

**IN THE SUPREME COURT OF BERMUDA
COMPANIES (WINDING UP) JURISDICTION**

2009 No.

**IN THE MATTER of PEBERCO LIMITED
(Liquidator Appointed)**

-and-

**IN THE MATTER OF SECTION 99 of the
Companies Act 1981**

-and-

**IN THE MATTER of an Application by
Peberco Limited (Liquidator Appointed)
(Applicant)**

AMENDED

EX-PARTE ORIGINATING SUMMONS

**Mello Jones & Martin
"Thistle House"
4 Burnaby Street
Hamilton HM11**

**Attorneys for the
GHM/32264.1**

**IN THE SUPREME COURT OF BERMUDA
COMPANIES (WINDING UP) JURISDICTION**

2009 No.

IN THE MATTER OF PEBERCO LIMITED (In Liquidation)

AND IN THE MATTER OF SECTION 99 OF THE COMPANIES ACT 1981

AND IN THE MATTER OF AN APPLICATION BY PEBERCO LIMITED (In Liquidation)

AFFIDAVIT OF PHILIPPE JORDAN

I, PHILIPPE JORDAN, 1 Place Ville-Marie, Montreal, Quebec, Canada, the Liquidator of Peberco Limited, do hereby MAKE OATH AND SAY as follows:

1. Except when the contrary is indicated, all capitalized terms used herein are defined in Article 1 of the Scheme attached hereto.
2. I am an Associate Partner in the Financial Advisory Group of Samson Belair / Deloitte & Touche, 1 Place Ville-Marie, Suite 3000, Montreal, Quebec, Canada, and by resolution of the board of directors of Peberco Limited ("Peberco") on July 9, 2009, I was appointed as Liquidator of this Company.
3. Save as otherwise stated, the facts and matters deposed to herein are derived from my personal knowledge as a result of my involvement with this matter, from speaking and working with my colleagues with the conduct of this matter, and from my perusal of relevant documents. Where facts and matters are not within my own knowledge, they are true to the best of my knowledge, information and belief.

4. This Affidavit is sworn in support of an application for Peberco to have liberty to convene a meeting of all Members of Peberco for the purposes of considering and, if thought fit, approving a Scheme of Arrangement (the "Scheme") pursuant to Section 99 of the *Companies Act 1981* (the "Act").
5. There is now produced and shown to me marked as **Exhibit "A"** a copy of the draft scheme documents in respect of the Scheme and the associated documents (the "Scheme Documents") which are proposed to be dispatched to the Members in due course. The statements of fact contained in the Scheme document are to the best of my knowledge, information and belief true and accurate.
6. Annexed hereto and marked as **Exhibit "A-1"** is the draft Scheme of Arrangement for the proceedings before this Honourable Court.
7. I am informed and do verily believe that the Explanatory Statement required pursuant to Section 100 of the Act shall be substantially in the form of the Explanatory Statement annexed hereto and marked as **Exhibit "A-2"** to this Affidavit and referred to in Paragraph 4 above.

BACKGROUND

8. I am informed and do verily believe that Peberco is a Bermuda exempted Company and was duly registered on or about the 6th day of October 1996 in the office of the Bermuda Registrar of Companies. At all material times, the registered office of Peberco were situated at Clarendon House, 2 Church Street, Hamilton HM 11, Bermuda.
9. Pebercan Inc. (the "Corporation") is a corporation governed by the *Canada Business Corporations Act* (the "CBCA"), having its head office at 750 Marcel-Laurin Boulevard, Suite 106, Montreal (Saint-Laurent), Quebec, Canada. The Corporation was listed on the TSX since 1995. Its primary function was to act as holding and coordinating company of a number of subsidiary Companies. Primarily, these Companies were involved in the exploration, development and exploitation of oil reserves in the Republic of Cuba.

10. Pebermat Limited ("Pebermat") was incorporated as a Bermuda exempted company, and at all material times, had its registered office situated at Clarendon House, 2 Church Street, Hamilton HM 11, Bermuda.
11. Peberco and Pebermat are two subsidiaries wholly-owned by the Corporation, and were amalgamated on March 25th, 2009. The newly merged entity continues to exist under the corporate name Peberco. Attached hereto and marked as **Exhibit "B"** is a true copy of the Certificate of Amalgamation.
12. As of the date of swearing to this my Affidavit, I do verily believe that the corporate register reflects that the Corporation holds 100% of the shares of Peberco, which constitutes all issued and outstanding shares.

LIQUIDATION EVENTS

13. The Corporation was engaged in the exploration, development and operation of oil reserves in the Republic of Cuba through its subsidiary Peberco, which was based in Bermuda. Oil exploitation was a joint operation with Sherritt International (Cuba) Oil and Gas Ltd. and Sherritt International Corporation ("Sherritt").
14. Towards the end of 2008, the Cuban authorities notified Peberco that they wished to prematurely terminate the production-sharing contract, which was initially scheduled to expire in 2018. To do so, the Cuban authorities agreed to pay a lump sum payment of US\$140 million to Peberco in exchange for full settlement of debts owed to Peberco and the assumption of all Peberco's obligations related to its operations in Cuba.
15. In or about January 14th, 2009, Peberco signed an Agreement with Cuba Petreola S.A. ("CUPET") for the premature termination of the Oil Production - Sharing Agreement and the Assignment of Accounts receivable (the "Agreement"). Under this Agreement, Peberco agreed to the premature termination of the Hydrocarbon Production - Sharing Agreement initially executed on August 21st, 1993. Attached thereto and marked as **Exhibit "C"** is a true copy of the letter acknowledging the assignment contract.

16. The parties to the Agreement agreed to give Sherritt a portion of the net amounts received from CUPET, or approximately US\$60 million to terminate the agreement between these two partners.
17. In or about February 2009, Peberco (along with the Corporation) entered into a settlement agreement with Sherritt, whereby it was agreed that Peberco would terminate the Agreement effective February 9, 2009.
18. On February 20, 2009, I verily believe the Corporation announced that it would put an end to its commercial operations and would distribute to its shareholders the net cash resulting from its share of the amounts received by Peberco from CUPET.
19. In exchange for Peberco declaring and paying a dividend of substantially all of its assets to its sole shareholder, the Corporation and seeking to commence a members voluntary liquidation of Peberco, the Corporation executed Deeds of Indemnity and undertook to indemnify and hold harmless Peberco from, *inter alia*, any and all claims against Peberco during the course of the members voluntary liquidation. Attached hereto and marked as **Exhibit "D"** is a true copy of the executed Deeds of Indemnity.
20. On or about May 26th, 2009, the Corporation held a Special Meeting of its security holders, previously authorized by the Canadian Court, during which a Plan of Arrangement was approved by over 99.7% of the votes cast by holders of common shares and of stock options present in person or represented by proxy.
21. On or about June 30, 2009, and following the decision to proceed with a Members' Voluntary Winding-Up of Peberco pursuant to the Act, both Gilles Frachon and Christophe Ranger executed the Declaration of Solvency in their capacity as Directors of Peberco. Attached hereto and marked as **Exhibit "E"** are true copies of those documents.
22. In a judgment rendered on July 6, 2009 (the "Judgment"), the Canadian Court rendered an order under the CBCA approving the arrangement proposed by the Corporation under the terms of section 192 of the CBCA. Attached hereto and marked as **Exhibit "F"** is a true copy of the Judgment.

