis and with the other senior managers as requested.

### **Factors Contributing to a Board's Success**

Four factors which contribute to a board's success were identified. They are:

- keeping the shareholder fully

informed, and on a timely basis;

- ensuring that management considers the needs of all the corporation's stakeholders (this was considered particularly relevant for the Crowns operating in a commercial environment);
- having a good overall perspective on the sector in which the corporation functions; and
- using board committees to focus on parts of the board's work and involving management directly in committee work, as appropriate.

\* \* \*



# Board Composition and Evaluation

Chaired by Gail Cook-Bennett

*The discussion centred principally on: the roles of the chairperson and the CEO; the selection and evaluation of board members; the functioning of the appointment process; board self-assessment; and, the orientation and education of directors. The groups also discussed the communications issues related to each of these topics.*

*I think there was a sense that the government has to come to grips with what it wants out of the board of a Crown corporation. Ideally, for best corporate governance, the board would have the power to hire, fire and hold accountable the CEO.*  
(M. Sabia)

*Many CEOs have advised me that ... a sound and thorough evaluation of the CEO's performance ... is one of the most effective tools for engaging the board and getting useful feedback from the board on a range of topics in which the management of the organization is implicated.*  
(P. O'Callaghan)

*A point made was that even if Board chairs and CEOs did submit recommendations, [ for the selection of board members] they fell into a black hole ... So one recommendation was that the government could review its own process [ and better incorporate] any profiles that chairs and CEOs might submit.*  
(G. Cook-Bennett)

## The Roles of the Chairperson and the CEO

There was considerable consensus that the roles of chairperson or "lead director" and CEO be clearly understood and that the relationship between the board and management is optimized when there is a high degree of mutual respect and trust between the chairperson and the CEO.

The real test of corporate governance is how well the board of directors manages the managers. It is of paramount importance, therefore, that respective roles be clarified.

There was strong support among chairpersons, less of a consensus among CEOs, for the recommendation in the Dey Report that the roles be separate. It was also generally believed that part-time chairpersons would be less likely to become entangled in the operational issues facing the corporation.

The groups pondered the accountability of the CEO to the board, given that the CEOs are usually appointed by the shareholder. It was noted that this creates difficulties for the board whenever the appointment is made without consulting it. Conversely, some participants stated that their involvement in the search and selection process had

very beneficial effects on strengthening the cohesiveness and collegiality of the Board, regardless of the ultimate decision by the shareholder.

Questions arose such as: What is the role of the board in the evaluation of the CEO? It was generally agreed that corporate governance would be enhanced in Crown corporations if the board were to have more input into the determination of the CEO's compensation package, and if boards had more responsibility in the selection and re-appointment of the CEO.

## The Selection of Board Members

With respect to the selection of board members, there was widespread support for the view put forward in the Auditor General's 1993 Report to Parliament that *"the demands on board members are onerous and only the appointment of the best-qualified people can ensure the board's proper functioning"*.

Quality appointments of independent and competent people to boards go a long way in solving governance problems in the public sector.

The business of selecting directors for Crown corporations was acknowledged as complicated. The appointment process in the public sector seeks the same "best

*One of the most important issues raised is the necessity for making timely re-appointments or new appointments. Members of the group, [felt that] the length of time it took to fill perspective vacancies ... affected the dynamism of the corporation, the morale of the board and, in some instances, even the morale of the organization when they viewed a "lame duck" board. (G. Cook-Bennett)*

*The role of good directors is to smell trouble before it becomes trouble. So, this is a way of saying, don't make changes on boards for change's sake. (David M. Culver)*

*There may be specific skill sets that a board might require at a particular point in time and board members would like the opportunity to influence that. So if you need a good technical person in some area, then let's have that person. It's not a criticism of the quality of the existing people but rather a concern that we are fulfilling the requirements of the board at a specific time for particular expertise. (G. Cook-Bennett)*

and brightest" individuals that the commercial world attempts to attract. In addition, government, as shareholder, must also consider questions of balance — geography, gender and culture. It was recognized that not all directors need to come from the business or the public policy sector within which the corporation operates. It was stated, however, that all directors should be sufficiently qualified and experienced to form independent judgments about the issues that would confront the corporation.

A separate committee, be it a nominating committee or a corporate governance committee, should deal with the appointment of new directors, maintain the profiles of the requisite qualities for directors and annually review the performance of each board member.

The personal qualities to look for in the selection of ideal candidates to the boards of Crown corporations were identified as:

*integrity*

an essential quality needed in public service;

*knowledge*

a background of worthwhile and relevant experience;

*energy*

a demonstrated capacity to handle the heavy workload and a willingness to attend meetings on short notice;

*tact*

an ability to get along with others, to listen empathetically; performing in a boardroom demands careful, thoughtful, well-informed consideration; and

*common sense*

often a difficult trait to identify, involving a combination of objectivity, and good judgment.

### **The Functioning of the Appointment Process**

A number of concerns were expressed about how the current appointment practice could be improved. Some indicated that their boards have not been all that successful in getting the skills and the experience they judged to be necessary for their board. Sometimes submissions to the responsible minister seemed to dissipate.

Others noted that directors serving with expired terms have a deleterious effect on the dynamism of the board and the corporation. Vacancies on the board and expired terms of chairpersons were viewed as a severe constraint on board morale.

It was noted that chairpersons completed their term when their appointment was up while board members simply continued until a new appointment was made, which could be a significant time after the end of their term. However, once having fallen behind, the government should not then make wholesale appointments all at one time because that can cause a whole new set of problems.

There was consensus that existing boards are in an excellent position to understand the needs of the corporation and may be able to identify the type of candidates suitable to meet the challenge. The discussants concluded that boards and CEOs should contribute to the appointment process by developing profiles of their current and future requirements and assessing the present board's capacity to meet these particular skill sets.

*In the question of the appointment of women, the view was expressed that there are better ways to seek out women. ... the traditional ways of identifying prospective people for boards of directors requires ... a little more attention to people of different backgrounds who have the ability and experience to act on a board of directors.*

*(G. Cook-Bennett)*

*There was concern about how new appointments are communicated. For example, chairs and CEOs, in the worst situation, would learn of an appointment in the media. It was felt that the government should adopt a standardized approach to this communication so that the chairs and CEOs would receive prior notification.*

*(G. Cook-Bennett)*

Participants generally concurred that the appointment of directors should be based on merit. There is a need for balance between the recruitment of experienced directors and the appointment of individuals who understand and are sensitive to the political needs of the shareholder. As well, more creative ways have to be found to meet the shareholder's choice for representativeness, particularly respecting the recruitment of women directors.

There was a concern also expressed that too often valuable boardmembers were replaced at the expiry of their term. It was generally agreed that greater consideration should be given to the reappointment of directors who have demonstrated ongoing value to the board.

There was general recognition of the need to develop effective avenues for the board to communicate these requirements to the shareholder, along with the names of suggested candidates the board deems qualified for appointment. Coupled with this was a desire for more feedback from the shareholder on both the board's input and the shareholder's requirements.

### **Self-Assessment by the Board**

Self-assessment was recognized as a difficult task for a board. Boards assessing their own performance was viewed as offering significant potential for improving board effectiveness. Directors undertaking a process of self-assessment would address their contribution, their ability to contribute, and the need to revitalize the board as times change. To do this, the board should design a framework that allows it to determine if it is doing

its work effectively. It was suggested that the board assign this responsibility to a sub-committee of the board.

