

I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

September 5, 2007.

SAINT LUCIA

No. 14 of 2007

AN ACT to amend the Oil Refinery Act, Cap. 13.21.

[17th September, 2007]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows :

Short title

1. This Act may be cited as the Oil Refinery (Amendment) Act of 2007.

Interpretation

2. In this Act “principal Act” means the Oil Refinery Act, Cap. 13.21.

Amendment of section 2

3. Section 2 of the principal Act is amended —

- (a) by inserting the word “First” before the word “Schedule” appearing in the definition of the word “Agreement”;
- (b) by inserting the following definition of “Amending Agreement” in its correct alphabetical sequence:

“Amending Agreement” means the Agreement made the 24th day of July, 2007 between (1) The Government of St. Lucia and (2) the Cabinet of Ministers for St. Lucia of the one part and Hess Oil St. Lucia Limited of the other part as set out in the Second Schedule to this Act;”.

Insertion of section 2A

4. The principal Act is amended by inserting immediately after section 2 the following section 2A:

“Binding on the Crown

2A. This Act is binding on the Crown.”.

Amendment of Schedule

5. The Schedule to the principal Act is amended by adding the word “FIRST” before the word “SCHEDULE”.

Insertion of Second Schedule

6. The principal Act is amended by inserting the following Second Schedule immediately after the First Schedule —

“SECOND SCHEDULE

(Section 2)

This Amendment is made this 24th day of July, Two Thousand and seven to THE AGREEMENT dated June 21, 1977 (hereinafter referred to as THE AGREEMENT)

BETWEEN : (1) THE GOVERNMENT OF SAINT LUCIA and (2) THE CABINET OF MINISTERS FOR SAINT LUCIA established under Section 61 of the SAINT LUCIA Constitution Order 1978 (together hereinafter referred to as THE GOVERNMENT), acting herein and represented by the HONOURABLE STEPHENSON KING, Acting Prime Minister in the presence of the RIGHT HONOURABLE SIR JOHN GEORGE MELVIN COMPTON of the one part

AND : HESS OIL ST. LUCIA LIMITED, a company duly incorporated under the Commercial Code of the State of SAINT LUCIA and having its registered office at 20 Micoud Street in the City of Castries in the said State (hereinafter referred to as HESS) acting herein and represented by John Hess and J. Barclay Collins both Directors of HESS, of the other part

WHEREAS the parties hereto entered into THE AGREEMENT dated June 21, 1977;

WHEREAS, THE TERMINAL has been constructed in accordance with THE AGREEMENT;

WHEREAS, THE GOVERNMENT agreed in a letter to HESS dated November 29, 1993, (THE AGREEMENT LETTER) that the construction of THE REFINERY should be kept in abeyance, that the tax concession referred to in THE AGREEMENT shall expire on September 30, 2013 and that the right and licence to operate in SAINT LUCIA shall expire on September 20, 2043;

WHEREAS, HESS is contemplating the possibility of constructing THE REFINERY and is seeking to extend the terms of THE AGREEMENT for a period of fifty years from THE PRODUCTION DATE, with continuing twenty-five year options, in keeping with the intent of clause (III) of THE AGREEMENT;

WHEREAS, THE GOVERNMENT considers that the continued operation of THE PROJECT and the construction of THE REFINERY will be substantially to the benefit of the State of SAINT LUCIA in its economy and otherwise and agrees to extend the terms of THE AGREEMENT for such fifty year period, with continuing twenty-five year options, in keeping with the intent of clause (III) of THE AGREEMENT;

WHEREAS, THE GOVERNMENT currently owns certain parcels of land totaling approximately one hundred and ninety six (196) acres adjacent to the existing PROJECT SITE which Hess desires to purchase and use in connection with THE PROJECT and the possible construction of THE REFINERY and THE GOVERNMENT desires to sell such land to HESS;

WHEREAS, THE GOVERNMENT AND HESS have negotiated terms and conditions which they mutually agree are essential to the continued viability and operation of THE PROJECT and are reasonable in relation to the magnitude of the investment required to be made by HESS in respect of THE PROJECT and in relation to the advantages and benefits which SAINT LUCIA and the people of SAINT LUCIA will directly derive from THE PROJECT, including, without limitation, extending the right and licence to construct THE REFINERY and to own and operate THE PROJECT at THE PROJECT SITE and the exemption from taxes relating to constructing, owning, operating and/or maintaining THE TERMINAL, THE REFINERY, THE HARBOUR AND RELATED FACILITIES to the date fifty years from THE PRODUCTION DATE;

