

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO,
QUEBEC, NEW BRUNSWICK, PRINCE EDWARD ISLAND, NOVA SCOTIA AND
NEWFOUNDLAND

AND

IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS AND

IN THE MATTER OF
407 INTERNATIONAL INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application from 407 International Inc. (the "Issuer") for a decision under the securities legislation and securities directions (collectively the "Legislation") of each of the Jurisdictions that the Issuer be granted a waiver from the provisions of subparagraph 4.1(1)(a)(i) of National Policy 47 ("NP 47") and the applicable securities legislation of Quebec (collectively, the "POP Eligibility Requirement"), so as to permit the Issuer to participate in the prompt offering qualification system pursuant to NP 47 and the applicable securities legislation of Quebec (collectively, the "POP System");

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal jurisdiction for this application;

AND UPON the Issuer having represented to the Decision Makers as follows:

1. The Issuer was incorporated on March 17, 1999 under the *Business Corporations Act* (Ontario) (the "OBCA"), for the purpose of submitting a bid to the Government of the Province of Ontario (the "Province") for the purchase from the Province of all the issued and outstanding shares of 407 ETR Concession Company Limited (the "Concessionaire"). The bid was accepted and the purchase was completed on May 5, 1999 at a purchase price of approximately \$3.107 billion.
2. The Concessionaire was established by the Province as a Crown agency to oversee the design, construction, operation, maintenance, management and financing of Highway 407. The Concessionaire was continued as a share capital corporation under the OBCA on April 6, 1999 and, pursuant to a 99 year concession and ground lease agreement (the "Concession Agreement") entered into with the Province, holds the concession rights in respect of Highway 407.

3. The Issuer became a reporting issuer in each of the Jurisdictions that recognizes the concept of reporting issuer status on July 21, 1999, being the date on which the Issuer obtained receipts in the applicable Jurisdictions for the final prospectus of the Issuer qualifying the initial public offering (the "IPO") of \$1.1 billion principal amount of senior bonds of the Issuer.

4. The Issuer has issued \$650 million principal amount of real return senior bonds by way of a private placement on August 20, 1999.

5. The Issuer has also issued \$400 million principal amount of senior bonds by way of a final prospectus of the Issuer dated October 8, 1999.

6. The Issuer issued \$325 million principal amount of amortizing real return replaceable senior bonds by way of a private placement on February 2, 2000. Such senior bonds were replaced by \$325 million principal amount of amortizing real return replacement senior bonds on March 15, 2000 following the filing of a final prospectus of the Issuer dated March 9, 2000 qualifying the distribution of the replacement senior bonds.

7. The Issuer issued \$430 million principal amount of exchangeable senior bonds by way of a separate final prospectus of the Issuer dated March 9, 2000 (all of the outstanding senior bonds of the Issuer are hereinafter collectively called the "Bonds").

8. As at the date hereof, the Issuer has issued an aggregate of \$2.905 billion principal amount of Bonds, of which \$2.255 billion principal amount was issued by way of four (4) long form prospectuses filed within an eight (8) month period.

9. To the best of its knowledge, the Issuer is not in default of any requirement of the Legislation of any Jurisdiction referred to in paragraph 3 above.

10. Canadian Bond Rating Service Inc., Dominion Bond Rating Service Limited and Standard & Poor's Rating Services have assigned ratings of A, A and A, respectively, in respect of the Bonds.

11. The acquisition of the Concessionaire by the Issuer was funded, in part, through monies borrowed from or credit facilities made available by the following groups of lenders: (i) loans of \$2.3 billion advanced by a syndicate of sixteen Canadian and foreign banks pursuant to a senior bridge credit facility (the "Senior Bridge Credit Facility"); (ii) loans of \$150 million advanced by a Canadian chartered bank pursuant to a junior bridge credit facility (the "Junior Bridge Credit Facility"); and (iii) credit facilities (including letters of credit available for drawdown) in an aggregate amount of \$775 million made available by subordinated lenders pursuant to a subordinated credit facility (the "Subordinated Credit Facility"). In addition, three Canadian chartered banks provided credit support to the Issuer in respect of the interest rate hedging program established by the Issuer in connection with the acquisition.

12. The Issuer has financed the repayment of the Senior Bridge Credit Facility with the Bonds and also intends to finance the repayment of the Junior Bridge Credit Facility and the Subordinated Credit Facility with debt.

13. In connection with its substantial financing requirements, the Issuer, together with its financial advisors, has developed a capital markets platform (the "Capital Markets Platform") which provides common security and common principal covenants for all its lenders. The Capital Markets Platform encompasses an ongoing program capable of accommodating a variety of corporate debt instruments and borrowing, including term bank debt, revolving bank lines of credit, publicly issued and privately placed debt securities, commercial paper, medium-term notes, interest rate and currency swaps and other hedging instruments.

14. In order for the Capital Markets Platform to be utilized in an efficient and cost effective manner, the Issuer requires the maximum degree of flexibility in considering potential financing arrangements. Accordingly, in order to facilitate the timely issuance from time to time of debt securities pursuant to the Capital Markets Platform, the Issuer wishes to avail itself of the opportunity to issue such securities by way of short form or shelf prospectuses.

15. The Issuer proposes to file an initial annual information form (the "Initial AIF") pursuant to the provisions of the POP System in respect of its fiscal year ended December 31, 1999.

16. Assuming that the Initial AIF is accepted by the Decision Makers and that the Issuer is not in default of any requirement of the Legislation of any Jurisdiction, the Issuer would be eligible to participate in the POP System but for the fact that it has not been a reporting issuer for 12 months.

17. Given the size of the Issuer, the favourable ratings assigned to its Bonds by Canadian rating agencies, the high level of interest in the Bonds among Canadian investors and the expectation that the Issuer will seek access to the public markets frequently and in a substantial fashion, the Issuer is followed by a broad range of research analysts, investment advisors and other users of financial information.

AND WHEREAS under the System, this Decision Document evidences the decision of each Decision Maker (the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Makers with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers under the Legislation is that the POP Eligibility Requirement be waived to enable the Issuer to issue non-convertible debt securities under the POP System provided that the Issuer complies with all of the filing requirements and procedures and each of the other eligibility requirements of the POP System except that the eligibility certificate to be filed under the POP System shall make reference to this waiver.

DATED at Toronto this 31st day of May, 2000.

"Iva Vranic"

Headnote

Section 4.5 of NP 47- Director waives the requirement of subclause 4.1(1)(a)(i) to permit an issuer to distribute non-convertible debt securities under the POP System - the issuer is a share capital corporation and it has outstanding debt securities with a substantial principal amount - the issuer would be eligible to participate in the POP System under subsection 4.3(1) of NP 47 but for the fact that it has less than 12 months as a reporting issuer.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c.S.5, as am.

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am.,

Policies Cited

National Policy Statement No. 47, ss. 4.1(1)(a)(i), 4.3(1), & 4.5.