Periodically, the board should have a closed session devoted to assessing its own collective performance and to identifying if changes are required to meet evolving needs.

### **Orientation and Education of Directors**

The issue of education and orientation for directors was explored. Repeatedly, the observation was made that new directors come to the board with little understanding of the shareholder's expectations of them, and indeed, of the shareholder's general expectations of the corporation. A distinction was made between the training needs of appointees new to directorship and experienced directors. It was widely supported that new directors would benefit significantly from training on the fundamental responsibility of directors and the importance of corporate governance. Such training could also explain other general matters such as the role of the Crown corporation, the public policy purposes served, and accountability to Parliament. It was observed that orientation training is mandatory today for new judicial appointees, so why not for directors?

It was felt that, at periodic intervals, training would also be valuable for directors with considerable experience. It was understood that these general training sessions would be supplemented with corporation-specific orientation sessions organized by each Crown corporation.

One proposal suggested that the development and presentation of training sessions could draw, in part, on the resources of experienced Crown board directors across the portfolio to assist in the design of appropriate training packages.

\* \* \*

# Balancing the Corporate Agenda and the Public Good

Chaired by Maureen Sabia

*This break-out group discussed the trade-offs between meeting the commercial (financial) objectives and achieving the mandated public policy objectives all within the constraints imposed by the accountabilities of a public enterprise.*

## Balancing Public Policy Objectives

*Corporate governance is not synonymous with boards of directors. It is a system of relationships. It is not helpful to focus on one element and ignore others such as the responsibilities of the shareholder...A great deal more thought has to be given to the applicability of the corporate board model to the Crown corporations portfolio...Without the shareholder recognizing that it too has special responsibilities if boards are to work, nothing much will change.*  
(D.S.R. Leighton)

*I think there was a consensus, more strongly voiced when the chairs were present than when the CEOs were present, that there is a need for some change — that Ottawa needs to rethink its relationship with Crown corporations in the interest of delivering the public policy agenda...There was recognition that this is a different world than the private sector world. We need to be sensitive to that without, however, imperilling the effectiveness of our governance.*  
(M. Sabia)

*There needs to be some method of grabbing the attention of the decision makers in Ottawa about what it is they want out of the governance systems of Crown corporations.*  
(M. Sabia)

The corporate governance of Crown corporations is a judicious and delicate balancing act. The discussions concurred with the messages expressed by the Conference Chairperson, the President of the Treasury Board and Peter Dey that the rise of corporate governance on the public agenda is a global phenomenon and that federal Crown corporations are being examined as rigorously as publicly traded corporations in all western countries. The government is firmly committed to restoring public confidence in public institutions. The release of the Veilleux Report suggests that, with so much global change underway, the government finds the time right to review its institutional relationship with the boards of its Crown corporations.

The groups recognized that the Crown corporation has an inherent conflict between its financial objectives and its public policy responsibilities. The drive for low-cost excellence represents only one dimension of managing public enterprises. The other is the appreciation of the mandate, the public policy purpose of the corporation. If this were not so, a Crown corporation would be part of a government department or operate in the private sector.

While all Crown corporations exist to serve a public policy objective, they are expected to deliver it as efficiently as possible. Trade-offs have to be made. In some cases, services would not be delivered if the corporation were operating strictly to achieve commercial objectives. From time to time there is tension between the desires of the government to accomplish some public policy objective and the way that objective may be viewed by the board.

## What is the Appropriate Balance?

Balance is the essence of the director's role while serving on a Crown corporation. Board accountability must be balanced with government control and priorities. Within this context, directors are accountable for good corporate governance. Directors need to be possessed of both the courage of their convictions — their independence, and a degree of sensitivity to the attributes which distinguish the Crown corporation from the publicly traded enterprise. Corporate governance in the public sector has meaning, if directors are willing to identify and to fend off undue interference that may occur occasionally.

## The Relationship of the Shareholder to the Board.

Discussants made a number of



*There was also a feeling that perhaps we need to find a mechanism in the Crown corporation-government relationship for ... the Crown corporation to be part of the setting of the public policy agenda and the refinement thereof as time goes on.*  
(M. Sabia)

*It's the most destructive destabilizing thing that can happen, to have somebody in an office for six months and then suddenly moved away and you start the learning curve all over again.*  
(D.S.R. Leighton)

*Today should not be a one-off affair. An enormously good start has been given to rethinking the governance of Crown corporations. I would hope that there will be some follow-up from today in the interest of delivering the public policy objectives more effectively and more productively to the people of Canada.*  
(M. Sabia)

observations and raised several questions. Perhaps the most challenging is: Where does the line get drawn between the role of the shareholder and the role of the board of directors in discharging their respective responsibilities?

The discussion of the board's contribution to ensuring an appropriate, current mandate gave rise to an unresolved debate on the definition of the shareholder. The definitions ranged from the citizens of Canada, the taxpayers, Parliament, the appropriate minister and the Cabinet. It was agreed that the multiplicity of shareholder representatives poses a significant challenge. Greater co-ordination is needed among these shareholder representatives in dealing with the corporation. With the complexity of both the tasks and the relationships, some participants pondered whether all boards do in fact add appreciable value.

In part, the answer seems to lie in finding ways for boards to plug in more effectively to the policy setting agenda of the shareholder to improve the quality of board decisions.

More specifically, ways need to be explored for government to provide the Crown boards with a sense of its priorities and for the responsible minister to communicate his/her expectations. These perspectives are critical for boards to engage in effective strategic planning.

Discussants believed that improvements of this nature would minimize the risk of the shareholder altering decisions of the board.

It was noted that the frequent turnover between ministers and deputy ministers pose significant challenges to the board's ability to

maintain an effective relationship with the shareholder.

Some concern was expressed about the lack of flexibility in the audit regime. The board often did not have a choice concerning the selection of the auditor and types of audits or the costs associated with it.

To strengthen the relationship between the shareholder and the board, the groups made the following proposal: a small advisory group should be formed to provide ongoing advice to the government on corporate governance issues in Crown corporations.

\* \* \*

# Meeting the Information Needs of the Board

Chaired by J. Douglas Barrington

*In this break-out group participants examined the information needs of the board from a variety of perspectives.*

*... by having the chairs and the CEOs around the table, we had both the problem and the solution in the same room. I view the chairs as being the problem on occasion and sometimes the solution. Likewise, for the CEOs. (D. Barrington)*

## The Importance of Corporate Governance Information

The groups concluded that functioning as a board and taking responsibility for corporate governance requires timely, accurate and useful information. This information is one of the main instruments the board uses to assist the corporation fulfilling its responsibilities. Given the scope of directors responsibilities, and the limited time they have available, the nature and the types of information presented to directors must be carefully considered.

## The Nature and Types Information

It was noted that with government corporations fulfilling both economic and public policy expectations, measuring their performance is more complicated than in the private sector. In the past, directors of Crown corporations were able to focus mainly on the long-term public policy objectives. With the recent recessions, the high level of deficit financing and globalization, more traditional corporate measuring systems, with a commercial and private sector orientation, have become necessary.

The discussants agreed that, in practice, the design of the information system can be exceedingly difficult although the concept is relatively simple. The specific information needs of each corporation are unique. They

change over time and with the experience of the board.

A consensus was that the learning curve for a newly appointed director averages about eighteen months. It was also observed that as directors gained experience on the board, their information requirements became less detailed.