23. In the Judgment, the Canadian Court rendered an order under the terms of the CBCA and appointed Samson Belair/Deloitte & Touche Inc. as Monitor under the provisions of the CBCA in order to complete the claims process provided for in the CBCA.
24. By resolution of the board of directors of Peberco on July 9, 2009, I was appointed Liquidator of Peberco under the Act and resolution of the members.

THE CLAIMS PROCESS

25. Peberco initiated a voluntary liquidation process in July 2009 after a resolution of the board of directors and the filing of a declaration of solvency with the Bermuda Registrar of Companies. This resolution was subsequently approved by resolution of the Corporation.
26. Following the above-noted procedures, I was appointed as Liquidator of Peberco and the Claims Process was initiated. For the reasons more fully set out below, the board of directors is of the view that Peberco has no known creditors. The main reasons for this conclusion are the following:

First, an examination of the documentation myself, as Liquidator, and my Bermuda and Canadian counsel of the Sherritt termination agreements,

Second, I examined the records of Peberco and did not identify any existing or potential creditors, and other than current service providers and professionals,

Third, the steps taken by Peberco and myself as Liquidator to identify on a good faith basis potential Cuban creditors.

27. On or about July 20, 2009, my office sent, by priority post, an explanatory letter and a blank claim form to all known suppliers of Peberco from the last year of operations. To reduce the risks related to the completeness of the list provided to the Liquidator by Peberco's management, I conducted a series of tests using Peberco's accounting records. No omission of suppliers was noted following my review. The explanatory letter and claim forms sent to the suppliers of Peberco are referenced within Exhibit "F" herein.

28. Assisted by my Canadian and Bermudian attorneys, I reviewed all the legal documents that had been signed between Sherritt and Peberco. After reviewing these documents with my attorneys, I believe that there were no longer any possible claims by Sherritt against Peberco following such termination, and there was therefore no reason to consider Sherritt as a potential claimant.

29. On or about July 15, 2009, I verily believe that a "Notice to Peberco Claimants of a Claims Process and a Deadline for Claims" was published in the *Bermuda Sun*, an English language paper in Bermuda. Attached hereto and marked as **Exhibit "G"** is a true copy of that Notice.

30. The creditors were required to send their duly completed proof of claim to my attention at Samson Belait/Deloitte & Touche before August 17, 2009, being the Deadline for Claims. To date, I verily believe that none of the known suppliers have responded with any claims.

CUBAN CLAIMS PROCESS

31. All Cuban suppliers connected with CUPET were excluded from the Claims Process noted above. Specifically, we did not send a blank claim form to all Cuban suppliers connected with Peberco, in order to allow my office time to review legal and other documents that had been signed between Peberco and CUPET and which, according to management and its attorneys, could justify the absence of claims, as in the case of Sherritt.

32. Following the review of these documents and after holding multiple discussions with key participants for Peberco (including its then attorneys) in the negotiation process with CUPET, I (as Liquidator of Peberco) concluded the documents should, as a matter of prudence, be noticed on the Cuban authorities in order to confirm such absence of claims.

33. Notwithstanding the above noted limitations on the ability to publish a notice or call to creditors in Cuba, I am advised by Christophe Ranger and do verily believe that, Maritza Hernandez, a former Peberco employee, undertook various steps to have the closure of Peberco published, which are more specifically set out in Christophe Ranger's Affidavit.

IDENTIFIED DEBTS AND OBLIGATIONS OF PEBERCO

34. I do verily believe that the Claims Process did not result in the identification of any actual, contingent or prospective creditors for Peberco.
35. Further to the efforts and steps taken in relation to the Cuban claims process, I do verily believe that it did not result in the identification of any actual, contingent or perspective Creditors in Cuba.

VALUATION OF PEBERCO'S ASSETS

36. With the entirety of the amounts belonging to Peberco transferred to the Corporation in exchange for Deeds of Indemnity to cover any possible claims, the sole asset that Peberco has today, is in fact, the Deeds of Indemnity.
37. The only value associated with the Deeds of Indemnity, would be an amount equal to the balance of known or potential claims against Peberco. Therefore, given the absence of any claims filed to date, no value can be assigned to the instrument at this time, and as such, I verily believe that the value of Peberco's assets is nil as of the date of swearing to this my Affidavit.

THE LIQUIDATION PROCESS

38. Under the liquidation process currently underway, both the liquidation of the Corporation and Peberco are being carried out on an independent and parallel basis.
39. The Corporation is undertaking a voluntary liquidation pursuant to the CBCA, whereas Peberco is undertaking a voluntary liquidation under the *Act*.

40. That being said, in the absence of supervision by the Bermuda Court (hereinafter the "Court"), the Act provides that the dissolution of a company may be declared void on application by a creditor or other interested party within 10 years of the date of dissolution.
41. Given the ten (10) year period during which a creditor can pursue his claim notwithstanding the completed liquidation procedures, the existence of the Deeds of Indemnity between the Corporation and Peberco currently leaves an obligation that is today nil on the Corporation's balance sheet. This uncertainty of future claims may prevent or delay the orderly administration of the Canadian liquidation if a suitable mechanism is not adopted to bring certainty to the claims procedure in the Bermuda liquidation of Peberco.
42. In the absence of certainty, I will be required to carry out the difficult task of determining, for the entire period during which Peberco may be revived, a provision to cover any potential claim that may arise following the winding up of Peberco. In light of the fact that neither the directors nor I as Liquidator have determined that there is any possible future or contingent creditor, and no response has been received from any of the advertisements and other efforts Peberco has made, the uncertainty will work an injustice and cause unnecessary delay and expense to the administration of the Canadian plan of arrangement.

PROPOSED SOLUTION

43. To address this situation created by the aforesaid ten (10) year claims period, Peberco is proposing to undertake a Scheme of Arrangement under the Act with the sanction of the Court. The overall objective of the Scheme would be to obtain authorization of an agreement whereby Peberco would agree to waive its Deeds of Indemnity of which it is a beneficiary from the Corporation in exchange for the Corporation agreeing, within the context of its Canadian liquidation, to treat all post-liquidation claims of Peberco in accordance with the Canadian liquidation of the Corporation.

44. If the proposed Scheme is rejected by this Court, the liquidation process currently underway for Peberco would not be affected in any way.
45. If the Scheme is accepted by both the Bermuda and Canadian Courts, the obligation of establishing a provision to cover possible claims stemming from the winding up of Peberco would continue for the Monitor of the Corporation. Pursuant to the CBCA, Claimants will have the right to initiate proceedings against the shareholders of the Corporation to the extent of amounts distributed to such shareholders within 2 years after the Corporation is dissolved.
46. Upon adoption of the Scheme and its sanction by the Court, Peberco will be voluntarily wound-up pursuant to Section 99 of the Act.

INTERIM DISTRIBUTION BY THE CORPORATION

47. One of the key issues of the Liquidator and Monitor is to accurately determine the amount that may be distributed on an interim basis. For the security holders, the timing of the distribution is as important as the accuracy of the amount of such distribution. There are certain tax incentives for distributing the amounts to the shareholders before the Corporation is delisted from the stock exchange. The main incentive being the avoidance of certain tax withholdings on amounts intended for foreign security holders.
48. In order for any such distribution to be carried out, the Court, with the assistance of myself as Liquidator, must consider the provision to be established for potential Peberco Claims.
49. Any interim distribution of the Corporation is not conditional on the expiration of the filing for potential claims (actual, contingent or perspective) in Peberco and on completion of all pending proceedings. I do verily believe that an initial distribution can be made to the shareholders of the Corporation, subject to the Canadian Court's sanction.