WHEREAS, the parties hereto desire to amend THE AGREEMENT as set forth herein;

NOW THEREFORE THIS AGREEMENT WITNESSES AS FOLLOWS —

(I) INTERPRETATION

- (1) Unless otherwise separately defined herein, each term used herein which is defined in THE AGREEMENT shall have the meaning assigned to such term in THE AGREEMENT, including the Schedule thereto.
- (2) Each reference to “hereof”, “hereunder”, “herein” and “hereby” and each other similar reference and each reference to “this Agreement” and each other similar reference contained herein, shall from and after the date hereof refer to THE AGREEMENT as amended by this AMENDMENT.

(II) AMENDMENT OF CLAUSE (II) OF THE AGREEMENT

Clause (II) (THE FUNDAMENTAL TERM) is amended by inserting the following sub-clause (4) immediately after sub-clause (3):

“(4) This AMENDMENT to THE AGREEMENT and the various covenants on the part of THE GOVERNMENT and HESS contained herein shall be subject to and conditional upon the passage of an amendment to THE ACT by the House of Assembly of Saint Lucia on or before October 31, 2007 or such later date as the parties hereto may agree upon in writing.”.

(III) AMENDMENT OF CLAUSE (III) OF THE AGREEMENT

Clause (III) (GRANT OF RIGHT AND LICENSE TO ESTABLISH AND OPERATE THE PROJECT) is amended to extend HESS' right and licence to own, construct and operate THE PROJECT for fifty years from THE PRODUCTION DATE by adding the following sentence after the penultimate sentence at the end of the paragraph:

“Notwithstanding any agreement between the parties to the contrary, including, but not limited to, THE AGREEMENT LETTER, HESS shall have the right and licence to own, construct and operate THE PROJECT at THE PROJECT SITE from the date of this AMENDMENT to THE AGREEMENT to the date fifty years from THE PRODUCTION DATE, with an option to HESS to extend the said right and license for a further period or periods of twenty five years each, such extension or extensions to be upon such terms and conditions as the parties mutually agree.”.

(IV) AMENDMENT OF CLAUSE (IV) OF THE AGREEMENT

- (1) Clause (IV)(1) (CONSTRUCTION OF THE PROJECT) is amended:
- (a) in paragraph (a)(iv) by deleting the words “not later than the date of the completion of construction of THE TERMINAL,” and substituting the words “within a reasonable period of time after obtaining all necessary approvals”;
 - (b) in paragraph (c) is by inserting the words “and the preservation of the natural environment of Saint Lucia” after the word “pollution” appearing in that paragraph;
 - (c) by inserting the following new paragraphs (d) and (e) after paragraph (c):
 - “(d) For clarification purposes, HESS agrees that the design, engineering, and construction of THE REFINERY shall be in accordance with world class engineering standards currently employed in the refining industry.
 - (e) For clarification purposes, HESS agrees that it will construct and operate THE REFINERY in accordance with all existing environment, health and safety laws, rules and regulations established by THE GOVERNMENT. HESS understands that THE GOVERNMENT is a party to several international and regional conservation treaties, declarations and multilateral environmental agreements including those established by the Organization of Eastern Caribbean States and the United Nations. HESS will operate the facility in compliance with regulations established by THE GOVERNMENT to conform to these treaties, declarations and agreements. Furthermore, HESS will operate THE REFINERY in such manner as

practicable to minimize or eliminate accidental releases of petroleum or PETROLEUM PRODUCTS to the environment. HESS understands that the THE GOVERNMENT is a signatory to the Protocol on Cooperation in Combating Oil Spills and will work with the National Emergency Management Office to insure that in the event of an accidental spill or release proper steps are taken to efficiently remediate the environmental impacts of the spill.”.

(2) Clause (IV)(2) (TERMINAL THROUGHPUT CHARGES) is amended —

(a) by deleting the words “two cents” and substituting the words “five cents”;

(b) by adding the following sentence at the end of the clause:

“Such throughput charges will increase by one half of one cent United States currency on the five year anniversary of the effective date of this --AMENDMENT and each fifth year anniversary date thereafter.”.