The groups debated the question: How does the board articulate its information requirements without micro-managing the corporation?

One of the ways suggested for classifying the information needs of the board comprised five essential elements: viewpoint, role, perspective, attributes and characteristics. Viewpoint deals with focusing the preparation of information on the user of the information — the board of directors. Role recognizes their responsibilities to provide strategic leadership, to safeguard the assets, to monitor progress and to report to the shareholder. Perspective demands that the information reflect the board's fiduciary responsibility for the best interests of the corporation, the due diligence obligations of directors and the accountability of the board to the shareholder. Attributes pertains to ensuring the information reflects the issues which the board must address. Characteristics means that to be useful the information should be relevant and succinct.

*... what I hear from boards is that a sound evaluation process is a superior method of getting quality information. (P. O'Callaghan)*

### Management and the Information System

There was general agreement that the CEO must keep the board informed and must always be direct and truthful and not keep important information from the board. There was consensus that a relationship of trust between the chairperson and the CEO is paramount for the effective exchange of information between the board and management. One of the CEO's responsibilities to the board is to develop an information system that meets the needs and the interests of the board. Consequently, the board should discuss and agree with management on the parameters, including the timing, frequency, and the nature of the information it receives. It was also noted the board's information needs will likely change over time and with experience. Therefore, the issue of information needs should be a periodic consideration for the board. One concern expressed was that too much time is spent looking backward and not enough looking forward. How important is it for the board to know what was done last month?

One of the responsibilities of boards is to understand the internal systems that produce the information. It is insufficient for the board to simply rely on information that management presents. In order to meet the challenges created by critical and emerging issues, sometimes the board may judge it requires supplementary information. The board should have access to information directly, including having key managers attend board meetings or engaging outside consultants.

It was recognized that the CEO and management generally have

more timely and frequent access to the shareholder than do the board of directors. Another perpetual challenge facing the Crown corporation board is the frequent change in shareholder representatives, specifically new ministers and new deputy ministers. The groups debated what could be done to reduce the disruptive impact this has on board effectiveness. It was felt by many participants that timely communication of board decisions to the shareholder would improve the board's opportunities to gain meaningful feedback. At a minimum, annual meetings of the responsible minister with the chairperson, and preferably with the board, would enhance the effectiveness of the board's performance.

It was argued strongly that the process of evaluating the CEO's performance invariably enhances the likelihood that the information received by the board from management will meet its needs.

\* \* \*

*One fundamental underpinning for meeting the information needs of the board is establishing and maintaining trust leading to confidence and good performance between the chair and the board on one hand and the CEO and management on the other.  
(D. Barrington)*

## Wrap-Up

by David M. Culver  
Conference Chairperson

*It's time we Canadians realize that being a director is not a plum, it's a serious, difficult, thankless task, and therefore, if you want to reward those who've helped you politically don't put them on boards, give them something else to do.*

*We should regard Crown corporations as a means to an end, sort of half-way houses.*

Where do we go from here? I want to go somewhere from here; I don't want to just walk away and do nothing. Let's face the fact, systems do not change from within very easily. They don't change because they suddenly reach a conclusion that they must change. Pressures for change can come not only from events like this Conference of today but also from outside pressures like the profound changes now occurring and being demanded by the public of our country, Canada.

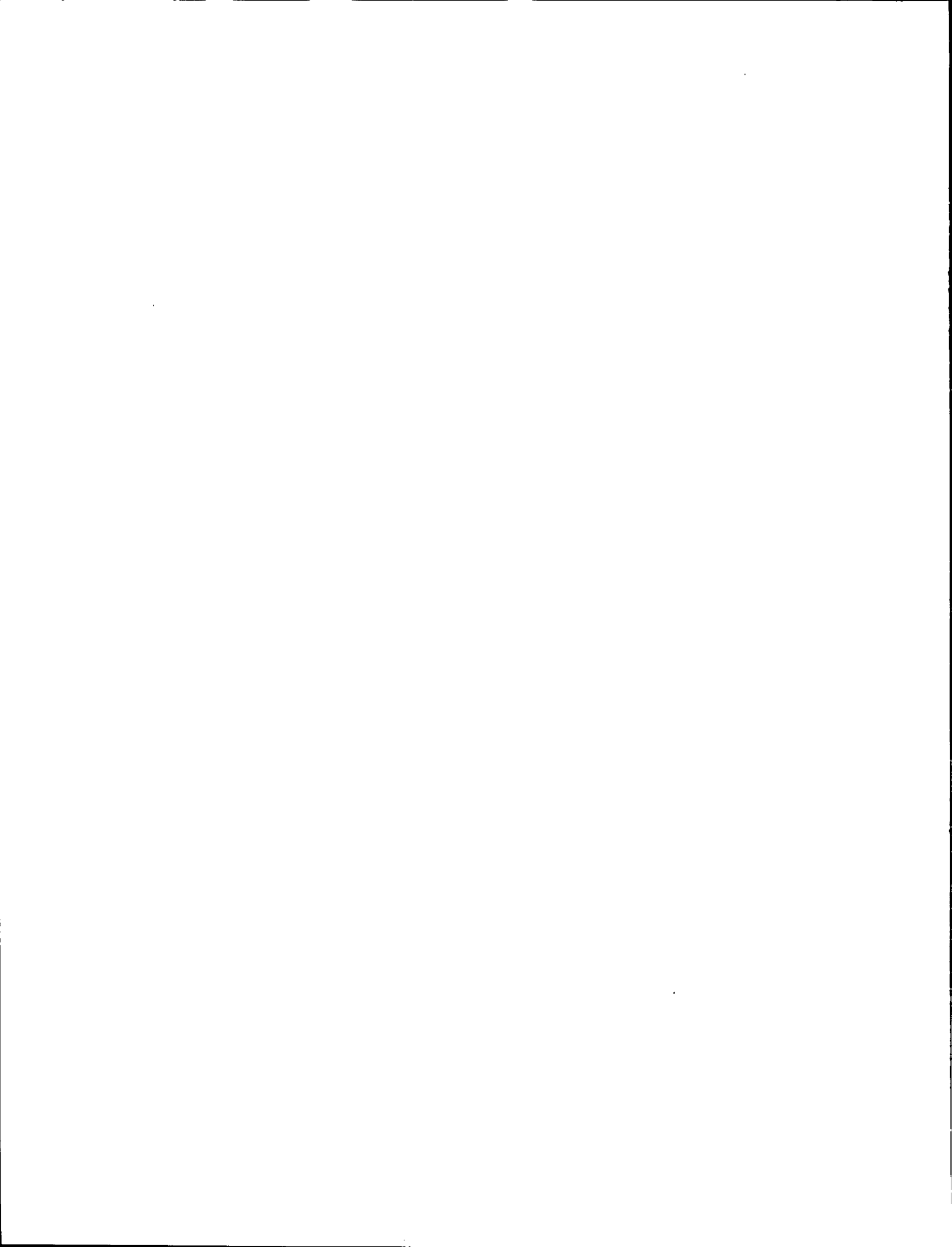
I would share the optimism expressed by Patrick O'Callaghan, and although I always find optimism is more fun than pessimism, it is not always more profitable. I am here today because I believe improving corporate governance in government and Crown corporations is a good idea. Despite the obvious difficulties, I believe we should all strive to keep the ball rolling which we set in motion so that the needed changes will be implemented.