MEETING

50. For the purpose of complying with the terms of the Act, it is necessary to convene a Meeting, for the purposes of considering and, if thought fit, approving the Scheme. The Originating Summons herein seeks directions of the Court as to the matters of convening the meeting herein.
51. Notwithstanding the requirement to convene a meeting in order to comply with the terms of the Act, I do verily believe that it is the intention of the members to waive any notice requirements for such a meeting under the bye-laws and Act, and duly waive any requirement for a formal meeting. Specifically, for the purposes of considering and, if thought fit, approving the Scheme, the member will be proceeding by way of written resolution. This is because the only member is the Corporation who agrees in principle to the Scheme.

SERVICE AND ADVERTISEMENT OF NOTICE OF MEETING

52. In the event of an Order being made herein to convene such a meeting, it is proposed that the members (being the sole shareholder of the Corporation) will hereby waive any notice requirements for a meeting under the bye-laws or Act, as well as waive any requirement for a formal meeting.

EXPLANATORY STATEMENT

53. In the event of an Order being made herein, Peberco shall send to the members an Explanatory Statement regarding the Scheme as required by Section 100 of the Act, a copy of which is comprised within the Scheme documents referred to in Paragraph 4 above.

CONCLUSION

54. As of the date of swearing to this my affidavit, I do verily believe that it is appropriate to convene a meeting to consider, and if thought fit, approve the Scheme proposed by Peberco and its members for the following reasons:

- (a) The Canadian Court has been advised of the existence of Peberco, the intention for an Application for Liquidation order applicable to the provisions of Bermuda law, and has not opposed that the liquidation process for Peberco could be accomplished under the auspices of the Canadian liquidation;
- (b) The joint liquidation supervised by the Canadian Court is appropriate since:
 - (i) Similar issues would be before the Court;
 - (ii) Similar statutory provisions are under consideration;
 - (iii) No creditors exist in Bermuda;
 - (iv) There would be economy of administration, as well as the most just, least expensive and expeditious resolution of this matter.
- (c) It will permit the Canadian Court to monitor the process for Peberco claims that could affect the liquidation of Pebercan;
- (d) It will eliminate the risk of an application being made to declare the dissolution of Peberco void;
- (e) It will allow the early cancellation of the Deeds of Indemnity granted by the Corporation to Peberco;
- (f) The effect of the Scheme will be to extend the claims period for potential creditors of Peberco for up to an additional two (2) year under the Canadian liquidation.

55. If the proposed Scheme is rejected by this Court, the liquidation process currently under way for Peberco will not be affected in any way but may affect the Canadian liquidation. Moreover for the reasons given above, I do verily believe that no creditors, actual, contingent or perspective will be prejudiced in any way.

56. In all circumstances set out in this Affidavit, I respectfully request that this Honourable Court to give the relief prayed for in the Originating Summons herein.



SWORN by PHILIPPE JORDAN)
in the City of Montreal, Province)
of Quebec on the 5th day of)
November 2009)

SWORN BEFORE ME



Commissioner of Oaths



IN THE SUPREME COURT OF BERMUDA

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-and-

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Companies Act 1981

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IN THE MATTER of an Application by
Peberco Limited
(Applicant)

AFFIDAVIT
OF
PHILIPPE JORDAN

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AND IN THE MATTER OF SECTION 99 OF THE COMPANIES ACT 1981
AND IN THE MATTER OF AN APPLICATION BY PEBERCO LIMITED (In
Liquidation)

AFFIDAVIT OF CHRISTOPHE RANGER

I, **CHRISTOPHE RANGER**, of 17 Rue Duquesne, 69006 Lyon, France, being a Director of Peberco Limited, do hereby **MAKE OATH AND SAY** as follows:

1. I am a Director and President Peberco Limited ("Peberco"), and am ordinarily resident in the City of Lyon, France. I am a Director and Officer of Peberco and Peberoan Inc., and do solemnly and sincerely declare that I have knowledge of the matters to which I hereinafter depose to, except where stated to be based on information and belief, and as to those matters I do verily believe them to be true.
2. I have read in draft form the Affidavit sworn by Philippe Jordan in the Matter of Peberco (In Liquidation) in the Supreme Court of Bermuda Companies (Winding-up) Jurisdiction, which exhibits in a paginated bundle a copy of the relevant documents relating to this matter.

3. The facts set out in this Affidavit and the Affidavit sworn by Philippe Jordan (along with the Exhibits thereto) are within my own knowledge and are true to the best of my knowledge, information and belief.
4. Please note that I have reviewed all relevant documents, including but not limited to, the Petition and the Affidavit of Philippe Jordan (and attached Exhibits) and will be in a position to assist this Honourable Court, if so requested. Specifically, I will be attending the Hearing of the Application of Peberco (in Liquidation by its Liquidator) for an Order to convene a Meeting of the Members for the purposes of considering and, if thought fit, approving, with or without modification, a Scheme of Arrangement under Section 99 of the Companies Act 1981. Moreover, I will be in attendance on that date and will be available to give evidence or answer any questions that may arise or be directed by this Honourable Court.
5. I instructed Maritza Hernandez, a former employee of Peberco, and do verily believe that she undertook the following steps to have the closure of Peberco published:
 - (i) The publication of the closure of Peberco does not appear in the Archives on digital media in the Ministry of Justice -- La Gaceta Oficial. A request was made to possibly publish an announcement in respect of Peberco, however, Ms. Hernandez was advised that it was not possible and was directed to contact the Merchant Registry.
 - (ii) Ms. Hernandez contacted the Merchant Registry and was informed that nothing had been published concerning the closure of Peberco. For that purpose, an official request would have to be submitted to the Merchant Registry so that the corresponding Certificate of Closure could be sent and later published.
 - (iii) Ms. Hernandez contacted Diomir Hernandez Torres (Legal adviser to Comercial CUPET), and was advised that the official request had been sent to the Merchant Registry on September 1st, 2009. She was further advised that this request would result in the issuance by the Merchant Registry of a Certificate of Closure which would be forwarded in due course. Mr. Torres

agreed to resubmit the request in order to shorten the wait time and advise us of any developments in the interim. To date, we have yet to receive a copy of the Certificate of Closure or confirmation that it has been issued.

- (iv) Ms. Hernandez contacted Dr. Juan A. Fleites Melo (Legal adviser to MINBAS), and was advised that publishing business closures is not a common practice in Cuba. Specifically, only the Merchant Registry is authorized, upon official request, to issue a Certificate of Closure.
6. In or about September 2009, and in an attempt to further the efforts with respect to identifying potential Cuban creditors, I requested that Mr. Alain Maillot, the then attorney for Peberco, provide his account of the dealings between Cuba Petreola and Peberco in order to contribute to analysis of the risks of a claim being initiated against Peberco in the future by a Cuban claimant. Attached hereto and marked as Exhibit "A" is a true copy of Mr. Maillot's letter.
7. Pursuant to the terms of the Agreement entered into with CUPET:
- (a) The payment by CUPET to Peberco is net of all income taxes, deductions, and withholdings etc., which were abandoned by the Cuban Authorities;
 - (b) The Cuban Authorities assumed and undertook to maintain all Agreements concluded by Peberco related to the Hydro-Carbon Production Sharing Agreement and that Peberco was released from any obligations in this respect;
 - (c) The rights of all active personnel of Peberco were taken over by CUPET;
 - (d) The Parties to the Agreement recognized that, subject to the execution of the clauses of the Agreement, which have now all been completed they have no claim against each other