(3) Clause (IV)(3) (REFINERY THROUGHPUT CHARGES) is amended —

(a) by deleting the words “four cents” and inserting the words “ten cents”;

(b) by adding the following sentences to the end of the paragraph:

“ Such throughput charges will increase by one cent United States currency on the five year anniversary of THE PRODUCTION DATE and each fifth year anniversary date thereafter. Upon completion of the REFINERY, HESS will make available for sale to THE GOVERNMENT for its own use, including use by Saint Lucia Electricity Services Limited for electric power generation, and to other customers approved by HESS, in its sole discretion, PETROLEUM PRODUCTS at ex-refinery market related competitive prices.”.

(V) AMENDMENT OF CLAUSE (V) OF THE AGREEMENT

(1) Clause (V)(3) (CHANNELS, DREDGING, ETC.) is amended —

(a) by inserting after the words “provided that” the words “it receives the prior approval of THE GOVERNMENT as to the location of such disposal”;

(b) by inserting the following sentence at the end of the clause:

“If dredging is required in connection with the construction of THE REFINERY and HESS elects not to utilize the dredge material, HESS will offer at no charge such material to THE GOVERNMENT for its own use.”.

(2) Clause (V) (5) (RETAINING STRUCTURES, BULKHEADS, ETC.) is amended by inserting, after the words “no navigational” the words “or environmental”.

(3) Clause (V) (6) (LAND PURCHASE) is amended by making the current sub-clause paragraph “(a)” and by adding the following new paragraphs (b) and (c):

“(b) THE GOVERNMENT hereby further covenants to sell to HESS approximately one hundred and ninety six acres of land consisting of the following three parcels: (i) approximately 188 acres identified as Land Registry Block 0645B, Parcel Number 24, (ii) approximately 1.35 acres identified as Land Registry Block 0845B, Parcel Number 68 and (iii) approximately 7.05 acres of the Queen’s Chain identified as Land Registry Block 0845B, Parcel Number 1 at a price, in the case of each such parcel, equal to the average of the fair market value of each such parcel based on its current condition and use as separately determined by two independent appraisers, one selected by HESS and the other selected by THE GOVERNMENT. THE GOVERNMENT, on receiving payment in accordance with the terms of such sale, shall convey to and vest in HESS such land free and clear of all liens, encumbrances, rights of way, easements or restrictions.

(c) Hess shall be responsible for the cost of any surveys made in connection with its purchase of any land pursuant to subparagraph (b). If, in connection with the construction of the REFINERY, HESS determines that it is necessary or desirable to relocate the public highway currently traversing Parcel Number 24, HESS will (i) employ a contractor reasonably acceptable to THE GOVERNMENT to construct a public road in accordance with the standards currently employed in public highway construction on Saint Lucia, (ii) be responsible for all costs associated with the construction of such relocated road, (iii) ensure that such contractor consults with and obtains the approval of THE GOVERNMENT for the location and alignment of such road with a width sufficient to accommodate a separate dedicated lane for container port traffic and a round-about interconnection at its easterly interconnect with the west coast highway before constructing such road and (iv) upon completion, exchange with THE GOVERNMENT ownership of that portion of the relocated road for that portion of the current road existing at the time of this AMENDMENT located within Land Registry Block 0645B, Parcel Number 24. After completion of the road, THE GOVERNMENT shall be responsible for its support and maintenance”.

(4) Clause (V) (12) (EXEMPTION FROM TAXATION, ETC) is amended —

(a) by inserting at the beginning of paragraph (a) the following:

“Notwithstanding any agreement between the parties to the contrary, including THE AGREEMENT LETTER”; and

- (b) by deleting the words “hereof to the date twenty” appearing in that clause and substituting the words “of this AMENDMENT to THE AGREEMENT to the date fifty”.

(5) Clause (V)(14) (HARBOUR USE CHARGES, ETC) is amended by inserting the following sentence at the end of the clause:

“THE GOVERNMENT agrees that vessel movements in THE HARBOUR for the purpose of loading or discharging at THE PROJECT shall have first priority over all other vessel movements in THE HARBOUR and, HESS and THE GOVERNMENT shall cooperate and jointly agree on a Marine Manager to coordinate all vessel movements in THE HARBOUR.”.

