

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

AND

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

AND

IN THE MATTER OF CRYSTALLEX INTERNATIONAL CORPORATION

AND

IN THE MATTER OF EL CALLAO MINING CORP.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application (the "Application") from Crystallex International Corporation (the "Offeror") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that:

- (i) In connection with the offer (the "Offer") by the Offeror to purchase all of the issued and outstanding common shares (the "ECM Shares") of El Callao Mining Corp. ("ECM"), and
- (ii) despite the provisions in the Legislation that prohibit an offeror who makes or intends to make a take-over bid from entering into any collateral agreement, commitment or understanding with any holder or beneficial owner of securities of the offeree issuer that has the effect of providing to the holder or owner a consideration of greater value than that offered to other holders of the same class of securities (the "Prohibition on Collateral Agreements");

the following agreements (the "Transaction Agreements") are made for reasons other than to increase the value of the consideration paid to Bema Gold Corporation ("Bema") for the ECM Shares held by Bema and may be entered into:

- A. an asset purchase agreement (the "Asset Purchase Agreement") between the Offeror and Bema dated as of September 12, 2000 (the "Transaction Date"), providing for the purchase by the Offeror of all of Bema's assets relating to ECM other than the ECM Shares held by Bema (the "Bema Assets"); and

B. a security sharing and priorities agreement (the "Security Sharing Agreement") between the Offeror and Bema dated as of the Transaction Date, pursuant to which the Offeror purchased for cash a participation in certain debt owed by ECM to Bema and agreed to share in Bema's security in relation to such debt;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the British Columbia Securities Commission is the principal regulator for this Application;

AND WHEREAS the Offeror has represented to the Decision Makers that:

1. the Offeror is incorporated under the laws of Canada and has its head office in Vancouver, British Columbia; the Offeror is a reporting issuer in British Columbia and Ontario and in no other Jurisdiction;
2. the common shares of the Offeror (the "Offeror Shares") are listed and posted for trading on The Toronto Stock Exchange (the "TSE") and the American Stock Exchange ("AMEX");
3. the Offeror does not beneficially own any ECM Shares and, prior to the completion of the Offer, has no current intention of acquiring any ECM Shares other than pursuant to the Offer;
4. ECM is incorporated under the laws of the province of British Columbia and is a reporting issuer in British Columbia and Alberta and in no other Jurisdiction;
5. the authorized capital of ECM consists of 100,000,000 ECM Shares of which, to the Offeror's knowledge, 46,090,418 were issued and outstanding on the Transaction Date; the ECM Shares are listed and posted for trading on the Canadian Venture Exchange ("CDNX");
6. the largest shareholder of ECM is Bema, which holds 20,746,598 ECM Shares, representing 44.89% of the issued and outstanding ECM Shares on a fully diluted basis; the rest of the ECM Shares are widely held;
7. on the Transaction Date, which was the day prior to the public announcement by the Offeror of the proposed Offer, the closing price of the ECM Shares on CDNX was \$0.08 per ECM Share, and the closing price of the shares on CDNX had been in the range of \$0.08 to \$0.11 since January 1, 2000;
8. ECM's principal asset is a 51% working interest in the Lo Incredible project (the "Project"), an exploration-stage gold property near El Callao, Venezuela;
9. ECM's financial statements as at June 30, 2000 showed that it had approximately \$65 million in assets, of which only \$7.6 million were not fixed assets (property and equipment) related to the Project; its current assets, including cash, amounted to \$202,406 as at June 30, 2000; as at the Transaction Date, the market capitalization of ECM was approximately \$3.7 million;

10. Bema is amalgamated under the laws of the province of British Columbia and is a reporting issuer in all of the Jurisdictions; its common shares are listed and posted for trading on the TSE and AMEX;

11. In addition to its ownership of 44.89% of the ECM Shares, Bema has the following other interests in ECM and the Project, which comprise the Bema Assets:

(a) an interest-bearing demand loan to ECM (the "ECM Debt") in the amount of approximately US\$14.3 million;

(b) security over ECM in respect of the ECM Debt in the form of (i) a pledge of all of ECM's shares in three of its direct and indirect subsidiaries through which ECM holds all of its material assets, and (ii) a guarantee of the Bema Debt given by a direct subsidiary of ECM through which it holds all of its material assets (collectively, the "Security");

(c) a royalty payable by ECM to Bema equal to 2% of the net cash flow from the Project;

(d) a management services agreement and an exploration program management agreement, each between Bema and ECM, pursuant to which Bema is the manager of the Project; and

(e) certain other assets of Bema relating to ECM;

12. on September 13, 2000, Bema and the Offeror announced that they had entered into a lock-up agreement (the "Lock-Up Agreement") dated as of the Transaction Date, pursuant to which (i) the Offeror agreed to make the Offer, either directly or through a wholly-owned subsidiary, for 100% of the ECM Shares, and (ii) Bema irrevocably and unconditionally agreed to deposit all of its ECM Shares to the Offer;