8. Pursuant to the terms of the Agreement, the payment to Peberco was to be transferred from the Central Bank of Cuba to the Sabadell Bank in Madrid. Based upon the information provided by Mr. Maillot, I do verily believe that it was not difficult for any Cuban creditor, in a transaction that was common knowledge in Cuba, to file an adverse claim with the Sabadell Bank on the amounts credited in its books to Peberco's account. Similarly, the Cuban parties were informed of the amount of US\$140,000,000.00 was subsequently transferred from Peberco's account at the Sabadell Bank to Peberco's account at BNP Paribas in Geneva.
9. I do verily believe that the BNP Paribas account was well known to the Cuban parties (or authority) as the receptacle for past payments when Cuban entities paid for the oil delivered by Peberco. In addition, on the day of closing in Madrid, two representatives of the Cuban Authorities were on hand when the transfer was debited from the Central Bank of Cuba account at Sabadell, and thereby credited to the account opened by Peberco at the same bank.
10. The Agreement was signed, the related transactions that were specified therein have taken place without any claims being made, including when Peberco's representatives were physically on Cuban soil.
11. As of the date of swearing to this my Affidavit, I do verily believe that all reasonable steps have been undertaken or pursued to identify all valid post liquidation claims of Peberco, and more specifically, any actual, contingent or perspective Cuban creditors.
12. Furthermore, I do verily believe that all reasonable and necessary process were pursued within the restricted framework allowed in the Republic of Cuba to identify any actual, contingent or perspective creditors in Cuba, as well as making the request for publishing the closure of Peberco.
13. To date, I do verily believe that no known or unknown suppliers and/or creditors in Cuba have responded with any claims, actual, contingent or perspective. Specifically, these efforts have not resulted in the identification of any active creditors in Cuba for Peberco.

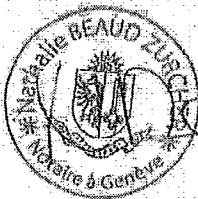
14. I swear this Affidavit in support of an Application for an Order convening a meeting of the members of Peberco for the purpose of considering and, if thought fit, approving, with or without modification, a Scheme of Arrangement under Section 99 of the Companies Act 1981, and for no other or improper purpose.

SWORN by CHRISTOPHE RANGER)
in the City of Lyon, France)
on the 9 day of November 2009)
)
)
)

./...

SWORN BEFORE ME

./...Seen by the undersigned, Me Nathalie BEAUD ZURCHER a duly authorized Notary Public in Geneva, for legalisation exclusively of the above signature of Mr. Christophe Pierre Jean RANGER. The undersigned Notary assumes no responsibility as to the content of the present document:-
mm/Geneva, November 9th 2009.-



Notaire Public
KELLER CLAYTON & BEAUD ZURCHER
S.A. 1000
1000, rue de la Gare - 1204 GENEVE



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OF
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DARROIS VILLEY MAILLOT BROCHIER

Association d'avocats à la Cour d'appel de Paris à responsabilité professionnelle individuelle
(Association of lawyers at the Paris Court of Appeal with individual professional liability)

Paris, September 10, 2009

Maitre Philippe JORDAN
1 Place Ville Marie
MONTREAL QC H3B 4T9

Dear Mr. Jordan,

You asked for my account of the dealings between Cuba Petroleum and Peberco in which I took part in order to contribute to an analysis of the risk of a claim being initiated against Peberco in the future.

For these purposes, I feel that three steps are relevant:

The negotiations ending in the agreement to assign the rights to the share in oil production and the debt, signed on January 14, 2009 (the "Agreement"), as well as the terms of the Agreement,

The terms and conditions for completion of the assignment of production rights and the account receivable held by Peberco,

And, lastly, the behaviour of the Cuban representatives towards Peberco prior to the agreement being executed.

1. Negotiations and terms of the Agreement

I became involved in negotiating and drafting the Agreement late in the process.

I participated in a meeting in Cuba at the end of which a final agreement had still not been reached with the Cuban representatives. I should specify that Messrs. Ranger and Frachon had visited Cuba several times before the meeting in order to meet with these same representatives.

EXHIBIT
"A"

The main point of disagreement concerned the identity of the party that would support the claim of Sherritt, which could accuse Peberco of having stipulated on its behalf as to its rights to the assigned assets and the account receivable as well as to the amount paid by the Cuban authorities, which had always been a single amount, all things considered, with respect to the assignment of rights and the payment of the account receivable.

In fine, the Cuban authorities agreed to pay an amount close to Peberco's last requirements, namely US\$140 million, and Peberco agreed that in the terms of the Agreement, the Cuban authorities would not take into account the claims that Sherritt might have.

Peberco and Sherritt entered into agreements under which the two parties gave each other release.

These negotiations were followed at the highest political level in Cuba, i.e., by the Vice Prime Minister.

As for the terms of the Agreement, I note:

- i) That the payment by Cupet to Peberco is net of all income taxes, deductions, withholdings, etc. abandoned by the Cuban authorities (section 3, last paragraph);
- ii) That the Cuban party assumes and undertakes to maintain all agreements concluded by Peberco related to the hydrocarbon production sharing agreement and that Peberco is released from any obligations in this respect (section 4.2);
- iii) That the rights of all active personnel of Peberco are taken over purely and simply by Cupet;
- iv) That the parties recognize that, subject to execution of the clauses of the Agreement, they have no claim against each other. Peberco has punctually fulfilled all of its obligations under the Agreement. The renunciation of claims by the Cuban party is therefore complete.
- v) Moreover, Peberco released Cupet from any liability related, directly or indirectly, to any agreement with third parties concerning the production sharing agreement until the effective date of the Agreement.

2. Agreement execution

The Agreement states that the payment in the amount of US\$140 million is to be transferred from the Central Bank of Cuba to the Sabadell Bank in Madrid.

Completion of the transfer of assets is dependent on the amount of US\$140 million being credited to Peberco's bank account opened at the Sabadell Bank.

It was not difficult for any Cuban creditor, in a transaction that was common knowledge in Cuba, to file an adverse claim with the Sabadell Bank on the amounts credited in its books to Peberco's account. Similarly, the Cubans were informed that the amount of US\$140 million was subsequently transferred from Peberco's account at the Sabadell Bank to Peberco's account at BNP Paribas in Geneva.

The BNP Paribas account was well known to the Cubans as the receptacle for past payments when Cuban entities paid for the oil delivered by Peberco. In addition, on the day of closing in Madrid, two representatives of the Cuban authorities were on hand when the transfer was debited from the Central Bank of Cuba account at Sabadell and credited to the account opened by Peberco at that same bank.

Any action of this type by a creditor would not have prevented the execution of the Agreement because Peberco had received in its account, as identified in the Agreement, the amount specified therein.

The absence of any claim or action of this type seems to show that no private or public entity creditor existed in Cuba at that time; otherwise, such a creditor would not have failed to act as indicated above.

3. Actions subsequent to completion of the sale

Pursuant to the clauses of the Agreement, the Cubans and Peberco signed specific agreements to transfer the assigned assets. Among other things, Peberco proposed to Cupet that it take over its premises in Havana. Cupet declined, but in the end another State entity (Petrar) took possession of the premises from the Lessor, which is also a State entity.

Peberco representatives (Messrs. Ranger and Frachon) went to Cuba.

