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MONTREAL NOVEMBER 5, 1981  
TELEX NO. 37

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TELEX  
WINDSOR HOUSE

NOV 5 1981

ATTENTION MR PAT SHEEHY  
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DEAR PAT:

IN ANTICIPATION OF OUR MEETING NEXT WEEK, I AM TAKING THE LIBERTY OF SENDING YOU A MEMORANDUM PREPARED BY PURDY CRAWFORD. THE MEMORANDUM BRIEFLY OUTLINES THE POSITION WE ARE IN AND WILL BE THE BASIS FOR DISCUSSIONS WITH YOU CONCERNING OUR PROPOSAL TO FIRA.

SINCERELY,

PAUL PARE

MEMORANDUM  
RE B.A.T, IMASCO AND FIRA  
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THE PURPOSE OF THIS MEMORANDUM IS TO BRIEFLY OUTLINE THE PRESENT SITUATION CONCERNING IMASCO WITH REFERENCE TO ITS ENDEAVOURS TO OBTAIN A FAVOURABLE FIRA STATUS OPINION FROM THE MINISTRY OF INDUSTRY, TRADE AND COMMERCE ('MINISTER') AND TO OUTLINE, FOR PURPOSES OF DISCUSSION WITH B.A.T, A PROPOSAL WHICH MIGHT BE MADE TO THE MINISTER WHICH COULD POSSIBLY ENABLE IMASCO TO OBTAIN A FAVOURABLE FIRA STATUS OPINION. THE MEMORANDUM THEN, AMONG OTHER THINGS, DISCUSSES VARIOUS ADJUSTMENTS TO AND REFINEMENTS RELATING TO THE PROPOSAL

IMASCO LIMITED ('IMASCO') BELIEVES THAT IT HAS ESTABLISHED TO THE SATISFACTION OF THE MINISTER THAT, NOTWITHSTANDING THE FACT THAT B.A.T INDUSTRIES LIMITED ('B.-A.T') OWNS OR CONTROLS 49.8 PER CENT OF THE VOTING SHARES OF IMASCO THE RELATIONSHIP BETWEEN B.A.T AND IMASCO HAS BEEN AND CONTINUES TO BE ONE WHERE IMASCO PROVIDES APPROPRIATE INFORMATION TO AND HAS CONSULTATIONS WITH B.A.T SO THAT IMASCO CAN RECEIVE THE BENEFIT OF THE ADVICE AND EXPERIENCE OF BAT, IT BEING RECOGNIZED HOWEVER THAT THE ULTIMATE DECISION-MAKING AUTHORITY IN IMASCO, INCLUDING DECISIONS AS TO THE SELECTION OF DIRECTORS, IS WITH THE BOARD OF DIRECTORS OF IMASCO AND ITS SENIOR MANAGEMENT

NOTWITHSTANDING THE FOREGOING THE MINISTER HAS INDICATED THAT HE WOULD HAVE DIFFICULTY IN FURNISHING AN OPINION TO IMASCO UNDER SUBSECTION 4(1) OF THE FOREIGN INVESTMENT REVIEW ACT ('FIRA ACT') THAT IMASCO IS NOT A NON- ELIGIBLE PERSON IN THAT, BECAUSE OF THE FOREMENTIONED VOTING SHARE OWNERSHIP, BAT HAS THE POWER TO CONTROL IMASCO

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IMASCO HAS SOME REASON TO BELIEVE THAT A PROPOSAL ALONG THE FOLLOWING LINES MIGHT ULTIMATELY LEAD TO IMASCO RECEIVING A FAVOURABLE FIRA STATUS OPINION FROM THE MINISTER:

1. THE SENIOR SHAREHOLDER WOULD OBLIGE ITSELF (BY A VOTING TRUST OR OTHER LEGALLY BINDING ARRANGEMENT) TO GIVE THE RIGHT TO THE OUTSIDE (NON-EXECUTIVE) ELIGIBLE CANADIAN DIRECTORS OF IMASCO TO VOTE ITS SHARES IN THEIR DISCRETION. THIS RIGHT WOULD EXIST WITHOUT QUALIFICATION AND WOULD ONLY TERMINATE IF:
  - A) THE MINISTER REFUSED TO ISSUE A RENEWAL OPINION (MINISTERIAL OPINIONS ARE ONLY VALID FOR TWO YEARS AND HAVE TO BE RENEWED FOR SUCCESSIVE TWO YEAR PERIODS) IN CIRCUMSTANCES WHERE THERE HAD BEEN NO CHANGE IN THE MATERIAL FACTS RELEVANT TO HIS OPINION AND THE SENIOR SHAREHOLDER AND OTHERS INVOLVED IN THE OBLIGATIONS OUTLINED HEREIN WERE NOT IN BREACH OF SUCH OBLIGATIONS, OR
  - B) IN ALL OTHER CIRCUMSTANCES AFTER THE EXPIRATION OF TWO YEARS FROM NOTICE GIVEN TO THE MINISTER BY THE SENIOR SHAREHOLDER. IMASCO'S FIRA STATUS OPINION WOULD TERMINATE UPON RECEIPT OF SUCH NOTICE BY THE MINISTER
2. ~~THE RELATIONSHIP BETWEEN BAT AND IMASCO WOULD CONTINUE TO BE~~ THE RELATIONSHIP BETWEEN BAT AND IMASCO WOULD CONTINUE TO BE ONE WHERE IMASCO PROVIDES APPROPRIATE INFORMATION TO AND HAS CONSULTATIONS WITH BAT SO THAT IMASCO CAN RECEIVE THE BENEFIT OF THE ADVICE AND EXPERIENCE OF BAT. IT WOULD BE AGREED, HOWEVER, THAT THE ULTIMATE DECISION-MAKING AUTHORITY IN IMASCO, INCLUDING DECISIONS AS TO THE SELECTION OF DIRECTORS, WOULD BE WITH THE BOARD OF DIRECTORS OF IMASCO

*Lawyer's signature* ED 25

POSSIBLE VARIATIONS TO THE PROPOSAL

- A) THERE WOULD BE LITTLE UTILITY IN NOT INCLUDING ALL OF BAT'S IMASCO SHARES IN THE ARRANGEMENT. A SUFFICIENT NUMBER OF SHARES WOULD HAVE TO BE INCLUDED TO PERMIT THE OUTSIDE DIRECTORS TO CLEARLY OUTVOTE BAT AND TO SATISFY THE MINISTER THAT IN ANY PROXY FIGHT BETWEEN THE OUTSIDE DIRECTORS AND BAT THE OUTSIDE DIRECTORS WOULD PREVAIL
- B) IT SHOULD BE POSSIBLE TO PROVIDE THAT THE OUTSIDE DIRECTORS WOULD NOT, WITHOUT THE AGREEMENT OF BAT, EXERCISE ANY OF THE VOTING RIGHTS REFERRED TO IN PARAGRAPH NUMBERED 1 ABOVE IN ANY MANNER WHICH WOULD REDUCE BAT'S TOTAL VOTE AND PARTICIPATING EQUITY BELOW 40 PER CENT
- C) CONSIDERATION COULD BE GIVEN TO INCLUDING A PROVISION WHICH WOULD GIVE BAT THE RIGHT TO TERMINATE THE ARRANGEMENT IMMEDIATELY IN LIEU OF, OR IN ADDITION TO, THE TWO YEAR NOTICE PROVISION REFERRED TO IN PARAGRAPH 1 (B) ABOVE. SUCH A RIGHT WOULD BE REGARDED MOST NEGATIVELY BY THE MINISTER. IT MIGHT BE POSSIBLE TO PROVIDE THAT IF SUCH A RIGHT WERE EXERCISED ALL OF IMASCO'S ACQUISITIONS WITHIN THE TWO PREVIOUS YEARS WOULD BECOME REVIEWABLE BUT QUERY IF THIS WOULD SATISFY THE MINISTER

REFINEMENTS TO THE SOLUTION

A PROCEDURE WOULD HAVE TO BE ESTABLISHED AS TO HOW THE OUTSIDE DIRECTORS WOULD EXERCISE THE VOTE REFERRED TO IN PARAGRAPH 1 ABOVE

