



## PROTECTING THE PUBLIC SECTOR INTEREST

### VICTORIA WESTCOTT

- White & Case LLP
- Partner, Infrastructure and Energy Projects
- [vwestcott@whitecase.com](mailto:vwestcott@whitecase.com)



# Public Sector Needs

## Quality

- Construction in performance and completion
- Operation - efficient, adaptable
- Effective monitoring and reporting
- Management systems
- Independent evaluation
- Handback requirements

# Public Sector Needs

## Limited Risk and Financial Exposure

- Reduced capital expenditures
- Off balance sheet – evaluation of risks retained
- Limited risks - political force majeure, change in law,
- Relief and termination compensation
- Revenue Risks
  - Traffic and tolls
  - Availability payments
  - subsidies
- Competitive pricing



# Public Sector Needs

## Public Image – political concerns

- Investment in national infrastructure – politically popular
- High tolls v. tax payers money
- Setting toll rates
- Availability
- Quality
- Congestion management

## Remedies and checks and balances

- Increased monitoring
- Technical inspections
- Availability deductions and performance penalties
- Substitution
- Termination



# What the private Sector can bring

## Technological Innovation

- Innovative technology
- New construction methods

## Financing Innovation

- Access to debt markets
- Cutting edge financing structures
- Privileged relationships
- flexibility

# What the Private Sector can bring

## Expertise, Experience, Resources

- Diversity of experience
- Tried and tested techniques
- Experienced work force and engineers
- Access to resources
  - - financial
  - - equipment
  - - manpower
- Access to profits for the Private Sector
  - - concession fees
  - - profit sharing
  - - refinancing gains

# What can the Public Sector do to Help

## → Certainty

- Effective and clear legislative Framework
- Transparent procurement procedures
- Guidelines and manuals
- Standardization of documents

## → Flexibility

- Recognizing evolution of the market
- Taking on board legitimate private sector concerns





# What can the Public Sector do to Help

## → Dialogue

- Common problems
- Finding solutions
- Involvement of all parties

## → Assistance

- Toll avoidance
- Traffic calming measures
- Competing Roads



# Acheiving a Balance