Finally, as regards the justification for the income taxes paid to Cuba (see section 4.1 of the Agreement), the related certificates were given with respect to receivables collected by Peberco over the time the Agreement was being executed.

It has been noted that because the transaction related to the Agreement resulted in a loss (since the receivables held by Peberco totalled US\$300 million and the price to purchase such receivables and the assets is only US\$140 million), no income tax was owed to Cuba in this regard.

From that moment on, the certificates issued satisfy the commitment made by the Cuban authorities in section 4.1 of the Agreement.

I observe that the Cubans executed the Agreement under such conditions as to not cause any claims to be expressed in respect of Peberco. Since the Agreement was signed, the related transactions that were specified therein have taken place without any claims being made, including when Peberco's representatives were physically on Cuban soil.

Sincerely,
[signature]
Alain MAILLOT

**IN THE SUPREME COURT OF BERMUDA
COMPANIES (WINDING UP) JURISDICTION
2009 No.**

**IN THE MATTER OF PEBERCO LIMITED (In Liquidation)
AND IN THE MATTER OF SECTION 99 OF THE COMPANIES ACT 1981
AND IN THE MATTER OF AN APPLICATION BY PEBERCO LIMITED (In
Liquidation)**

EXHIBIT "A"

This is the Exhibit referred to in the Affidavit of Philippe Jordan marked "A" sworn on the 5th day of November, 2009.

**IN THE SUPREME COURT OF BERMUDA
COMPANIES (WINDING UP) JURISDICTION**

2009 No.

IN THE MATTER OF PEBERCO LIMITED (In Liquidation)

AND IN THE MATTER OF SECTION 99 OF THE COMPANIES ACT 1981

**AND IN THE MATTER OF AN APPLICATION BY PEBERCO LIMITED (In
Liquidation)**

EXHIBIT "A-1"

This is the Exhibit referred to in the Affidavit of Philippe Jordan marked "A-1" sworn on the 5th day of November, 2009.

**IN THE SUPREME COURT OF BERMUDA
COMPANIES (WINDING UP) JURISDICTION**

2009 No.

IN THE MATTER OF PEBERCO LIMITED (In Liquidation)

-and-

**IN THE MATTER OF
SECTION 99 OF THE COMPANIES ACT 1981**

SCHEME OF ARRANGEMENT

between

PEBERCO LIMITED (IN LIQUIDATION)

-and-

ITS MEMBERS

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IMPORTANT NOTICE

This document is prepared in connection with the Proposed Scheme of Arrangement pursuant to Section 99 of the Companies Act 1981 between Peberco Limited and its Member.

Please note that none of the Liquidator(s), their legal advisors nor any of their representatives, partners, staff or agents shall incur any personal liability under or in connection with the Scheme or otherwise.

CONTACT DETAILS

The Liquidator
Mr. Philippe Jordan
Samson Belair/Deloitte & Touche Inc.
1 Place Ville-Marie
Suite 3000
Montreal, Quebec
Canada H3B 329

Peberco Limited (Liquidator Appointed)
Registered Office
Clarendon House
2 Church Street
Hamilton HM12
Bermuda

Legal Advisors to the Liquidator and Peberco Limited

Mello Jones & Martin
"Thistle House"
4 Burnaby Street
Hamilton HM11
Bermuda
(441) 292-1345 (w)
(441) 296-4555 (f)

PRELIMINARY

1. DEFINITIONS

1.1 Capitalized terms in this Scheme shall have the same meaning as described below, unless defined otherwise.

| | |
|------------------------------------|--|
| “Act” | means the Bermuda Companies Act 1981 (as amended) |
| “Bermuda Court” | means the Supreme Court of Bermuda |
| “Canadian Liquidation” | means the provisions contained in and set out in the <i>Canada Business Corporations Act</i> (the “CBCA”) governing the Corporation pursuant to which the Corporation has initiated its liquidation with a view toward dissolution, the whole under the supervision of the Canadian Court |
| “Canadian Court” | means the Commercial Chamber of the Superior Court of Quebec, District of Montreal and, as applicable, the Quebec Court of Appeal and the Supreme Court of Canada |
| “Claim” | without limiting the generality of the foregoing, Claims will include any obligation of Peberco based on facts that would have taken place, on any commitment that would have been made and on any responsibility that may have been incurred, in whole or in part, on July 9, 2009 [being the date of the judgment appointing Samson Belair/Deloitte & Touche and authorizing the Claim process for the Corporation on July 9, 2009], whether the alleged obligation be contractual or extra-contractual or based solely on the law or in equity, present or future, known or unknown, conditional or absolute, due or to become due, liquidated or not, in law or in equity, guaranteed or not, including all interest and indemnities susceptible to accrue on this obligation, should the claim be admitted or contested and should it be the object of judicial proceedings on July 9, 2009 or not. |
| “Claims of the Corporation” | has the meaning ascribed thereto in the Articles of arrangement of the Corporation dated June 3, 2009 |
| “Claimant” | means any person who has or who claims to have a Claim against Peberco or any of its directors, officers, employees and representatives in connection with the operation of Peberco’s business |
| “Claims process” | means the process described herein to identify and evaluate the merit and amount of the Claims, as well as any additional procedure put in place by the Bermuda Court to fulfill the Claims |
| “Corporation” | means Pebercan Inc., a corporation governed by the CBCA, operating under a Plan of Arrangement governed by the Canadian Court to proceed with its liquidation and dissolution |
| “Deadline for Claims” | means 5:00 pm, Atlantic time, August 17, 2009, or any subsequent date established by the Bermuda Court |

| | |
|------------------------------------|--|
| “Deeds of Indemnity” | means the Indemnities executed on April 14, 2009 by the Corporation in favour of Peberco, agreeing to indemnify and hold harmless Peberco, all directors and officers and any person executing a Declaration of Solvency from, inter alia, and any all Claims against Peberco |
| “Effective Date” | means the date upon filing of the Order sanctioning the Scheme of Arrangement with the Registrar of Companies |
| “Liquidator” | means Philippe Jordan, of Samson Belair/Deloitte & Touche |
| “Notice to Claimants” | means the written notice published in newspapers to advise Claimants of the Claims process in conformity with the Act. |
| “Peberco” | means Peberco Limited, a corporation constituted under the laws of Bermuda and a wholly-owned subsidiary of the Corporation |
| “Pebermat” | means Pebermat Limited, a corporation constituted under the laws of Bermuda and a wholly owned subsidiary of the Corporation. |
| “Person” | means any individual, legal person, partnership, patrimonial trust, including, without limiting the generality of the foregoing, a company, an association, a corporation, a cooperative or any other type of business association, their successors, liquidators, directors or other legal representatives, in accordance with the applicable laws of Bermuda |
| “Proof of Claim Form” | means the prescribed form for filing of a Proof of Claim with the Liquidator substantially in the form of the documents joined as Exhibit “F” in the Affidavit of Philippe Jordan |
| “Scheme” | means the Scheme of Arrangement being proposed between Peberco and the Corporation as its sole Member, and subject to sanction by the Bermuda Court. |
| “Scheme Documents” | means the documents filed in support of the Scheme being proposed between Peberco and its Member. |
| “Scheme Meeting” | means the written resolution of the Corporation in its capacity as sole shareholder of Peberco approving the Scheme of Arrangement |
| “The Director’s Resolution” | means the special resolution of the Member, approving the dividend payment to the Corporation, reduction in paid-up share capital, the voluntary winding-up of Peberco and the appointment of Philippe Jordan of Samson Belair/Deloitte & Touche as Liquidator. |

