WESTERN AUSTRALIA.

IRON ORE (CLEVELAND-CLIFFS) AGREEMENT.

No. 95 of 1985.

AN ACT to amend the Iron Ore (Cleveland-Cliffs) Agreement Act 1964.

[Assented to 4 December 1985.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:-

(1) This Act may be cited as the Iron Ore Short title and principal cland-Cliffs) Agreement Amendment Act 1985. Act. (Cleveland-Cliffs) Agreement Amendment Act 1985.

(2) In this Act the Iron Ore (Cleveland-Cliffs) Agreement Act 1964 is referred to as the principal amended by Act.

Act No. 91

Commencement.

2. This Act shall come into operation on the day on which it is assented to by the Governor.

Section 2 amended.

- 3. Section 2 of the principal Act is amended by inserting after the definition of "the first variation agreement" the following definition—
 - "the fourth variation agreement" means the agreement a copy of which is set forth in the Fifth Schedule to this Act: ".

Section 3D

- 4. After section 3C of the principal Act the following section is inserted—
 - " 3D. (1) The fourth variation agreement is approved and ratified.
 - (2) The implementation of the fourth variation agreement is authorized.
 - (3) Without limiting or otherwise affecting the application of the Government Agreements Act 1979, the fourth variation agreement shall operate and take effect notwithstanding any other Act or law. ".

Section 5 amended.

- 5. Section 5 of the principal Act is amended by deleting "and the second variation agreement" and substituting the following—
 - ", the second variation agreement, the third variation agreement and the fourth variation agreement".

Fifth Schedule added.

6. After the Fourth Schedule to the principal Act the following Schedule is added—

FIFTH SCHEDULE.

Section 3D.

AN AGREEMENT made the 29th day of October 1985, BETWEEN THE HONOURABLE BRIAN THOMAS BURKE, M.L.A., Premier of the State of Western Australia. acting for and on behalf of the said State and instrumentalities thereof from time to time (hereinafter called "the State") of the first part CLIFFS INTERNATIONAL INC. a limited company incorporated under the laws of the State of Ohio, one of the United States of America and registered in the State of Western Australia under the provisions of the Companies Act 1961 of the said State and having its registered office in the State of Western Australia at 12-14 St. George's Terrace, Perth (hereinafter called "Cliffs") of the second part and CLIFFS WESTERN AUSTRALIAN MINING CO. PTY. LTD., a company incorporated under the said Companies Act and having its registered office at 12-14 St. George's Terrace, Perth (hereinafter called "Cliffs Western") MITSUI IRON ORE DEVELOPMENT PTY. LTD. a company incorporated under the said Companies Act and having its principal office in the said State at 22nd Floor, 44 St. George's Terrace, Perth (hereinafter called "Mitsul PEKO-WALLSEND OPERATIONS LIMITED company incorporated under the Companies Act of the State of New South Wales and having its principal place of business at 1 Macquarie Street, Sydney in the State of New South Wales (hereinafter called "Peko") and NIPPON STEEL AUSTRALIA PTY. LIMITED a company incorporated in the State of New South Wales and having its registered office in that State at 60 Martin Place, Sydney, SUMITOMO METAL AUSTRALIA PTY. LIMITED a company incorporated in the State of New South Wales and having its registered office in that State at 30th floor CBA Centre, 60 Margaret Street, Sydney and the said MITSUI IRON ORE DEVELOP-MENT PTY. LTD., such lastmentioned three companies acting together and carrying on business in the State of Western Australia at 22nd Floor, 44 St. George's Terrace, Perth (hereinafter collectively called "CLIA"), the said Cliffs Western, Mitsui Iron, Peko and CLIA (hereinafter collectively called "the Participants") being the party of the third part.

WHEREAS:

(a) By an agreement under seal dated the 18th day of November One thousand nine hundred and sixty-four made between the State of the one part and Basic Materials Pty. Limited (hereinafter called "Basic") of the other part (which agreement was approved by and is scheduled to the Iron Ore (Cleveland-Cliffs) Agreement Act 1964 and is hereinafter referred to as "the Agreement") Basic acquired upon the terms and conditions set forth in the agreement certain rights interests and benefits and assumed certain obligations with respect to the exploration for and development of specified iron ore deposits and the mining transportation processing pelletising and shipment of iron ore therefrom.

