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CORPORATE GOVERNANCE OF STATE-OWNED ENTERPRISES

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The shortest way of defining governance is to say that it is the art or manner of governing. While the English word (covering a range of meanings) dates to at least the 14th century, it gained a new lease on life beginning in the 1990s in the writings and analyses of economists and political scientists as well as certain international institutions. It thereafter spread to many other languages around the world. It is important to note that for the present purposes, the term has strong social connotations and refers to a new mode of conducting public affairs that is based on the participation of civil society. As governments do not have – or no longer have – the legitimacy necessary to make decisions alone concerning the general interest, various consultation mechanisms have been developed to take into account the points of view of stakeholders. More specifically, "corporate governance" refers, in both the private and public sectors, to the way the relationships among the players involved in the direction or administration of a corporation is organized. The present definition is dedicated to the corporate governance of State-owned enterprises (SOEs; also known as government-owned corporations).

To begin with, corporate governance refers to the interplay of formal and informal relationships linking a corporation's management and its shareholders or owners, who are represented on the board of directors. The members of the board define the organization's strategy, approve its budget and discuss the main challenges to be tackled. Decision making must take into account not only considerations of profitability but also those of sustainable development and social responsibility. SOEs in particular are expected to demonstrate ethical behaviour and a high degree of transparency owing, precisely, to their public character (Simard, Dupuis and Bernier, 2006).

In the case of SOEs, corporate governance brings into play a complex set of laws, regulations, mechanisms, processes, norms and customs through which these organizations may be governed (Lynn et al., 2000). Specifically, it concerns the relationships between management, the board of directors and the institutional environment of this relatively independent enterprise, but not involve departmental senior managers who are in contact with the so-called "appropriate minister," occasionally the prime minister (or premier) and deputy ministers, as well as the central agencies responsible for SOEs in the Ministry of Finance or the Treasury Board Secretariat (depending on the government). SOEs are also compelled to appear before parliamentary committees whose proceedings and deliberations concern their sector of activity.

The governance of State-owned enterprises is unique in that the government is the sole shareholder. A SOE has a so-called "appropriate minister," who is the primary liaison with its head officers. Thus there would not appear to be any requirement to include various stakeholders in a

SOE's governance so as to represent various groups of actors in society. However, governments have deemed it necessary or useful to have representatives of the various environments affected by the activities of SOEs to sit on their boards and thereby account more fully for the views of these actors in matters of governance. Thus, historically, the board of directors of the Caisse de dépôt et placement du Québec has included representatives of the Mouvement Desjardins[1] and one of the main provincial trade unions, as well as the president of the Régie des rentes du Québec (Quebec Pension Board).

Governments have been prompted to rethink the governance of SOEs in light of recent events – for example, the case of the companies owned by Conrad Black (a subject developed at greater length below), a number of scandals that have engulfed major private corporations (Enron, Worldcom, etc.), or difficulties encountered by the Caisse de dépôt et placement or the Société des Alcools du Québec. In 2006, the government of Quebec passed legislation to bring uniformity to the practices of the province's State-owned enterprises. In particular, this bill prescribed that half the members of the board of directors of a SOE had to be women. Furthermore, it became standard practice to have the board of directors establish three committees: a governance and ethics committee, an audit committee, and a human resources committee. The objective of establishing these committees was to make boards less passive than they had previously shown themselves to be and to ensure that boards were able to debate issues warranting serious consideration without having the debate monopolized by the now-abolished executive committees. The formal power of boards of directors, and especially that of their chairs, was also augmented. This evolution was not peculiar to Quebec, as the government of Canada also overhauled the governance framework applying to its Crown Corporations.

One of the issues arising in relation to SOEs concerns the independence of directors. As was mentioned above, stakeholder representatives have traditionally been appointed to sit on boards of directors. However, in the wake of scandals in the private sector – such as the one that led the imprisonment of Conrad Black, in which the board of directors did not adequately protect the interest of shareholders – it was deemed necessary to make board members independent of management. CalPERS (California Public Employees' Retirement System) has made this requirement a condition of its investments in firms. In a set of guidelines known as the Day report, the Toronto Stock Exchange Committee on Corporate Governance in Canada in 1994 also advocated reform of this kind.

Among the challenges confronting SOEs, there is that of implementing principles of governance. The government may seek to apply the rules that it has adopted, but it may also sidestep them by appointing members of the board of directors on the basis of their party affiliation rather than their competencies. The appointment of board members should be made in accordance with a skills matrix developed by the board, which knows what its specific needs are and is thus in a position to counsel the government, which appoints members to the board. There is also a need to determine how, in the future, the President-CEOs of these enterprises should be selected. It is possible that on this score, governments are again prone to selecting candidates in disregard for the rules they themselves adopted.

1 The Mouvement Desjardins is a financial group that begin in Quebec as a network of credit unions but that now offers, across Canada, a range of banking and other services, including trust, insurance and brokerage services.

Bibliography

Huynh-Quan-Suu, C. (n.d.). "Étymologie du terme 'gouvernance'," http://ec.europa.eu/governance/docs/doc5_fr.pdf (page last retrieved in April 2012).

Lynn, L. E. Jr., C. J. Heinrich and C. J. Hill (2000). "Studying Governance and Public Management: Challenges and Prospects," *Journal of Public Administration, Research and Theory*, vol. 10, no. 2, pp. 233-261.

Ministère des Finances du Québec (2006). *Moderniser la gouvernance des sociétés d'État*, www.finances.gouv.qc.ca/documents/Autres/fr/Moderniser_GouvernanceEtat.pdf (page last retrieved in May 2011).

Oxford English Dictionary (1989). Oxford, Oxford University Press.

Treasury Board of Canada Secretariat (2005). *Review of the Governance Framework for Canada's Crown Corporations: Meeting the Expectations of Canadians*, www.tbs-sct.gc.ca/report/rev-exa/gfcc-cgse-eng.pdf (page last retrieved in May 2011).

Simard, L., A. Dupuis and L. Bernier (2006). "Entreprises publiques et intérêt général à l'heure de la gouvernance," *Canadian Public Administration*, vol. 49, no. 3, pp. 308-333.

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