1.2 In the Scheme (and unless the context otherwise requires):

- (a) references to clauses are references to clauses of the Scheme and references to pages and Appendices are references to pages and Appendices of this document;

- (b) references to a person shall be construed as including references to an individual, firm, company, corporation, unincorporated body of persons or any state or agency thereof;
- (c) references to the date of a document, form, notice or report mean the date shown on such document, form, notice or report as the date;
- (d) references in the Scheme to Samson Belair/Deloitte & Touche shall be deemed to refer to any successor firm or business entity or such other firm or business entity from which a duly appointed Scheme Administrator for the time being holding office practices;
- (e) reference to Business Days is to Business Days in Bermuda and in Canada unless otherwise indicated;
- (f) the singular includes the plural, the masculine, the feminine and vice versa;
- (g) headings are given for ease of reference only and shall not affect the interpretation of the Scheme;
- (h) reference to any statute or statutory provision include the same as re-enacted or consolidated; and

THE SCHEME - GENERAL

2. HISTORY

- 2.1 On the 9th of February 2009, pursuant to an agreement between Peberco and Cuba Petreoleo S.A. ("CUPET") for the premature termination of the Oil Production Sharing Agreement and the assignment of accounts receivables (the "Agreement"), Peberco received an amount of US\$140 million.
- 2.2 On the 25th of March 2009, Pebermat and Peberco, two subsidiaries wholly owned by the Corporation were amalgamated, and continue under the corporate name Peberco.
- 2.3 On the 14th of April 2009, the Deeds of Indemnity were executed by the Corporation.
- 2.4 On the 26th of May 2009, a Special Meeting of all security holders of the Corporation was held, approving a Plan of Arrangement.
- 2.5 On the 1st of June 2009, the Plan of Arrangement was approved by the Canadian Court.

- 2.6 On the 30th of June 2009, the Members' Voluntary Winding-Up Declaration of Solvency was executed pursuant to the Act.
- 2.7 On the 6th of July 2009, the Canadian Court issued an order pursuant to the CBCA and a Plan of Arrangement approving a Claims process for the Corporation and appointing Samson Belair/Deloitte & Touche as Monitor in order to conduct such Claims process.
- 2.8 On the 9th of July 2009, a Member Resolution approving the voluntary liquidation of Peberco and appointing Samson Belaire/Deloitte & Touche as liquidator was executed.

THE SCHEME - GENERAL

3. EFFECTIVE DATE AND CONDITIONALITY

- 3.1 The Scheme shall come into operation on the Effective Date if:
- (a) it has been approved with or without modification by way of written resolution by the member of Peberco;
 - (b) the Bermuda Court subsequently makes an Order sanctioning the Scheme; and
 - (c) a copy of the Order granted by the Bermuda Court is delivered to the Registrar of Companies in Bermuda for registration;
- 3.2 Peberco shall be bound by the Scheme upon approval by the Corporation.

4. SCHEME PROPOSAL

- 4.1 Peberco is undertaking a Scheme of Arrangement under the Act with the Bermuda Court. The overall objective of the Scheme is to obtain authorization of an agreement whereby Peberco would waive the provisions of the Deeds of Indemnity of which it is a beneficiary contained in the Deeds of Indemnity in exchange for the Corporation treating all valid post-liquidation Claims against Peberco by any Claimants as Claims of the Corporation, to be administered in accordance with the Canadian Liquidation.

- 4.2 The Canadian Court has been advised of the existence of Peberco, the intention for an application for liquidation order under the applicable provisions of Bermuda Law, and has not opposed that the liquidation process for Peberco could be done under the auspicious of the Canadian Liquidation.
- 4.3 Joint liquidation supervised by the Canadian Court is appropriate since:
- (a) Similar issues would be before each of the Bermuda court and the Canadian court;
 - (b) Similar status provisions are under consideration;
 - (c) No creditor exists in Bermuda;
 - (d) There would be economy of administration.
- 4.4 If the proposed Scheme is rejected by the Bermuda court the liquidation process currently underway for Peberco would not be affected in any way.
- 4.5 For the purpose of complying with the terms of the Act, it is necessary to convene a meeting, for the purposes of considering and, if thought fit, approving the Scheme. The Originating Summons herein seeks directions of the Court as to the matters of convening the meeting.
- 4.6 It is suggested that the proposed meeting to approve the Scheme be done by way of written resolution by the sole member of Peberco, the Corporation, and that any notice and formality associated in the said meeting be waived.
- 4.7 Upon the approval and sanction of the Scheme by the Bermuda Court, Peberco will be voluntarily wound-up pursuant to the Act.

5. UPON THE EFFECTIVE DATE

- 5.1 As of the Effective Date, the Deeds of indemnity by the Corporation of which Peberco is a beneficiary, contained in the Deeds of Indemnity shall be released and duly discharged;
- 5.2 As of the Effective Date, any valid post-liquidation Claims by any Claimants shall be accepted as a Claim of the Corporation and administered in accordance with the Canadian Liquidation-;
- 5.3 Peberco Limited shall be voluntarily wound-up within twelve (12) months of the Effective Date-; and
- 5.4 The provisions of section 260 of the Act shall not apply to the liquidation of Peberco, and therefore, no Claim shall be admitted as proof in the liquidation of Peberco, except in accordance with section 5.2 above.

6. SCHEME EXPENSES

- 6.1 All costs, charges and expenses of and incidental to the Scheme, and the performance by the Liquidator of their functions pursuant to the Orders appointing them as joint and several provisional liquidators of the relevant Companies shall be paid by the Corporation.

MISCELLANEOUS PROVISIONS

7. EXCLUSIONS AND ACKNOWLEDGEMENTS BY THE MEMBERS

- 7.1 The Corporation, as sole member of Peberco, acknowledges and agrees that:
- (a) it has no recourse against the Liquidator or the Liquidators' respective advisers for the purposes of the Scheme or has any other related claim whatsoever or for any reason;

- (b) the approval of and the terms of this Scheme is fair and reasonable;
and
- (c) the Liquidator and their respective advisers (legal, financial or otherwise) shall not incur any personal liability of any kind under, or by virtue of, or in relation to any related matter or claim, whether in contract, tort or restitution or by reference to any other remedy or right, in any jurisdiction or forum, save for in respect of fraud committed by them.

8. INDEMNITY BY THE CORPORATION

8.1 The indemnity contained in the Deeds of Indemnity in favour of all beneficiaries other than Peberco shall survive and remain unaffected by this Scheme:

8.2 For the avoidance of doubt, all beneficiaries (except Peberco) to the Deeds of Indemnity shall continue to be able seek indemnity or initiate proceedings for all valid post-liquidation claims of Peberco in accordance with the Canadian liquidation of the Corporation.

9. VALIDATION

9.1 Notwithstanding a subsequent discovery that there was some defect in the procedure for calling or voting at any meetings, or the passing of resolutions, or the appointment of a Liquidator or that any of them was not eligible for appointment pursuant to the provisions of the Scheme, all acts done by the Liquidator, or any of them, shall be valid as if every such procedure had been correctly adhered to and every such person had been duly appointed and was so eligible, provided that, in the case of any meeting in respect of which such a defect in discovered, that meeting was quorate.

