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May 11, 2006

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act s. 76 - Exemption from s. 61 requirement to file a prospectus in connection with a distribution - A shareholder that acquired securities under an exemption that are subject to a restricted period wants to resell the securities without a prospectus - The securityholder is acting as the agent of the issuer to facilitate the exchange of exchangeable securities; the issuer could issue the securities directly to the holders of the exchangeable securities without a hold period; the securityholder will only trade the securities to the exchangeable securityholders on the exchange of the exchangeable securities

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 61 and 76

In the Matter of
the Securities Legislation of
British Columbia, Ontario and Québec (the Jurisdictions)

and

In the Matter of
the Mutual Reliance System for Exemptive Relief Applications

and

In the Matter of
Teck Cominco Limited (the Filer)

MRRS Decision Document

Background

- ¶ 1 The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for an exemption from the prospectus requirement of the Legislation in respect of first trades of the

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Filer's Class B subordinate voting shares (Class B Shares) by RBC Dominion Securities Inc. (RBC) to holders of Debentures (as defined below) in connection with the Arrangement (defined below) (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications

- (a) the British Columbia Securities Commission is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

- ¶ 2 Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

Representations

- ¶ 3 The decision is based on the following facts represented by the Filer:
- 1. the Filer is continued under the *Canada Business Corporations Act* with its head office in British Columbia;
 - 2. the Filer is a reporting issuer in each of the Jurisdictions and is not in default of its obligations under the Legislation;
 - 3. the Filer's authorized capital consists of an unlimited number of
 - (a) Class A common shares, of which 4,673,453 were outstanding as at March 1, 2006,
 - (b) Class B Shares, of which 198,892,396 were outstanding as at March 1, 2006, and
 - (c) preference shares, of which 790,000 Series 1 and 550,000 Series 2 preference shares were outstanding as at March 1, 2006;
 - 4. the Filer issued \$150 million 25-year exchangeable debentures in April 1999 under private placements (the Debentures);
 - 5. the Debentures are exchangeable by the holder or redeemable by the Filer at any time;
 - 6. under the indenture governing the Debentures, the Filer has the right

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- (a) to pay cash or issue Class B Shares to satisfy the repayment obligations under the Debentures, and
 - (b) to designate a purchaser to acquire Debentures tendered for exchange;
- 7. the Filer believes most of the holders of the Debentures would prefer to exchange their Debentures for Class B Shares, rather than be paid cash for the Debentures;
- 8. the Filer would prefer to pay cash for the Debentures to obtain certainty of tax treatment and issue Class B Shares to fund the cash payment;
- 9. the Filer and RBC have devised an arrangement to facilitate holders of the Debentures receiving Class B Shares, while preserving the Filer's ability to pay cash for the Debentures, by completing the following steps (the Arrangement):
 - (a) RBC and the Filer will enter into an agreement under which RBC will agree to act as the designated purchaser for the Debentures, and to subscribe for enough Class B Shares to satisfy the purchase price for the Debentures tendered for exchange,
 - (b) when a holder of a Debenture exercises its exchange right by depositing his or her Debenture, the Filer will elect to satisfy the repayment obligations under the Debenture by delivering Class B Shares, and will designate RBC as the designated purchaser,
 - (c) within 28 Trading Days (as defined in the indenture governing the Debentures), RBC will subscribe for Class B Shares from the Filer for cash,
 - (d) the Filer will issue Class B Shares to RBC relying on the accredited investor exemption in National Instrument 45-106 *Prospectus and Registration Exemptions*,
 - (e) RBC will deliver the Class B Shares, plus cash for accrued but unpaid interest and in lieu of fractional Class B Shares, to the depositing Debenture holder as the purchase price of the Debenture, and so will become the holder of that Debenture, and
 - (f) RBC will have the right, but not the obligation, to tender the Debenture to the Filer and, if it tenders the Debenture, will receive the cash amount

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determined under the indenture governing the Debentures and not Class B Shares;

10. RBC will not be directly compensated by the Filer, but will subscribe for Class B Shares at a negotiated discount to their market value calculated in accordance with the indenture governing the Debentures;
11. the Class B Shares issued to RBC under prospectus exemptions are subject to a hold period under National Instrument 45-102 *Resale of Securities*; and
12. the Debentures are no longer subject to a hold period.

Decision

- ¶ 4 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 the Requested Relief is granted.

Martin Eady, CA
Director
British Columbia Securities Commission