- (b) By virtue of various agreements under seal Cliffs International, Inc. ("Cliffs") became entitled to all the right title interest claim and demand whatsoever of Basic in and under the Agreement and by virtue of deed of covenant with the State assumed the obligations of Basic thereunder.
- (c) The State and The Broken Hill Proprietary Company Limited (which company is hereinafter referred to as "Broken Hill") entered into an agreement (which agreement was approved by and is scheduled to the Iron Ore (The Broken Hill Proprietary Company Limited) Agreement Act, 1964, and is hereinafter referred to as "the Broken Hill Agreement") for the mining by that company of iron ore in specified areas and for the establishment by that company of certain port and railway facilities to be used for the transportation of such iron ore and for the construction and establishment within the said State of plant for the secondary processing of iron ore and with regard to other matters.
- (d) By assignment and deed of covenant made and given pursuant to Clause 27 of the Broken Hill Agreement the rights and obligations of Broken Hill arising under that agreement are now the rights and obligations of BHP Minerals Limited (then called "Dampier Mining Company Limited") (hereinafter referred to "BHPM").
- (e) The areas covered by the Agreement and the Broken Hill Agreement are adjacent and Cliffs and BHPM entered into an agreement (hereinafter referred to as "the Companies Agreement") which provided for various consultation and co-operation between them and subject to any necessary consents of the State for, inter alia:
 - (i) BHPM to make available for use by Cliffs iron ore from the areas covered by the Broken Hill Agreement of an amount of up to 150,000,000 tons or such greater amount that the terms of the Companies Agreement may oblige it to supply; and

- (ii) Cliffs to make available for purchase by BHPM in accordance with the Companies Agreement any iron ore that BHPM may require up to an amount of 2,000,000 tons per annum or such amount as the Companies may agree.
- (f) By an Agreement under seal dated the 12th day of May. 1970 between the State of the one part and Cliffs of the other part (which Agreement was approved and is scheduled to the Iron Ore (Cleveland-Cliffs) Agreement Amendment Act 1970) the Agreement was amended to take account of the developments contemplated in the Companies Agreement.
- (g) By an Agreement dated the 30th day of September, 1969 between the State of the one part and BHPM of the other part which agreement was scheduled to the Iron Ore (Dampier Mining Company Limited) Agreement Act, 1969 The Broken Hill Agreement was amended to take account of the developments contemplated in the Companies Agreement.
- (h) By deed dated the 29th day of June, 1970 made between the State, Cliffs and Cliffs Western, Mitsui Iron, Robe River Limited ("RRL") and Mt. Enid Iron Co. Pty. Ltd., ("Mt. Enid") (hereinafter called the "Original Participants") Cliffs granted and assigned to the Original Participants all the right title interest claim and demand of the "Company" (as defined in the Agreement) in and under the Agreement (as then or thereafter altered from time to time) except the rights of occupancy referred to therein of the mining areas therein defined and the rights to obtain mineral leases thereof as tenants in common in the following shares:

Cliffs Western	30%
Mitsui Iron	30%
RRL	35%
Mt. Enid	5%

and by the said deed each of them Cliffs Western, Mitsui Iron, RRL and Mt. Enid, severally covenanted and agreed with the State that it should to the extent of its commitment therein set out comply with, observe and perform, the provisions of the Agreement (as then or thereafter amended) on the part of Cliffs to be complied with observed or performed in respect of the matters assigned as therein set forth to the intent that the same should be binding upon them (to the extent of the commitment therein set out) in the same manner and to the same extent as if each of them were expressly named in the Agreement.

(i) By virtue of various agreements and deeds Cliffs Western, Mitsui Iron, Peko and CLIA (which parties are hereinafter called "the Participants") are now entitled to all the right title and interests of the Original Participants in and under the Agreement (as amended) as tenants in common in the following shares:

Cliffs Western	30%
Mitsui Iron	30%
Peko	35%
CLIA	5%

- (j) The Participants, Cliffs and BHPM have now entered into an Agreement dated the Twenty Eighth day of October 1985 (hereinafter referred to as "the Second Companies Agreement") which provides subject to any necessary consents of the State for inter alia BHPM to make available for use by the Participants of iron ore from areas additional and adjacent to those provided for under the Companies Agreement and which are covered by The Broken Hill Agreement (as amended).
- (k) In view of the Second Companies Agreement, it is desirable that there should be some amendment to the various rights and obligations of the parties created by the Agreement (as amended by agreements dated 12th May 1970, 13th July 1976, 5th October 1983 and 30th April 1984 hereinafter referred to as the Principal Agreement) and by the Broken Hill Agreement (as amended).

NOW THIS AGREEMENT WITNESSETH:

- This Agreement except for this Clause shall have no force or effect and shall not be binding upon the parties until it is approved by an Act of the Parliament of Western Australia.
- If an Act to ratify this Agreement is passed by the Parliament of the said State the provisions of this Agreement shall take effect as though the same has been enacted by the ratifying Act and notwithstanding any Act or law to the contrary the State and the Minister shall for the purpose of implementing this Agreement have all the powers discretions and authorities conferred on them respectively by the Agreement for the purpose of implementing the Agreement.
- Words and phrases to which meanings are given under Clause 1 of the Principal Agreement (other than words and phrases to which meanings are given in this Agreement) shall have the same respective meanings in this Agreement as are given to them in Clause 1 of the Principal Agreement.

1985.] Iron Ore (Cleveland-Cliffs) [No. 95. Agreement.