10. MODIFICATION OF THE SCHEME

- 10.1 The Corporation as sole member of Peberco may consent to any modification of or addition to the Scheme or to any items or conditions which the Bermuda Court may think fit to approve or impose at any hearing of the Bermuda Court to sanction or give directions in respect of the Scheme, whether in accordance with Section 99 of the Act or otherwise.

11. GOVERNING LAW AND JURISDICTION

- 11.1 The Scheme shall be governed by, and be construed in accordance with the laws of Bermuda. The Bermuda Court shall have exclusive jurisdiction to hear and determine any dispute or Proceedings arising out of the approval and sanction-of the Scheme.

- 11.2 Any dispute or proceedings relating to the implementation and execution of the Scheme shall be subject to the exclusive jurisdiction of the Canadian Court in accordance with the Canadian Liquidation.

**IN THE SUPREME COURT OF BERMUDA
COMPANIES (WINDING UP) JURISDICTION**

2009 No.

**IN THE MATTER OF PEBERCO LIMITED (In Liquidation)
AND IN THE MATTER OF SECTION 99 OF THE COMPANIES ACT 1981
AND IN THE MATTER OF AN APPLICATION BY PEBERCO LIMITED (In
Liquidation)**

EXHIBIT "A-2"

This is the Exhibit referred to in the Affidavit of Philippe Jordan marked "A-2" sworn on the 5th day of November, 2009.

**IN THE SUPREME COURT OF BERMUDA
COMPANIES (WINDING UP) JURISDICTION**

2009 No.

**IN THE MATTER OF PEBERCO LIMITED (In Liquidation)
AND IN THE MATTER OF SECTION 99 OF THE COMPANIES ACT 1981
AND IN THE MATTER OF AN APPLICATION BY PEBERCO LIMITED (In
Liquidation)**

EXPLANATORY STATEMENT

This Explanatory Statement constitutes the Statement required under Section 100 of the *Companies Act 1981* (as Amended).

1. INTRODUCTION

1.1 As a Member, you are requested to consider the Proposal for the Scheme and the terms and conditions herein contained.

1.2 This Explanatory Statement sets out the background and the effect of the Scheme and explains why you should consider voting in favour of the Scheme as recommended by the Liquidator and the Board of Directors of the Company ("the Board"). The recommendation of the Liquidator and the Board is set out in Clause 17 of this Explanatory Statement.

1.3 Unless the context otherwise requires, the capitalized terms used herein shall have the same meaning as set out in the definition section of the Scheme.

2. EXECUTIVE SUMMARY

2.1 Objective of the Scheme:

- (a) The primary object of the Scheme is to achieve the voluntary winding-up of Peberco Limited ("Peberco") within twelve (12) months and to provide a mechanism for potential unknown creditors to make a claim in the liquidation of the "Corporation" under the Indemnity;
- (b) Any and all potential creditors of Peberco will be able to participate and thereby advance any post-liquidation claims in the Canadian Liquidation of the Corporation, and under the supervision of the Canadian Court;
- (c) The period during which post-liquidation claims may be filed in relation to Peberco will be a maximum of two years from the date of the order, thereafter the ability of any potential creditors to claim as against Peberco is cut off and thereby limited in accordance with the Scheme;
- (d) Any potential creditors of Peberco will not be prejudiced or otherwise compromised by the scheme, and in fact, will be in a better position by being able recover any potential claims in accordance with the Canadian Liquidation of the Corporation;

- (e) On the Effective Date (as defined in the Scheme), there will be a release of the Deeds of Indemnity granted by the Corporation to Peberco;

2.2. This is the Explanatory Statement regarding the Scheme as required by Section 100 of the Act, a copy of which is comprised within the Scheme documents referred to in Paragraph 4 of the Affidavit of Philippe Jordan.

2.3 For the reasons given, it is appropriate to convene a meeting to consider, and if thought fit, approve the Scheme proposed by Peberco and its members for the following reasons:

- (a) The Canadian Court has been advised of the existence of Peberco, the intention for an Application for Liquidation order applicable to the provisions of Bermuda law, and has not opposed that the liquidation process for Peberco could be accomplished under the auspices of the Canadian liquidation;
- (b) The joint liquidation supervised by the Canadian Court is appropriate since:
 - (i) Similar issues would be before each of the Bermuda Court and the Canadian Court;
 - (ii) Similar statutory provisions are under consideration;
 - (iii) No creditors exist in Bermuda;
 - (iv) There would be economy of administration.
- (c) It will permit the Canadian Court to monitor the process for Peberco claims that could affect the liquidation of the Corporation;

- (d) It will shorten the period during which post-liquidation claims may be filed in relation to Peberco from ten (10) years to a maximum of two (2) years;
- (e) It will allow the early cancellation of the Deeds of Indemnity granted by the Corporation to Peberco.
- (f) The effect of the Scheme will be to extend the claims period for potential creditors of Peberco for up to an additional two years under the Canadian Liquidation of the Corporation.

2.4 If the proposed Scheme is rejected by this Court, the liquidation process currently under way for Peberco will not be affected in any way.

2.5 Pursuant to an Order made by this Honourable Court on the [x] day of November 2009, Peberco convened a meeting of the Members by way of written resolution for the purpose of considering, and if thought fit, approving (with or without modification) the Scheme, and the Court appointed Philippe Jordan, to report the outcome of the meeting by way of written resolution to the Court.

3. **BACKGROUND**

3.1 Peberco is a Bermuda exempted Company and was duly registered on or about the 6th day of October 1996 in the office of the Bermuda Registrar of Companies. At all material times, the registered office of Peberco was situate at Clarendon House, 2 Church Street, Hamilton HM 11, Bermuda.

3.2 The Corporation is governed by the *CBCA*, having its head office at 750 Marcel-Laurin Boulevard, Suite 106, Montreal (Saint-Laurent), Quebec, Canada. The Corporation was listed on the TSX since 1995. Its primary function was to act as holding and co-ordinating company of a number of subsidiaries Companies. Primarily, these

Companies were involved in the exploration, development and exploitation of oil reserves in the Republic of Cuba.

- 3.3 Pebermat Limited (“Pebermat”) was incorporated as a Bermuda exempted company, and at all material times, had its registered office situate at Clarendon House, 2 Church Street, Hamilton HM 11, Bermuda.
- 3.4 Peberco and Pebermat are two subsidiaries wholly-owned by the Corporation, and were amalgamated on March 25th, 2009. The newly merged entity continues to exist under the corporate name Peberco.
- 3.5 The Corporation holds 100% of the shares of Peberco, which constitutes all issued and outstanding shares.

4. LIQUIDATION EVENTS

- 4.1. The Corporation was engaged in the exploration, development and operation of oil reserves in the Republic of Cuba through its subsidiary Peberco, which was based in Bermuda. Oil exploitation was a joint operation with Sherritt International (Cuba) Oil and Gas Ltd. and Sherritt International Corporation (“Sherritt”).
- 4.2. Towards the end of 2008, the Cuban authorities notified Peberco that they wished to prematurely terminate the production-sharing contract, which was initially scheduled to expire in 2018. To do so, the Cuban authorities agreed to pay a lump sum payment of US\$140 million to Peberco in exchange for full settlement of debts owed to Peberco and the assumption of all Peberco’s obligations related to its operations in Cuba.
- 4.3 In or about January 14th, 2009, Peberco signed an Agreement with Cuba Petreola S.A. (“CUPET”) for the premature termination of the Oil Production - Sharing Agreement and the Assignment of Accounts receivable (the “Agreement”). Under this Agreement, Peberco agreed to the premature termination of the Hydrocarbon Production – Sharing Agreement initially executed on August 21st, 1993.