(VI) AMENDMENT OF CLAUSE (VI) OF THE AGREEMENT

(1) Clause (VI)(b) (TRAINING) is amended by inserting the following sentence at the end of the clause:

“In connection with the foregoing, promptly after making a final determination to proceed with the construction of THE REFINERY, HESS will establish a vocational educational and training program to adequately prepare Saint Lucians for employment at THE REFINERY.”.

(2) Clause (VI)(c) (WORK PERMITS) is amended by inserting, after the words “on the grounds of national”, the words “interest or”.

(VII) AMENDMENT OF CLAUSE (VII) OF THE AGREEMENT

Clause (VII) (IMPRACTICABILITY) is amended by adding the following paragraph to the end of the clause (VII):

“If HESS elects at a later date to close the REFINERY for a period of more than 12 months, HESS shall provide the GOVERNMENT with 60 days advance notice of any such closing and shall ensure that all process equipment, buildings and structures are safely decommissioned and that any remaining equipment or structures do not present an immediate or long-term safety hazard to the community.”.

(VIII) AMENDMENT OF CLAUSE (VIII) OF THE AGREEMENT

Clause (VIII) (IMPAIRMENT AND FAVOURED TREATMENT) is amended by inserting, after the word “corporation” appearing in that clause the words “in the same business as HESS”.

(IX) AMENDMENT OF CLAUSE (XI) OF THE AGREEMENT

Clause (XI) (ARBITRATION) is amended by deleting the words “THE GOVERNMENT hereby waives any statutory or other defence or sovereign immunity in any proceedings and in the entry of any award rendered and the enforcement of any judgment upon any award rendered.”.

(X) AMENDMENT OF CLAUSE (XIII) OF THE AGREEMENT

Clause (XIII) (NOTICE) is amended by deleting the notice provisions and replacing them with the following:

“If to THE GOVERNMENT at:

The Office of the Prime Minister
Government Buildings
The Waterfront
Castries, St. Lucia

If to Hess at:

Hess Oil St. Lucia Limited
20 Micoud Street
Castries, St. Lucia
Attention: Chief Executive Officer

With a copy to:

Hess Corporation
1185 Avenue of the Americas
New York, NY 10036
Attention: Chief Executive Officer

(XI) AMENDMENT OF THE DEFINITION OF THE TERM “THE PROTECT SITE”

The definition of the term “THE PROJECT SITE” is hereby amended by inserting after the word “Agreement” and before the semicolon the following: “, plus the land parcels of approximately one hundred and ninety six (196) acres to be acquired by HESS pursuant to clause (V)(6) of this Agreement”.

(XII) EFFECT OF AMENDMENT

Except as expressly set forth herein, this AMENDMENT to THE AGREEMENT shall not constitute amendment of the surviving terms and conditions of THE AGREEMENT and all such terms and conditions shall remain in full force and effect and are hereby ratified and confirmed in all respects.

(XIII) COUNTERPARTS

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF: the parties hereto have executed this Agreement on and as of the day and year first above written.

No. 14] *Oil Refinery (Amendment) Act* [2007.

Signed by THE GOVERNMENT OF SAINT LUCIA and THE CABINET OF
MINISTERS represented by the Honourable Stephenson King, Acting
Prime Minister of Saint Lucia in the presence of the Right Honourable
Sir John George Melvin Compton.

(Sgd.) Hon. Stephenson King
Acting Prime Minister

(Sgd.) Rt. Hon. Sir John George Melvin Compton

The Seal of HESS OIL ST. LUCIA LIMITED was on the 24th day of July 2007
hereunto applied in our presence pursuant to a resolution of the Board of
Directors dated the 23rd day of July, 2007.

(Sgd.) John B. Hess, Director

(Sgd.) J. Barclay Collins, Director

No. 14] *Oil Refinery (Amendment) Act* [2007.

Passed in the House of Assembly this 16th day of August, 2007.

SARAH FLOOD-BEAUBRUN,
Speaker of the House.

Passed in the Senate this 24th day of August, 2007.

ROSEMARIE HUSBANDS-MATHURIN,
President of the Senate.