The current system is not one that Canadians want to put up with in the future. The pressure for change is coming from where it is most effective, and that is from the people of this country. Once they get their mind made up there is nothing that we can do in Ottawa except follow. So I make that point because it has a bearing on what can we do and where can we go from here. One of the things we can do is talk about these issues with the public.

When I was CEO of Alcan, people would say, "Why don't you go to Ottawa and tell them what to do, they will listen to you." I replied, "I can go to Ottawa and they will listen to me but it won't do me any good, not because they don't like what I say or they don't appreciate that I am there and saying it. It's because they have to go to the people of Canada first and if you don't get the people of Canada on board for the kinds of fundamental changes we're talking about, it's not going to happen. If we do get them on board it will happen."

We can do a lot by talking to the employees in our corporations about the reason why there is probably going to be change in the way these Crown corporations work. We should challenge them to come up with ideas, as to how we can get our Crown corporations into a privatized form, if that is suitable. Not all Crown corporations are going to be able to do that, but the ones that have a chance to do it, should be working on it through their employees.

\* \* \*



## Closing of the Conference

by Gary Sheehan  
Director, Policy and Corporate Information Division,  
Crown Corporations Directorate  
Department of Finance and Treasury Board Secretariat

*David Watters was called away to attend Treasury Board at this point in the afternoon. Gary Sheehan spoke on his behalf.*

*Today we have put in motion something that, if we manage it well, can achieve significant results in improving how boards of directors work with the Government of Canada and how they work with their management in achieving the public policy objectives that have been laid down for these Crown corporations.*

*There is a real opportunity to make progress.*

I know David very much wanted to be here to thank you for your participation in this Conference. I share his view that this Conference has been a success. It has met the objectives that we set for it. Today we have put in motion something that, if we manage it well, can achieve significant results in improving how boards of directors work with the Government of Canada and how they work with their management in achieving the public policy objectives that have been laid down for these Crown corporations. There is a real opportunity to make progress. Everyone's contributions give clear indication of what needs to be done, and what can be done. Penny Collenette's observations, "I'm here, I'm serious, I'm willing to listen and I am going to work with you in making some changes!" symbolize an opening of the door to proposals for change.

I feel comfortable making some commitments on behalf of David Watters:

- We will seriously consider organizing another meeting of this group to discuss common problems, whether it is corporate governance or other issues.
- We will provide you with

proceedings of the Conference, outlining and summarizing what has been discussed.

- We will create an advisory group to bring forward proposals, and to see how they can be institutionalized as part of the government's governance regime for its Crown corporations.
- We make a commitment to continue working in this area. You may hear from us soon to elicit your views through a survey or personal interview.

On behalf of David, I would like to thank everyone who attended this Conference. The amount of participation and involvement that was evident all during the day was astounding. You came here today, shared your ideas, expressed your thoughts, your concerns, and your views of what was wrong. Sometimes that is hard to do. You offered very good ideas for change. In this regard, this Conference has been unusual. In most conferences participants do not show that level of openness and commitment to resolve common problems.

On behalf of you and myself, I would like to thank David Culver for all of his work. The panel has done an excellent job today. I

participated in two of the break-out sessions and I inquired about the other two sessions. The feedback indicates each was interesting, stimulating, and full of activity. I would like to thank also our partners in the planning and management of this gathering, the Conference Board of Canada. I would like to thank the staff of our organization, the Crown Corporations Directorate. With those words, I close the Conference.

\* \* \*

## Feedback and Suggestions

The feedback from the Chairpersons and CEOs during and shortly after the Conference on Corporate Governance indicated a fairly widespread level of concern with the current structure and operation of the existing relationships between the shareholder and the board. There was also a relatively high level of consensus about how corporate governance of the government's Crown corporations could be improved.

### Suggestions

The proposed suggestions fall into three broad areas:

- what the government as shareholder could do better;
- what each board could do better; and
- how to improve the communication between the shareholder and boards.

#### A. What the Government as Shareholder Could Do Better.

- Advice should be sought from the existing board of directors on the selection or re-appointment of directors, the chairperson and the CEO. Related advice would include the qualifications, the skills and the experiences most needed by the corporation.
- Streamline and speed up the processes for appointing new directors to fill vacancies, specifically:
  - set a standard to fill vacancies within three months from the time they occur unless

circumstances are very exceptional.

- standardize the process of announcing appointments of directors in order to remove the confusion that exists from time to time.
- speed up the process for contacting directors prior to the expiry of their terms.

- Establish an advisory group to the government on Corporate Governance.

- Establish a Corporate Governance Orientation And Education Program targeted mainly for new directors, specifically.

- Conferences for Chairpersons and CEOs should be held more regularly.

#### B. What the Boards Could Do Better:

- Each board of directors should become more actively involved in identifying the needs of their boards and in communicating these needs to the government. This identification could include developing a profile of the skills and experiences needed by the board relative to the needs of the corporation and a self-assessment by the board of its existing capabilities.
- Boards should monitor and evaluate not only the performance of the corporation but also that of its CEO and that of the board itself.



- Boards should consider the merits of establishing a committee to deal with matters of corporate governance.

**C. How to Improve the Communication Between the Shareholder and the Boards:**

- Encourage better two-way communications between each board of directors and the responsible minister. This would involve establishing norms for practices such as periodic meetings and introductions when a new minister responsible is appointed.
- The Chairperson should present an informal report at least annually to the Minister dealing with performance of the corporation, its board of directors and its management.
- The Chairperson and the CEO should develop reliable and informal communication links with the Minister and his/her office. Representatives of the board should take the initiative to meet informally with senior officials in the central agencies and in the line department(s) of the Minister responsible prior to scheduled (formal) Board meetings.

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## **Appendices**

### **A. Reception**

**A1. "Corporate Governance: Improving the Effectiveness of Crown Corporation Boards"**

**Remarks by the Honourable Arthur C. Eggleton,  
President of the Treasury Board and Minister Responsible for  
Infrastructure**

