

Memorandum

To: David G. Gadda, Esq.,
Associate General Counsel
Boise Cascade Corporation

From: Robert L. Muse

Date: May 28, 2003

Re: Sherritt International Corporation

I. Sherritt's Interests in Cuba

In late 1994, the Canadian company Sherritt International Corporation executed a joint venture mining concession and distribution agreement with the government of Cuba. Under the agreement, Sherritt received the rights to extract and export nickel and cobalt ores from a long-established mine site in Moa Bay, Cuba. The exported ore is shipped to Sherritt's refinery in Fort Saskatchewan, Manitoba for final processing and distribution.

The terms of the joint venture, or *convenio*, allow Sherritt to repatriate to Canada a fixed level of profits from the processed metals, but the *convenio* also requires that a percentage of profits be reinvested in Cuba. As a result, Sherritt has, over time, built itself a presence in Cuban non-mining ventures through investments in such things as oil and gas production and power generation.

Sherritt's Cuban oil joint venture is producing around 25,000 barrels per day. The company has signed production-sharing contracts for four offshore exploration blocks in the deepwater zone in the Gulf of Mexico northwest of Havana. These blocks cover approximately two million acres.

Sherritt's power generation system is producing 226 megawatts (mw) of gross production derived from gas supplied from Cuba's north coast by CUPET (Cubapetroleos). This figure represents about 10% of Cuba's total power output.

Sherritt also has small investments in tourism, agriculture, cell phones and a soybean processing plant in Cuba.

Sherritt's metals division generated operating earnings in 2002 of \$39 million on revenue of \$252.9 million. Its Cuban oil and gas business showed operating earnings of \$98.9 million on \$218.8 million in revenue. SherrittPower has yet to show a profit, but following substantial investment in turbines and other plant it appears poised to become profitable this year.

II. The Sherritt Investment in Cuba: Immediate Controversy

Sherritt's decision to invest in Cuba was borne of desperation. The company's nickel ore at Fort Saskatchewan was exhausted after nearly 75 years of mining. Without a replacement source for ore, the company would have ceased operations. Against this background, Sherritt's CEO, Ian Delaney, turned to Cuba. In the end, Sherritt survived and eventually prospered as a result of its involvement in a Cuban nickel mine that was the subject of a U.S. certified claim. Sherritt's 1994 investment in a Cuba nickel mine that was subject to a U.S. claim was contrary to the advice of the government of Canada, I have been told by Canadian diplomats.¹

The claim is held by Moa Bay Mining Company and is based upon the uncompensated expropriation of that company's assets by the government of Cuba in August, 1960. The Foreign Claims Settlement Commission ("FCSC") in the 1960s certified the Moa Bay claim as worth US\$88,349,000 at the time of expropriation.

The Moa Bay investment in Cuba was a venture among United States automobile and steel companies, along with a substantial investment by several United States banks, all joining the primary investment by the controlling parent corporation, the Freeport Sulphur Company.

Moa Bay Mining, a Cuba-based subsidiary of Cuban American Nickel, obtained a loan in 1957 to finance development of the mine in Cuba and in a processing plant in Louisiana. As mentioned earlier, in 1960 the assets of Moa Bay Mining were expropriated by the government of Cuba. A predecessor company (Freeport Sulfur) then-affiliated with New Orleans-based Freeport-McMoRan Cooper & Gold, Inc., distributed assets to settle outstanding debt, including the debt of Cuban American Nickel. The principal asset of Cuban American Nickel is the US\$88.35 million claim against the government of the Republic of Cuba.

Citibank N.A., a subsidiary of Citigroup Inc., is a substantial shareholder in New Orleans-based Cuban American Nickel, which owned Moa Bay mining and hence owns the claim certified by the Foreign Claims Settlement Commission. Other shareholders in Cuban American Nickel (besides Citibank), include: Mellon Bank, N.A., a subsidiary of Mellon Financial Corporation; HSBC Bank USA (formerly Marine Midland Bank), a subsidiary of HSBC Holdings plc; and Bankers Trust, a subsidiary of Deutsche Bank AG; and three Louisiana-based banks.

