

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO,
QUEBEC, NOVA SCOTIA AND NEWFOUNDLAND

AND

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

AND

IN THE MATTER OF SHERRITT COAL PARTNERSHIP,
SHERRITT INTERNATIONAL CORPORATION AND
LUSCAR COAL INCOME FUND

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application from Sherritt Coal Partnership (the "Partnership") and Sherritt International Corporation ("Sherritt" and collectively with the Partnership, the "Applicants") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that, in connection with the offer (the "Unit Offer") by the Applicants to purchase all of the issued and outstanding trust units (the "Units") of Luscar Coal Income Fund (the "Fund"), the Applicants shall be exempt from the requirement in the Legislation to offer all holders of the same class of securities identical consideration (the "Identical Consideration Requirement"), insofar as certain holders of Units who accept the Offer will receive the cash proceeds from the sale of restricted voting shares of Sherritt (the "Sherritt Shares") in accordance with the procedure described in paragraph 16 below, instead of receiving Sherritt Shares;

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

AND WHEREAS the Applicants have represented to the Decision Makers as follows:

1. The Partnership was formed under the laws of Ontario solely for the purpose of making the Unit Offer. Its head office is located in Toronto, Ontario. The partners of the Partnership are Sherritt and OTPPB SCP Inc., a subsidiary of the Ontario Teachers Pension Plan Board ("OTPPB").
2. Sherritt is a corporation incorporated under the laws of the Province of New Brunswick. Its head office is located in Toronto, Ontario.

3. Sherritt is a reporting issuer or the equivalent in each of the Jurisdictions and is not in default of any requirement of the Legislation.
4. Sherritt's authorized capital consists of an unlimited number of Sherritt Shares and 100 multiple voting shares (the "Sherritt MVS"). As at December 31, 2000, there were 72,496,036 Sherritt Shares and 100 Sherritt MVS issued and outstanding. The Sherritt Shares are listed and posted for trading on The Toronto Stock Exchange (the "TSE").
5. The Fund is an open-ended trust established under the laws of the Province of Alberta. Its head office is located in Edmonton, Alberta.
6. The Fund is a reporting issuer or the equivalent in each of the Jurisdictions.
7. According to publicly available information, the Fund's authorized capital consists of an unlimited number of Units, which are listed and posted for trading on the TSE. As at February 27, 2001, there were 90.7 million Units issued and outstanding. In addition, the Fund has issued and outstanding \$100,000,000 principal amount of 10% convertible unsecured senior subordinated debentures (the "Debentures").
8. As at March 8, 2001, the Partnership owned 5,701,500 Units, representing approximately 6.3% of the outstanding Units, and OTPPB owned \$10,543,000 principal amount of the Debentures, representing approximately 10.5% of the outstanding principal amount of the Debentures. The Debentures owned by OTPPB are convertible into approximately 1,561,924 Units representing approximately 1.7% of the outstanding Units (including those issued upon conversion of the Debentures held by OTPPB).
9. On March 6, 2001, the Fund delivered to the Applicants a list (the "Unitholder List") of the registered Unitholders. The Unitholder List disclosed that there were seven Unitholders who were citizens or residents of the United States ("US Unitholders") holding, in the aggregate, less than 0.04% of the outstanding Units. The Fund, however, has advised the Applicants that more than 10% of the Units are held by US Unitholders.
10. On March 8, 2001, the Applicants made the Unit Offer by means of a formal take-over bid. On the same date, the Applicants made an offer to acquire all of the outstanding Debentures (the "Debenture Offer") for consideration consisting of \$1,050 cash for each \$1,000 principal amount of Debentures accepted for purchase under the Debenture Offer.
11. The Unit Offer is being made in accordance with the Legislation of the Jurisdictions, except to the extent the exemptive relief from the Identical Consideration Requirement is granted hereby. The Debenture Offer does not constitute a take-over bid within the meaning of the Legislation.
12. Pursuant to the Unit Offer, holders of Units (the "Unitholders") may elect to receive for each Unit accepted under the Unit Offer:
 - (a) \$3.50 in cash (the "All Cash Option") for each Unit; or

(b) \$2.38 in cash and 0.265 of a Sherritt Share (the "Cash and Share Option") for each Unit; or

(c) a combination thereof.

13. The Applicants have extended the Unit Offer to Unitholders in Canada and any jurisdiction outside Canada in which the making and accepting of the Unit Offer would not be illegal.

14. Sherritt indirectly holds interests in businesses in Cuba and, accordingly, does not carry on any business in the United States of America, which maintains an embargo against Cuba. Although Sherritt is eligible to use the multi-jurisdictional disclosure system (the "MJDS") to register Sherritt Shares for distribution under the securities legislation of the United States (an "MJDS Registration"), it has determined that an MJDS Registration is not feasible in the circumstances for the reason, among others, that Sherritt attempts to avoid any requirement to make a filing in the United States which could give rise to an allegation that it has any business in the United States.

15. Accordingly, the Sherritt Shares that may be issued under the Unit Offer have not been and will not be registered or otherwise qualified for distribution under the securities legislation of the United States. The delivery of Sherritt Shares to US Unitholders may constitute a violation of the laws of the United States.

16. To the extent that US Unitholders who accept the Unit Offer are entitled to receive Sherritt Shares, Sherritt proposes to deliver Sherritt Shares to CIBC Mellon Trust Company (the "Depositary") substantially simultaneously with payment for Units tendered under the Unit Offer. As soon as reasonably possible after such delivery, the Depositary will sell the Sherritt Shares on the US Unitholders' behalf and hold the aggregate net proceeds after expenses of such sale in trust for such US Unitholders. All Sherritt Shares that the Depositary is required to sell will be pooled and sold through the TSE's facilities in a manner that is intended to minimize any adverse effect such a sale might have on the market price of Sherritt Shares. As soon as reasonably possible after completion of such sale, and in any event no later than four business days after completion of such sale, the Depositary will send to each US Unitholder whose Sherritt Shares have been sold by the Depositary a cheque in Canadian funds in an amount equal to such US Unitholder's *pro rata* share of the net proceeds of sale, less any applicable withholding taxes.

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

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

THE DECISION of the Decision Makers under the Legislation is that, in connection with the Unit Offer, the Applicants are exempt from the Identical Consideration Requirement insofar as US Unitholders who accept the Cash and Share Option may receive cash proceeds from the

Depository's sale of Sherritt Shares in accordance with the procedure set out in paragraph 16 above instead of Sherritt Shares.

DATED this 28th day of March, 2001.

"J. A. Geller"

"R. W. Davis"

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Offeror proposed to make a take-over bid for all of the outstanding trust units of the offeree in exchange for, at the holder's option, cash or a combination of cash and restricted voting shares of a partner of the offeror ("S") – S does not carry on business in the United States and does not proposed to qualify shares for distribution in the US – Unitholder list discloses seven US unitholders holding less than 0.04% of the outstanding units – Offeror proposes that US unitholders who elect to receive cash and shares will receive the cash proceeds from the sale by a depository of shares of S., rather than receiving shares of S- Relief granted from the requirement that identical consideration be offered to all shareholders of the same class insofar as the US unitholders will receive the cash proceeds from the sale of shares of S, rather than the shares themselves.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as amended, ss. 97(1) and 104(2)(c)