**A2. "The Federal Government's Approach to Renewal"**

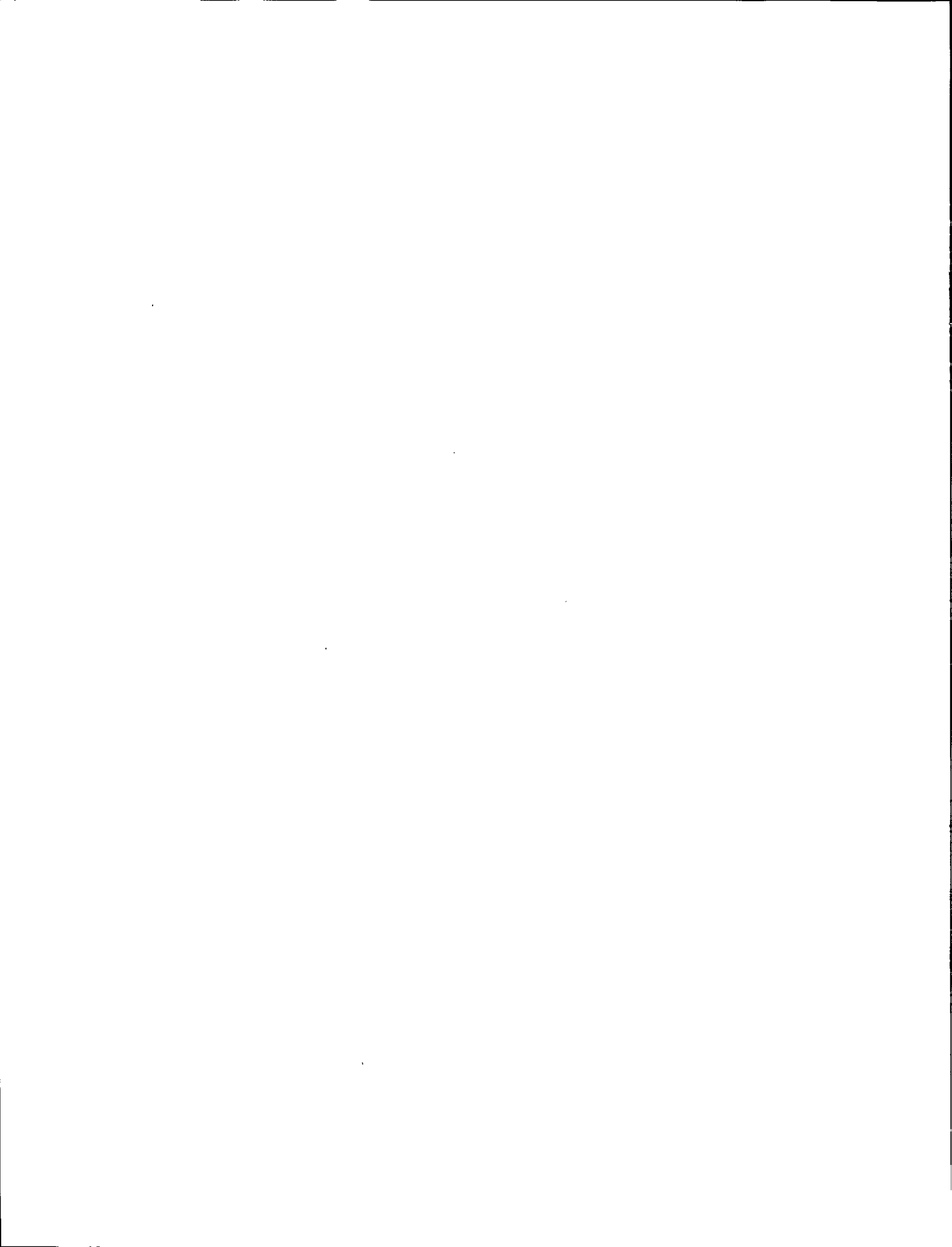
**Remarks by John English, M.P.,  
Parliamentary Secretary to the Honourable Marcel Massé**

### **B. Award Ceremony**

**Award For Excellence In Annual Reporting By Crown Corporations**

**Presented by L. Denis Desautels,  
Auditor General Of Canada**

### **C. List Of Conference Participants**



**"Corporate Governance: Improving the Effectiveness  
of Crown Corporation Boards"**

**Remarks by The Honourable Arthur C. Eggleton  
President of the Treasury Board**

Good evening. I am delighted to have the opportunity to host you this evening and to join you tomorrow. As you discuss how we can work together — you in Crown corporations and we in government to make more effective and efficient the services that we provide.

I would like to thank my colleague tonight and our two guest speakers, John English who, as Parliamentary Secretary of Marcel Massé was able to replace him tonight; and the Auditor General, Denis Desautels.

I am also delighted to see a former Cabinet Minister, the Honourable Flora MacDonald, who is here in a Crown corporation capacity.

When we decided to call this Conference for chairpersons and chief executive officers of Crown corporations, we were mindful of the growing importance of corporate governance for our Crown corporations, as indeed it is for the private sector.

I believe there is a need to strengthen the collaboration between the government and the boards of directors of our Crown corporations to ensure that the appropriate people are appointed as directors and adequately trained to meet their responsibilities. We will get into that in some detail tomorrow.

This evening we are going to hear from the two people who will help set the pace and the tone. The

first is a colleague of mine, John English. He is Parliamentary Secretary to the Minister Responsible for Public Service Renewal, Marcel Massé, who could not be here tonight. I'm grateful to you John for stepping in. Mr. English shares in the responsibility of leading our efforts in government renewal. He brings to the job an insight that only history can teach. His own interest and knowledge of history is serving our government well. Tonight he will share with us the broad perspective which the government is taking in its approach to renewal.

*[Address by John English. M.P.  
The speech follows this text in  
Appendix A-2.]*

Thank you, John. The exercise that our colleague Marcel Massé is conducting, the Program Review, is a very major undertaking, trying to shape government, get government right — in terms of the resources that we have in the 90s, determining what kind of government we should have, what kind of programs, what kind of services that we are going to be able to afford to have in the future. I think in addition to that, not only do we have to determine what government should be doing but how it should do it. I think here is where we can become more effective, here's where we can learn to provide an even better level of service to the public. That's something I think we can all join in trying to do.

What John has outlined will have definite implications for the accountability of Crown corporations. That's a subject with which our next guest is very familiar. An essential element of our accountability as a government to the people of Canada is adequate and timely reporting to Parliament on the affairs of Crown corporations and other corporate interests of the Government of Canada. The Office of the Auditor General of Canada is continuously urging us to improve this.

This brings me to my next pleasant duty this evening, introducing the Auditor General of Canada who is with us tonight to put into action his intention, announced in his 1993 Report to Parliament, to establish an Award for Excellence in Annual Reporting by Crown corporations.

Denis Desautels is the ninth Auditor General of Canada. He came to the public service after 27 years in the private sector.

Since his appointment, he has been a competent, efficient and direct Auditor General, and an innovator. Tonight, he is here to talk about one of his innovations, one that he believes in strongly. He is here to present the Auditor's General's First Annual Award for Excellence in Annual Reporting by Crown Corporations.

*[Presentation of the two Awards of Excellence in Annual Reporting by Crown Corporations. The speech by Denis Desautels follow this text as Appendix B.]*

Thank you, Mr. Desautels, for your initiative in recognizing Crown corporations who are leading the way in establishing best practices in annual reporting.

Congratulations to the two winners.

Enjoy the balance of your evening. I look forward to seeing many of you at the beginning of the Conference tomorrow morning.

\* \* \*

## "The Federal Government's Approach to Renewal"

**Remarks by John English, M.P.  
Parliamentary Secretary to The Honourable Marcel Massé  
President of the Privy Council, Minister of Intergovernmental Affairs, and  
Minister Responsible for Public Service Renewal**

*The Honourable Marcel Massé was called away and was unable to speak at the Reception. His Parliamentary Secretary, John English, M.P., (Kitchener-Waterloo), spoke on his behalf.*

Marcel Massé greatly regrets not being here tonight. Mr. Eggleton mentioned that I am an historian. History becomes useful sometimes. I can say that Crown corporations are a great Canadian achievement. In fact, the legendary C.D. Howe was the minister responsible for them. They were the method by which he restructured so much of the Canadian economy during the War years. Those who have studied the topic give him great credit for that. The Crown corporation was a brilliant instrument that he used most effectively, and that in fact became the major source of our industrial and economic reconstruction. This is an indication of why I think this Conference, and the topic tonight and tomorrow of your deliberations, is so important.

In these days of economic adjustment and challenge, government renewal is on the public and political agenda in many countries, including Canada. Pressure for renewal is being felt by all elements of the public sector, including Crown corporations. Indeed, as an important instruments for implementing public policy, and as a key mechanism for serving Canadians, the need for change in Crown corporations is as important as in any other part of government. To improve the way Crown corporations function is

critical if we want to achieve the objective of renewing government. That is why this Conference is relevant and timely.