Citibank has taken responsibility for the Moa Bay certified claim and is represented by the bank's veteran workout man, John Ingraham, at meetings of the Joint Corporate Committee on Cuban Claims. (Separately, Citigroup has a claim certified by the FCSC in the amount of US\$6.20 million).

(i) Helms-Burton Enacted: Consequences for Sherritt

In March, 1996 the Helms-Burton Act became law. Included in that legislation was Title IV, a provision that mandated that the Secretary of State and Attorney General deny entry into the United States of "traffickers" in Cuban properties claimed by U.S. nationals. In late summer 1996 a number of Sherritt International's officers and directors, including Ian Delaney, were banned from entering the United States. Those exclusion orders remain in effect.

III. Sherritt International's Activities in Washington

Sherritt works quietly in Washington to get its personnel off the exclusion orders. For some years it has retained Candy Hooper (until recently of Hooper, Hooper, Owen & Gould) and former Senator Malcom Wallop (R-WY) to lobby its case on Capitol Hill.

More recently it has given money to a former CIA and State Department employee, Phil Peters, to advance its interests. The money to Peters goes through contributions to the Lexington Institute, where Peters is a Vice-President. (See <http://www.lexingtoninstitute.org/biography/petersbio.htm>). Because the Lexington Institute is a 501(c)(3) not-for-profit, there is no public record of Sherritt's funding. This has allowed Peters to advise and direct the Working Group in ways beneficial to Sherritt while presenting himself to the Group as an objective think-tank scholar with a specialization in Cuba. For example, when the House Cuba Working Group made its

first visit to Cuba last year, at Peters' behest, it made a point of visiting Sherritt's soybean processing facility and staying in a resort hotel in Varadero in which Sherritt has a 25% interest.² I suspect that Phil Peters was also directly behind the Cal Dooley (D-CA) bill to "sunset" the Helms-Burton Act (H.R. 5616).

By the way, I see Sherritt personnel periodically when I am in Cuba and we remain on pleasant terms, as I do with Phil Peters.

IV.

None of the above should be taken as a rejection of the idea of doing something Cuba-related with Sherritt. In fact, John Hollejan may recall that I got a call from Sherritt's Canadian attorneys some years ago requesting a meeting with Boise/Cuban Electric representatives. Nothing came of it as a result of Sherritt abruptly ceasing contact on the subject. However, my sense at the moment is that Sherritt is betting that the Helms-Burton Act will be repealed and the claims will be settled in a low figure lump-sum agreement between Cuba and the United States. If this happens the Moa Bay claim will be extinguished as part of the settlement agreement and Sherritt will be home free.

¹ A cable was sent to U.S. diplomatic and consular posts (including the embassy in Canada) by then-Deputy Secretary of State Lawrence Eagleburger, in October, 1991. It was titled *Buyer Beware: Cuba May Be Selling American Property* and states in pertinent part: "Cuba may be selling or leasing American property to foreign investors in order to earn dollars and investment commitments... Posts should make the following points at the appropriate host government economic ministries as well as with any private firms known to be considering such investment... We understand that the government of Cuba may be offering foreign investors the opportunity to purchase land, manufacturing facilities, tourist resorts and other assets in Cuba that belong to or are the subject of outstanding claims by American or other foreign nationals. The Cubans may also be offering joint-venture partnerships... As you are aware, U.S. claims against Cuba remain unsettled. We expect many of the claims will be actively pursued when U.S.-Cuban relations are normalized... The United States government strongly urges that your government take the necessary steps to encourage your nationals and business firms to avoid entering into contracts with the government of Cuba, or investing in the Cuban economy, where such actions would involve assets located in Cuba that may be legally encumbered by unresolved claims to such assets by American citizens... This will require careful verification on the part of such businesspeople and firms to ensure that the Cuban government has the unencumbered right to sell or otherwise dispose of the assets in question." A similar cable was sent in late 1993 by Secretary of State Warren Christopher.

² The visit to the soybean plant produced a small controversy in Washington/Cuba circles. (See attached article from *Cuba Trader*, January 14, 2002. I engineered the piece in order to keep certified claims on the boil in terms of the bilateral U.S./Cuba agenda).