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IN THIS CONNECTION:

- A) IT WOULD PROBABLY BE NECESSARY TO PROVIDE THAT THERE WOULD BE AT ALL TIMES NOT LESS THAN SAY FOUR OUTSIDE DIRECTORS OR ONE-THIRD OF THE BOARD
- B) THE OUTSIDE DIRECTORS, AFTER CONSULTING WITH BAT AND THE OTHER DIRECTORS OF IMASCO, WOULD, IN THE EVENT OF A DISAGREEMENT, ACT BY MAJORITY VOTE. IN THE EVENT OF A TIE VOTE THE OUTSIDE DIRECTOR WITH THE MOST SERVICE AS A DIRECTOR OF IMASCO WOULD HAVE A SECOND OR CASTING VOTE
- C) IT MIGHT BE ADVISABLE TO PROVIDE FOR A MORE SPECIFIC PROCEDURE AS TO THE MANNER IN WHICH NEW OUTSIDE DIRECTORS ARE SELECTED.

THE PROCEDURE OUTLINED IN B) WOULD APPLY FOR DIRECTORS WHO ARE ELECTED AT SHAREHOLDERS MEETINGS. PERHAPS THE SAME PROCEDURE SHOULD BE FOLLOWED FOR DIRECTORS WHO ARE APPOINTED BETWEEN MEETINGS OF SHAREHOLDERS

POSSIBLE FURTHER COMMITMENTS

- THE BOARD OF DIRECTORS OF IMASCO WOULD BE MADE UP OF NOT LESS THAN 80 PER CENT ELIGIBLE PERSONS UNDER THE FIR ACT. THE CHIEF EXECUTIVE OFFICER OF IMASCO WOULD BE AN ELIGIBLE PERSON UNDER THE FIR ACT
- BAT WOULD NOT HAVE ANY NOMINEES ON THE BOARD OF DIRECTORS OF IMASCO. (IT MIGHT BE POSSIBLE TO PROVIDE FOR A BAT NOMINEE IF THIS WAS CONSIDERED NECESSARY FOR EQUITY ACCOUNTING PURPOSES OR OTHERWISE)
- IMASCO'S HEAD OFFICE (AND EXECUTIVE OFFICE, IF DIFFERENT) WOULD AT ALL TIMES BE LOCATED IN CANADA
- NOT LESS THAN THREE-QUARTERS OF ALL MEETINGS OF THE BOARD OF DIRECTORS AND OF THE EXECUTIVE COMMITTEE OF THE BOARD OF IMASCO WOULD BE HELD IN CANADA
- THE SENIOR SHAREHOLDER WOULD NOT INCREASE ITS VOTE IN IMASCO AND EVERY REASONABLE EFFORT WOULD BE MADE BY IMASCO (IN LINE WITH EARLIER UNDERTAKINGS TO FIRA) TO REDUCE THE SENIOR SHAREHOLDER'S VOTE TO 40 PER CENT BY THE END OF 1983

IMPLEMENTATION

IF BAT SHOULD BE AGREEABLE TO A PROPOSAL ALONG THE LINES DISCUSSED ABOVE, IT IS PROPOSED TO ADVISE THE MINISTER OF THE PROPOSAL AND OF THE SENIOR SHAREHOLDER'S AGREEMENT IN PRINCIPLE THEREWITH. THE MINISTER WOULD THEN BE ASKED FOR HIS APPROVAL IN PRINCIPLE TO THE ISSUANCE OF A FAVOURABLE FIRA OPINION BASED THEREON.

IF SUCH APPROVAL IS FORTHCOMING IT IS PROPOSED THAT THERE WOULD BE DISCUSSIONS WITH FIRA OFFICIALS OR OTHER PERSONS DESIGNATED BY THE MINISTER AS TO HOW SUCH A PROPOSAL MIGHT BE LEGALLY IMPLEMENTED. AFTER THIS, APPROPRIATE DOCUMENTATION COULD BE DRAFTED, SETTLED WITH BAT, AND SUBMITTED FOR FINAL APPROVAL TO THE MINISTER AND FIRA OFFICIALS

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