I want to spend a few minutes this evening:

- outlining the federal government's approach to government renewal;
- describing some of our initiatives to achieve our goal and the ingredients for success; and
- sharing our views on how Crown corporations can participate in this process.

### **The Federal Government's Approach to Government Renewal**

In terms of the government's approach to government renewal, it reflects the fact that Canadians have said to us that they want a government reflective of their times and sensible to their needs. We know that confidence in our political institutions depends on the ability of those institutions to provide Canadians with relevant, cost-effective and client-oriented services. We are taking a measured, straightforward approach to restore the confidence of Canadians in their government.

Firstly, we are examining the basic role and purpose of government, in other words, "what is the business that we are in?" That's a very fundamental question.

Secondly, we will have to decide how much we, as a country, can afford to pay for government services — a process we are undergoing at this time.

And finally, we will have to look at how we can do it — finding the most cost-effective means to achieve the desired results.

### Our Initiatives

Since taking office last November, the government has launched a series of initiatives to renew the Government of Canada, and to review the entire spectrum of what we do and how we do it.

You have been participants in at least some of these initiatives.

1. We have launched a **program review** which is scrutinizing every government program. This review is a priority of the government, and will determine the new contours of government for the coming decades. In this review, fundamental questions form the basis of the exercise. Certain basic questions form the foundation of this review. These questions are:
  - is the program necessary, does it respond to a real need?
  - are there better means to reach the same goal?; and
  - is it an appropriate activity for the federal government?

The purpose of this review is not to reduce public service jobs, but to make sure we have the government we need and can afford. Any "downsizing" will be made in a way that minimizes the impact on individual public servants. At the moment, we are examining the preliminary results of the program reviews that have been submitted by departments. Some announcements will be made in next year's budget, others will come later.

2. We are also negotiating, often successfully, with the provinces to eliminate overlap and duplication of programs and services and to provide Canadians with simpler, more effective government.
3. Reviews in key policy areas, including social security, defence and foreign policy, are also well underway. These are important reviews, not simply concerned with expenditure restraint, although this is a key element. They are looking at the broader goals and purposes of government policies and programs and discovering whether they meet the challenges of today and tomorrow.
4. One initiative that you are most familiar with is the review of federal agencies, boards and commissions. Its goal is to ensure that these bodies are serving the country's needs in a cost-effective manner. And that includes a review of the size of their boards. You know that some of the changes resulting from this review have already been announced, eliminating hundreds of appointed positions and saving millions of dollars. This

Conference itself is a result of decisions taken under the agency review. As we continue to examine more boards and agencies, announcements on further reduction will be made in the coming months.

### **Ingredients for Success**

Change can be exciting; but change is also difficult; it can also be unsettling, even threatening. But in the final analysis, change is inevitable and we must see it in this light – as a continuing challenge to review what we are doing and its relevance to new environment.

I believe there are three essential ingredients necessary to face the challenge of change in government renewal:

1. First, we need a clear conception – a vivid vision on what we, as a people, need and want from government. The ongoing program and policy reviews are aimed at giving us that clear vision. They will also form the basis for the blueprint of the government of tomorrow.
2. Secondly, we need confidence: confidence that we can attain our goal. We believe in what we are doing, and we are certain that they are the right things to do to provide good government for Canadians.
3. Thirdly, we need high-level and ardent commitment to the importance of renewal. The commitment is best exemplified by taking action. We are taking action on many fronts to achieve our goal. I can assure you there is the political will in Ottawa to see

this process through.

### **The Role of Crown Corporations in Renewal**

What is the role of Crown corporations in all of this?

I already mentioned that government renewal includes Crown corporations. This does not mean changing the traditional arm's length relationship between the corporations: I want to assure you that relationship remains unchanged. The success of this government renewal initiative depends on the collaboration of all sections of the federal public service. Crown corporations are an excellent focal point for examining different concepts of government.

This is why we asked Gérard Veilleux to conduct a study on the structure of their boards of directors, the appointment process for boards members, and ways to enhance the contribution to the decision-making process. Mr. Veilleux did an excellent job in outlining problems these areas and proposing practical ways to dealing with them. Penny Collette will be speaking to you tomorrow and explaining our current thinking on this topic.

The Government is committed to renewal. Through the initiatives now underway, we are demonstrating our resolution to achieve the objective. And we are beginning to see results. I also realize that the quest for success in renewal is a long journey — a journey of effort, frustration, pain — and hopefully at the end, satisfaction. But it also presents opportunities for challenging and innovative changes — changes that will benefit generations of Canadians.



Let us make the most of the opportunities we have, and provide Canadians with good government that is so important to our nation's future well-being.

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## AWARD CEREMONY

### Award For Excellence In Annual Reporting By Crown Corporations

Presented By  
L. Denis Desautels, Auditor General of Canada

First of all, I would like to express my appreciation to David Watters, Assistant Secretary of the Crown Corporations Directorate of Treasury Board Secretariat for suggesting that this would be an appropriate occasion for me to talk about excellence in annual reporting.

Thank you Mr. Eggleton for taking this initiative and for allowing me to participate in your Conference.

This, indeed, is an ideal setting, on the eve of your Conference on Corporate Governance, to give recognition to excellence in annual reporting. Good reporting is perfectly consistent with — indeed, it is a key element of — good accountability and good governance.

#### Why Introduce An Award?

As Mr. Eggleton noted, the Chapter in my 1993 Report entitled "Crown Corporations: Accountability For Performance" refers to this Award of Excellence.

There are four main reasons.

1. There is a legal requirement under Part X of the *Financial Administration Act* for Crown corporations to include in their annual reports a statement on the extent to which the corporation has met its objectives for the financial year. All of you here recognize the importance of

the corporate planning process as a key step in subsequently being

able to measure and report results.

2. As a result of our special examination audit work, we have noted a number of cases whereby (a) objectives were not articulated in a clear and measurable manner and (b) insufficient effort was placed on actually measuring and reporting performance.
3. In these times of fiscal restraint, good performance information becomes even more important, from both a management and taxpayer perspective.
4. A fourth reason was that we did not want to continue to report weaknesses in reporting. We felt that another productive approach would be to recognize those corporations that were seriously trying to improve their reporting. In other words, sometimes it is better to give a bouquet, rather than a load of bricks.

#### Award Process

First a few words about the process.

- A blue-ribbon panel of judges was selected. I served as

Chairman. I will take just a minute to identify the panel members and to thank them for agreeing to serve:

- J. Douglas Barrington, Chairman, Deloitte & Touche;
- Jean-Pierre Boisclair, Executive Director, Canadian Comprehensive Auditing Foundation;
- Hugh J. Mullington, President and CEO, International Datacasting Corporation and former CEO of Canadian Commercial Corporation;
- George L. Morfitt, Auditor General of British Columbia;
- Michael H. Rayner, President, Canadian Institute of Chartered Accountants;
- David B. Watters, Assistant Secretary, Crown Corporations and Privatization Sector, Treasury Board/Finance

A process was adopted that included special emphasis on performance reporting in both the annual reports and corporate plan summaries. All Crown corporations were included in our review, even those exempt from Part X of the *Financial Administration Act*. The reporting responsibilities are reasonable, whether required by law or not.