13. the consideration under the Offer will consist of one Offeror Share for every 15 ECM Shares representing a premium of 78% over the trading price of the ECM Shares on the Transaction Date and representing a price per ECM Share of \$0.15 as stipulated in the Asset Purchase Agreement;

14. the consideration to be paid to Bema for its ECM Shares deposited under the Offer is identical to the consideration to be paid to all other holders of ECM Shares;

15. the Lock-Up Agreement provides, among other things, that the Offer will be made pursuant to a take-over bid circular and in accordance with applicable securities legislation, and will be subject to customary conditions, including that all required regulatory and stock exchange consents and approvals be obtained; the Offer will not be conditional on any minimum number of ECM Shares being deposited under the Offer;

16. pursuant to the Asset Purchase Agreement, the Offeror has agreed to purchase, and Bema has agreed to sell, all of the Bema Assets for the following consideration (the "Consideration"):

(a) the creation, pursuant to a royalty agreement (the "New Royalty Agreement"), of a 1% net smelter return royalty on the Project payable by the Offeror to Bema, which is payable only after 300,000 ounces of gold production have been generated by the Project and, thereafter, only after the average quarterly price of gold exceeds \$300 per ounce; and

(b) US\$4,600,000 payable as follows:

(1) US\$2,300,000 payable 180 days following the Transaction Date in cash or, at the Offeror's option in Offeror Shares of equivalent value based on the 20 day average trading price of the Offeror Shares on such day; and

(2) US\$2,300,000 payable 360 days following the Transaction Date in cash or, at the Offeror's option, in Offeror Shares of equivalent value based on the 20 day average trading price of the Offeror Shares on such day (the "Final Payment");

provided that the Final Payment is subject to downward adjustment in accordance with a formula specified in the Asset Purchase Agreement if it is determined by the payment date that the total proven and probable gold reserves at the Project are less than 610,000 ounces;

17. the closing of the acquisition of the Bema Assets will take place at the same time as, and on the condition that, the Offeror takes up and pays for the ECM Shares deposited to the Offer;

18. in addition to the purchase price for the Bema Assets under the Asset Purchase Agreement, in order to enable Bema to meet certain immediate financial commitments, the parties entered into the Security Sharing Agreement; Bema thereby assigned to the Offeror US\$3,000,000 of the ECM Debt (the "Assigned Debt") in consideration for US\$3,000,000 in cash; the remaining amount of the ECM Debt and all of the other Bema Assets will be transferred pursuant to the Asset Purchase Agreement;

19. the Security Sharing Agreement provides that (i) the Security will be for the benefit of both ECM and the Offeror, (ii) the Assigned Debt and the remaining ECM Debt shall be equally secured by the Security, and (iii) the Assigned Debt shall have priority over the remaining ECM Debt as to any proceeds of enforcement on the Security; upon the closing of the acquisition of the Bema Assets, the Security Sharing Agreement will cease to be of any effect, as the Security will be fully assigned to the Offeror under the terms of the Asset Purchase Agreement;

20. Bema could have sold the Bema Assets, and thereby its effective control over ECM, to the Offeror merely by means of the Transaction Agreements, however, the Offeror and Bema

determined it would be appropriate for the Offer to be made for the benefit of the shareholders of ECM, and for that reason entered into the Lock-Up Agreement requiring the Offeror to make the Offer;

21. in the absence of the Transaction Agreements, even if the Offeror acquired 100% of the ECM Shares pursuant to the Offer, Bema would still maintain effective control over ECM by virtue of the ECM Debt and the Management Agreements; the Transaction Agreements are therefore necessary in order for the Offeror to acquire full control of ECM and the Project;

22. the Transaction Agreements have been entered into for business purposes and not for the purpose of providing Bema with greater consideration for its ECM Shares than the consideration to be received by the other holders of ECM Shares;

23. the Transaction Agreements were negotiated at arm's length and on terms and conditions that are commercially reasonable;

24. Canaccord Capital Corporation has provided a letter to the Decision Makers stating that, as more fully described in that letter, it is of the view that the Consideration to be received by Bema represents not more than the fair value of the Bema Assets being conveyed;

AND WHEREAS under the System, this MRRS Decision Document evidences the Decision of each of the Decision Makers (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 in the Jurisdictions under the Legislation is that the Asset Purchase Agreement and the Security Sharing Agreement are being entered into for reasons other than to increase the value of the consideration paid to Bema in respect of its ECM Shares and may be entered into notwithstanding the Prohibition on Collateral Agreements;

DATED December 22, 2000.

"Brenda Leong"
Brenda Leong
Director

Headnote:

Mutual Reliance Review System for Exemptive Relief Applications – Take-over bid – Collateral benefits – asset purchase agreement between offeror and shareholder of offeree issuer for offeror to acquire assets of the shareholder relating to the offeree issuer, including a significant debt owed by the offeree issuer to the shareholder and security for the debt over the offeree issuer's material assets, and interim security sharing agreement pending completion of the take-over bid – decision that agreements are being made for reasons other than to increase the value of the

consideration paid to the shareholder for its shares of the offeree issuer and agreements may be entered into despite the prohibition against collateral benefits.

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 107(2) and 114(2)(a)