- 4. Subject to the provisions of the deed referred to in recital (h) hereof, for the purposes of the Principal Agreement and this Agreement the expression "the Company" shall where the context so admits mean and include both Cliffs and the Participants.
- 5. The Principal Agreement is added to and varied as hereinafter provided and the Principal Agreement shall be read and construed accordingly.
- The Principal Agreement is hereby amended as follows:
 - (1) Clause 1 (a) by inserting after the definition "Company's wharf" the following definition—
 - "CRRIA" means Cliffs Robe River Iron Associates a joint venture comprising Cliffs Western Australian Mining Co. Pty. Ltd., Mitsui Iron Ore Development Pty. Ltd., Peko-Wallsend Operations Ltd, and Cape Lambert Iron Associates (a partnership comprising Nippon Steel Australia Pty. Ltd., Sumitomo Metal Australia Pty. Ltd., and Mitsui Iron Ore Development Pty. Ltd.) responsible only severally in the proportions of 30%, 30%, 35% and 5% respectively and each of their successors and permitted assigns under this Agreement; ";
 - (b) by amending the definition of "mineral lease" as follows—
 - (i) by deleting "the sublease", where it first occurs, and substituting the following—
 - " any subleases ";
 - (ii) by inserting after "the Company" the following—
 - " and/or CRRIA, "; and
 - (iii) by deleting the last word "sublease" and substituting the following—
 - " subleases ".
 - (2) Clause 8 subclause (1)—
 - (a) by deleting in paragraph (a) "the sublease" and substituting the following—
 - " any subleases ":

- (b) by inserting after paragraph (g) the following paragraph—
 - (h) (i) shall permit Dampier to sublet to CRRIA the whole or any part with the approval of the Minister of any mineral lease granted pursuant to the agreements approved by the Iron Ore (The Broken Hill Proprietary Company Limited) Agreement Act, 1964, and the Iron Ore (Dampier Mining Company Limited) Agreement Act, 1969;
 - (ii) shall in the event of the termination of any mineral lease subleased in whole or in part to CRRIA by Dampier grant to CRRIA a mineral lease for the unexpired term of the sublease covering the same mining areas and on the same terms as were applicable under the sublease except that royalties shall be payable at the rates provided for in this Agreement.

PROVIDED THAT any sublease referred to in subparagraph (i) and any mineral lease granted to CRRIA pursuant to subparagraph (ii) shall be included in the definition of "mineral lease" in Clause 1 of this Agreement and shall be subject to the provisions of Clause 13 and paragraph (e) of subclause (1) of Clause 8. ".

IN WITNESS WHEREOF this Agreement has been executed by or on behalf of the parties hereto the day and year first hereinbefore written.

SIGNED by the said THE HONOURABLE BRIAN THOMAS BURKE, M.L.A., in the presence of—

BRIAN BURKE

D PARKER MINISTER FOR MINERALS AND ENERGY SIGNED for and on behalf of CLIFFS INTERNATIONAL INC. by VICTOR FAHRNEY KOONTZ pursuant to and with the authority of a resolution of the Board of Directors of CLIFFS INTERNATIONAL INC. in the presence of—

W. REES

THE COMMON SEAL OF CLIFFS WESTERN AUST-RALIAN MINING CO. PTY. LTD. was hereunto affixed by authority of the Directors and in the presence of-

Director V. KOONTZ Director W. REES

THE COMMON SEAL of. MITSUI IRON ORE DEVEL-OPMENT PTY. LTD. was hereunto affixed by authority of the Directors and in the presence of-

Director Y. OKAMOTO Secretary J. MACKENZIE

Executed by PEKO-WALL-SEND OPERATIONS LIMITED being signed by Attorney RICHARD ANDREW LADBURY under Power of Attorney dated 23rd October 1985 (who certifies that he has received no notice of revocation thereof) in the presence of:

> R. E. BLANCKENSEE Solicitor Perth

Executed by NIPPON STEEL AUSTRALIA PTY LIMITED by being signed by its Attorney YASUYOSHI OKAMOTO under Power of Attorney dated 25th October 1985 (who certifies that he has received no notice of revocation thereof) in the presence of:

R. M. B. REYNOLDS

V. KOONTZ

(C.S.)

(C.S.)

R. A. LADBURY

Y. OKAMOTO

Executed SUMITOMO. bу METAL AUSTRALIA PTY. LTD. by being signed by its Attorney YASUYOSHI OKAMOTO under Power of Attorney dated 24th October 1985 (who certifies that he has received no notice of revocation thereof) in the presence of:

Y. OKAMOTO

R. M. B. REYNOLDS

THE COMMON SEAL MITSUI IRON ORE DEVEL-OPMENT PTY. LTD. was hereunto affixed by authority of the Directors and in the presence of-

(C.S.)

Director Y. OKAMOTO

Secretary J MACKENZIE