Two groupings of Crown corporations were identified, based primarily on size. We recognize that the smaller Crown corporations may not have the same level of resources to apply to annual reporting that the larger corporations do. However, all Crown corporations regardless of size, are responsible for ensuring appropriate reporting to government and Parliament. It

should be noted that the same basis for judging and the same expectation for excellence was used for all the corporations.

With assistance from a small secretariat, criteria were developed and detailed assessments were carried out against those criteria to arrive at certain "nominations".

A lot of detailed analysis took place, and I would like to thank members of our team, Bill Radburn and Grant Wilson, and those who worked with them particularly Gary Sheehan and Vince Eveleigh of the Treasury Board, for their help.

### **Announcement Of Nominees And Winners**

Now, at last, I am pleased to name those corporate annual reports that were nominated for the "award for excellence in annual reporting".

#### **Group 2**

For Group 2, the four nominations in alphabetical order are:

- Canadian Museum of Nature
- Defence Construction (1951) Limited
- National Museum of Science and Technology
- Standards Council of Canada

The panel of judges have selected the winner from Group 2 and I would ask that the Chairman and President of **Defence Construction (1951) Limited**, Mr. Lorne Atchison, now come forward to receive the Award for Excellence.

On behalf of the panel of judges, congratulations Mr. Atchison.

## Group 1

For Group 1 the six nominations in alphabetical order are:

- Bank of Canada
- Canadian Broadcasting Corporation
- Canadian National Railway Company
- Export Development Corporation
- Farm Credit Corporation
- Federal Business Development Bank

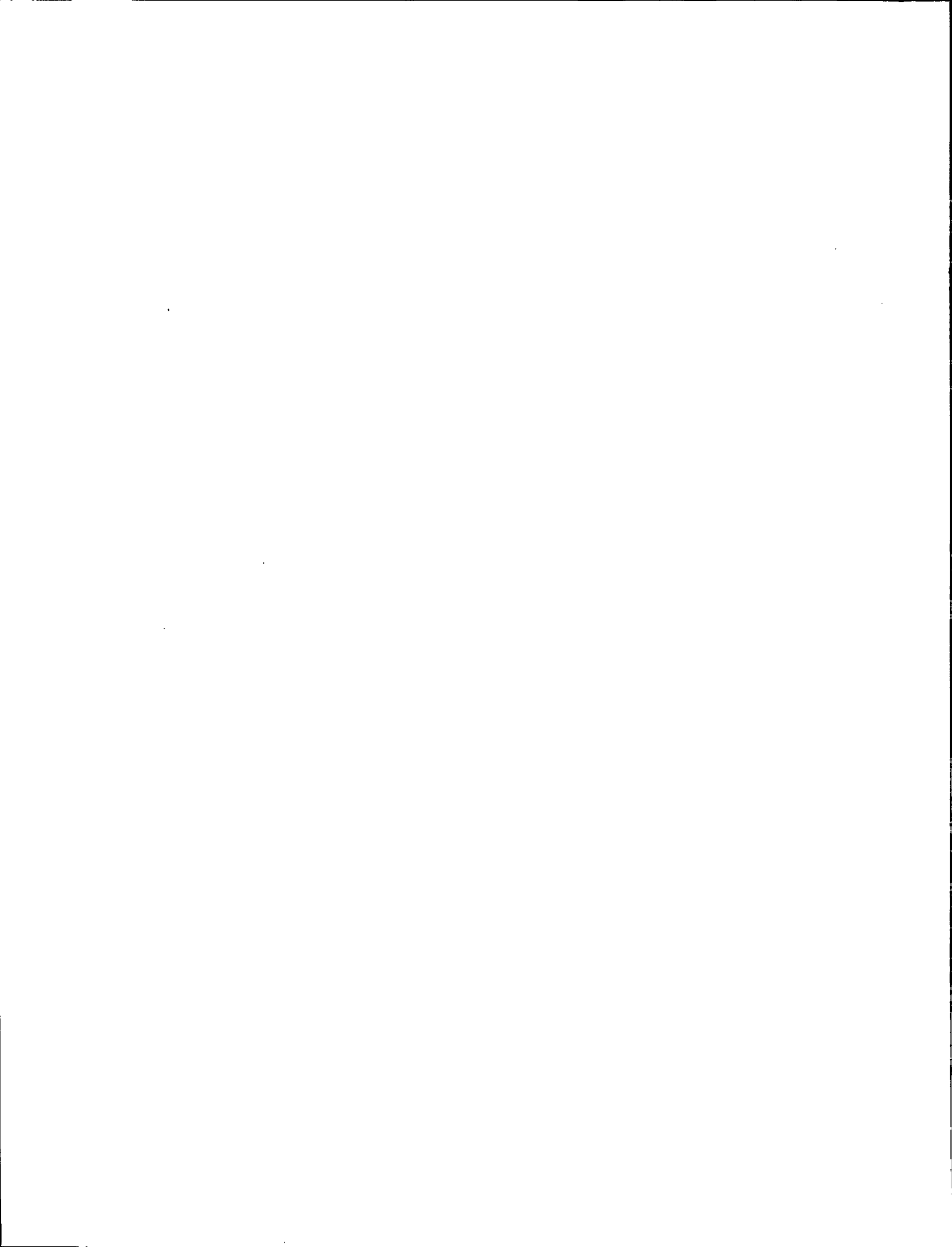
The panel of judges have selected the winner from Group 1 and I would now ask that the President and Chief Executive Officer of **Export Development Corporation**, Mr. Paul Labbé, now come forward to receive the Award for Excellence.

On behalf of the panel of judges, congratulations Mr. Labbé.

## Closing

In closing, I would like, once again, to congratulate the two winners and to state that, generally, Crown corporation reporting has improved over the past few years. I sincerely hope that this positive pattern of improvement continues over the coming years. Have a good evening and Conference tomorrow.

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## **List of Conference Participants**

### **List of Speakers, Facilitators, and Chairpersons**

J. Douglas Barrington  
Chairman  
Deloitte & Touche  
Toronto, Ontario

David S.R. Leighton  
Professor Emeritus  
University of Western Ontario  
Business School  
London, Ontario

Micheline Bouchard  
Vice-President  
DMR Group Inc.  
Montreal, Quebec

The Hon. Paul Martin  
Minister of Finance  
Ottawa, Ontario

Penny Collenette  
Director of Appointments  
Office of the Prime Minister  
Ottawa, Ontario

Maureen Sabia  
Former Chairman  
Export Development Corporation  
Toronto, Ontario

Gail Cook-Bennett  
Executive Vice-President  
Bennecom Ltd.  
Toronto, Ontario

Claude I. Taylor  
Chairman  
Air Canada  
Montreal, Quebec

David M. Culver  
Chairman  
CAI Capital Corporation  
Montreal, Quebec

Louise B. Vaillancourt  
Corporate Director,  
Member of the Board, AECL  
Outremont, Quebec

Peter J. Dey  
Managing Partner  
Morgan, Stanley  
Toronto, Ontario

Patrick O'Callaghan  
Managing Partner  
Patrick O'Callaghan & Associates Ltd.  
Vancouver, British Columbia

The Hon. Arthur C. Eggleton  
President of the Treasury Board of  
Canada  
Ottawa, Ontario

## List of Participants

Brian Anthony  
Acting Director  
The Canada Council  
Ottawa, Ontario

R.G. Armstrong  
Chairman  
Great Lakes Pilotage Authority, Ltd.  
Cornwall, Ontario

J.R. Lorne Atchison  
Chairman and President  
Defence Construction (1951) Limited  
Ottawa, Ontario

François Beaudoin  
Président et chef de la direction  
Banque fédérale de développement  
Montréal (Québec)

David F. Bellefontaine  
President and Chief Executive Officer  
Halifax Port Corporation  
Halifax, Nova Scotia

Claude F. Bennett  
Chairman  
Canada Mortgage and Housing  
Corporation  
Ottawa, Ontario

Keith A. Bezanson  
President  
International Development Research  
Centre  
Ottawa, Ontario

James Corkery  
Chairman and Acting President and  
Master of the Mint  
Royal Canadian Mint  
Ottawa, Ontario

André Gingras  
Président du conseil d'administration  
Société du port de Montréal  
Montréal (Québec)

Robert Dinan  
Chairman  
Canadian Film Development  
Corporation  
Montreal, Quebec

Tom Doyle  
Acting Chairman  
St. John's Port Corporation  
St. John's, Newfoundland

Alan R. Emery  
President  
Canadian Museum of Nature  
Ottawa, Ontario

Pierre Émond  
Vice-président directeur-général  
Société du Vieux-Port de Montréal  
Inc.  
Montréal (Québec)

Eugene A. Fichel  
President and Chief Executive Officer  
Canada Mortgage and Housing  
Corporation  
Ottawa, Ontario

David J. Fox  
Port Manager and  
Chief Executive Officer  
St. John's Port Corporation  
St. John's, Newfoundland

Ross Gaudreault  
Président et directeur général  
Société du port de Québec  
Québec (Québec)

Harry P. Gaunce  
Chairman  
Saint John Port Corporation  
Saint John, New Brunswick

Ken Krauter  
General Manager and  
Chief Executive Officer  
Saint John Port Corporation  
Saint John, New Brunswick

Mary Gusella  
Chairman and President  
Enterprise Cape Breton Corporation  
Moncton, New Brunswick

Lorne F. Hehn  
Chief Commissioner  
The Canadian Wheat Board  
Winnipeg, Manitoba

Peter A. Herrndorf  
Chairperson  
Canadian Museum of Civilization  
Hull, Quebec

James J. Hewitt  
Chairperson and  
Chief Executive Officer  
Farm Credit Corporation  
Regina, Saskatchewan

John D.V. Hoyles  
Executive Vice-President and  
General Manager  
National Capital Commission  
Ottawa, Ontario

Terry W. Ivany  
President and Chief Executive Officer  
VIA Rail Canada Inc.  
Montreal, Quebec

Sheryl Kennedy  
Deputy Governor (Administration)  
Bank of Canada  
Ottawa, Ontario

George S. Khattar  
Chairman  
Cape Breton Development  
Corporation  
Sydney, Nova Scotia

George F. MacDonald  
Executive Director  
Canadian Museum of Civilization  
Hull, Quebec

Guy P. Major  
Secrétaire  
Administration de pilotage des  
Laurentides  
Montréal (Québec)

D.H. (Don) Krusel  
President and Chief Executive Officer  
Prince Rupert Port Corporation  
Prince Rupert, British Columbia

Paul Labbe  
President and Chief Executive Officer  
Export Development Corporation  
Ottawa, Ontario

Richard Lafontaine  
Member of the Board  
The Standards Council of Canada  
Ottawa, Ontario

Patrick J. Lavelle  
Chairman of the Board  
Federal Business Development Bank  
Montreal, Quebec

Bertrand J. Lavoie  
Président du conseil d'administration  
Banque fédérale de développement  
Montréal (Québec)

Marc LeFrançois  
Président du conseil d'administration  
VIA Rail Canada Inc.  
Montréal (Québec)

J. Ron Longstaffe  
Chairman  
Vancouver Port Corporation  
Vancouver, British Columbia

The Hon. Flora MacDonald  
Chairperson  
International Development Research  
Centre  
Ottawa, Ontario

Robert Nixon  
Chairman  
Atomic Energy of Canada Limited  
Ottawa, Ontario

Réne Paquet  
Président du conseil d'administration  
Société du port de Québec  
Québec (Québec)



Anthony S. Manera  
President and Chief Executive Officer  
Canadian Broadcasting Corporation  
Ottawa, Ontario

Arnold E. Masters  
Chairman  
Canada Ports Corporation  
Ottawa, Ontario

Jack Mills  
Acting Director General  
National Arts Centre Corporation  
Ottawa, Ontario

Michael B. Milner  
Membre  
Administration de pilotage des  
Laurentides  
Montréal (Québec)

Reid Morden  
President and Chief Executive Officer  
Atomic Energy of Canada Limited  
Ottawa, Ontario

Rod Morrison  
President and Chief Executive Officer  
Marine Atlantic Inc.  
Moncton, New Brunswick

Richard Nelson  
Chairman  
Pacific Pilotage Authority  
Vancouver, British Columbia

Donna M. Scott  
Chair  
Canada Council  
Ottawa, Ontario

Gary A. Sheehan  
Director, Policy and Corporate  
Information Division  
Crown Corporations and  
Privatization Directorate  
Department of Finance and  
Treasury Board of Canada  
Ottawa, Ontario

Richard Paton  
Deputy Secretary  
Program Branch  
Treasury Board Secretariat  
Ottawa, Ontario

Douglas Patriquin  
Executive Vice President and  
Chief Executive Officer  
Canadian Commercial Corporation  
Ottawa, Ontario

Gerald C. Penney  
President  
Farm Credit Corporation  
Regina, Saskatchewan

Mervyn Russell  
Chairman  
Halifax Port Corporation  
Halifax, Nova Scotia

Jean Pierre Sabourin  
President and Chief Executive Officer  
Canada Deposit Insurance  
Corporation  
Ottawa, Ontario

Geneviève Saint-Marie  
Directeur  
Société du musée national des  
sciences et de la technologie  
Ottawa (Ontario)

Alan K. Scales  
Chairman  
Marine Atlantic Inc. Board of  
Directors  
Charlottetown, P.E.I.

Dominic J. Taddeo  
Président-directeur général  
Société du port de Montréal  
Montréal (Québec)

Paul M. Tellier  
Président-directeur général  
Compagnie des chemins de fer  
nationaux du Canada  
Montréal (Québec)

Brian R.D. Smith  
Chairman  
Canadian National Railway Company  
Montreal, Quebec

Norman C. Stark  
President and Chief Executive Officer  
Vancouver Port Corporation  
Vancouver, British Columbia

Glendon R. Stewart  
President and Chief Executive Officer  
The St. Lawrence Seaway Authority  
Ottawa, Ontario

Max Street  
Vice-President and  
Chief Operating Officer  
Enterprise Cape Breton Corporation  
Sydney, Nova Scotia

Alexander K. Stuart  
Chairman  
Export Development Corporation  
Ottawa, Ontario

Jean Michel Tessier  
Président-directeur général  
Société canadienne des ports  
Ottawa (Ontario)

Shirley L. Thomson  
Director  
National Gallery of Canada  
Ottawa, Ontario

Thomas Wilson  
Board Member  
Canadian Broadcasting Corporation  
Toronto, Ontario

C.R. (Ted) Worthington  
Chairman  
Atlantic Pilotage Authority  
Halifax, Nova Scotia