- 4.4 The parties to the Agreement agreed to give Sherritt a portion of the net amounts received from CUPET, or approximately US\$60 million to terminate the agreement between these two partners.
- 4.5 In or about February 2009, Peberco (along with the Corporation) entered into a settlement agreement with Sherritt, whereby it was agreed that Peberco would terminate the Agreement effective February 9, 2009.
- 4.6 On February 20, 2009, the Corporation announced that it would put an end to its commercial operations and would distribute to its shareholders the net cash resulting from its share of the amounts received by Peberco from CUPET.
- 4.7 In exchange for Peberco declaring and paying a dividend of substantially all of its assets to its sole shareholder the Corporation, and seeking to commence a members voluntary liquidation of its wholly owned subsidiary Peberco, the Corporation executed Deeds of Indemnity agreeing to indemnify and hold harmless Peberco from, *inter alia*, any and all claims against Peberco during the course of the members voluntary liquidation.
- 4.8 On or about May 26th, 2009, the Corporation held a Special Meeting of its security holders, previously authorized by the Canadian court, during which a Plan of Arrangement was approved by over 99.7% of the votes cast by holders of common shares and of stock options present in person or represented by proxy.
- 4.9 On or about June 30, 2009, and following the decision to proceed with a Members' Voluntary Winding-Up of Peberco pursuant to the Act, both Gilles Frachon and Christophe Ranger executed the Declaration of Solvency in their capacity as Directors of Peberco.
- 4.10 In a judgment rendered on June 1, 2009 (the "Judgment"), the Canadian court made an order under the CBCA approving the arrangement.

- 4.11 On July 6, 2009, the Canadian court rendered an order pursuant to the terms of the CBCA and the Plan of Arrangement, approving a claims process for the Corporation and appointing Samson Belair/Deloitte & Touche Inc. as Monitor in order to conduct such claims process.
- 4.12 By resolution of the board of directors of Peberco on July 9, 2009, Samson Belair/Deloitte & Touche was appointed Liquidator of Peberco under the Act.

5. THE CLAIMS PROCESS

- 5.1 Peberco initiated a voluntary liquidation process in July 2009 after a resolution of the board of directors and the filing of a declaration of solvency with the Bermuda Registrar of Companies. This resolution was subsequently approved by the Corporation resolution in July 2009.
- 5.2 Following the above-noted procedures, Philippe Jordan of Samson Belair/Deloitte & Touche was appointed liquidator of Peberco and the Claims process was initiated. For the following reasons set out below, the board of directors is of the view that Peberco has no known creditors. The main reasons for this conclusion are the following:

First, an examination of the documentation by the Liquidator, and Bermuda and Canadian counsel of the Sherritt termination agreement.

Second, the Liquidator examined the records of Peberco and did not identify any existing or potential creditors, other than current service providers and professionals.

Third, the steps taken by Peberco and the Liquidator to identify on a good faith basis potential Cuban creditors.

- 5.3 On or about July 20, 2009, by priority post, an explanatory letter and a blank claim form to all known suppliers of Peberco from the last year of operations. To reduce the risks related to the completeness of the list provided to the Liquidator by Peberco's

management, the Liquidator conducted a series of tests using Peberco's accounting records. No omission of suppliers was noted on following that review.

- 5.4 Assisted by Canadian and Bermudian attorneys, all the legal documents that had been signed between Sherritt and Peberco were reviewed by the Liquidator. After reviewing these documents the Liquidator with their attorneys, it was believed that there were no longer any possible claims by Sherritt against Peberco following such termination, and there was therefore no reason to consider Sherritt as a potential claimant.
- 5.5 On or about July 15, 2009, a "Notice to Peberco Claimants of a Claims Process and a Deadline for Claims" was published in the *Bermuda Sun*, an English language paper in Bermuda.
- 5.6 The creditors were required to send their duly completed proof of claim to the attention of Philippe Jordan at Samson Belair/Deloitte & Touche before August 17, 2009 being the Deadline for Claims. To date, none of the known suppliers have responded with any claims.

6. CUBAN CLAIMS PROCESS

- 6.1 All Cuban suppliers connected with CUPET were excluded from the Claims Process noted above. Specifically, the Liquidator did not send a blank claim form to all Cuban suppliers connected with Peberco, in order to allow time to review legal and other documents that had been signed between Peberco and CUPET and which, according to management and its attorneys, could justify the absence of claims, as in the case of Sherritt.
- 6.2 Following the review of these documents and after holding multiple discussions with key participants for Peberco (including its attorneys) in the negotiation process with CUPET, the Liquidator of Peberco concluded the documents should as a matter of prudence, be notice on the Cuban authorities in order to confirm such absence of claims.

6.3 Accordingly, the most effective way to accomplish this would have been to publish a notice in a Cuban newspaper. Unfortunately, it was discovered that avenues for publication of a call to creditor's document and a related process do not exist in Cuba. Specifically, only State-owned companies or companies that have a contract with the State are allowed to publish a call to creditors. Due to the termination of the Agreement, this option was no longer available to Peberco.

6.4 Notwithstanding the above noted limitations on the ability to publish a notice or call to creditors in Cuba, the following steps were taken by Maritza Hernandez, a former employee of Peberco, to have the closure of Peberco published:

(i) The publication of the closure of Peberco does not appear in the Archives on digital media in the Ministry of Justice – La Gaceta Oficial, probably due to the fact that the procedure has not yet been completed and no disclosure has been provided to date. A request was made to possibly publish something in respect of the business in question (Peberco), however, Ms. Hernandez was advised that it was not possible and was directed to contact the Merchant Registry.

(ii) Ms. Hernandez contacted the Merchant Registry and was informed that nothing had been published concerning the closure of Peberco. For that purpose, an official request would have to be submitted to the Merchant Registry so that the corresponding Certificate of Closure could be sent and later published.

(iii) Ms. Hernandez contacted Diomir Hernandez Torres (Legal adviser to Comercial CUPET), and was advised that the official request had been sent to the Merchant Registry on September 1st, 2009. She was further advised that this request would result in the issuance by the Merchant Registry of a Certificate of Closure which would be forwarded in due course. Mr. Torres agreed to resubmit the request in order to shorten the wait time and advise us of any developments

in the interim. To date, we have yet to receive a copy of the Certificate of Closure or confirmation that it has been issued.

- (iv) Ms. Hernandez contacted Dr. Juan A. Fleites Melo (Legal adviser to MINBAS), and was advised that publishing business closures is not a common practice in Cuba. Specifically, only the Merchant Registry is authorized, upon official request, to issue a Certificate of Closure.

6.5 In or about September 2009, the Liquidator requested that Mr. Alain Maillot, counsel to Peberco at that time of the termination negotiations with Cuba Petreola and Peberco, provide his account in order to contribute to analysis of the risks of a claim being initiated against Peberco in the future by a Cuban claimant.

6.6 As noted above, the Cuban Authorities agreed to pay US\$140,000,000.00 to Peberco, and in consideration in the terms of the Agreement, the Cuban Authorities agreed not to take into account any claims that Sherritt might have. Please note that these negotiations were followed at the highest political level in Cuba by the Vice Prime Minister.

6.7 Pursuant to the terms of the Agreement, Mr. Maillot advised that:

- (a) The payment by CUPET to Peberco is net of all income taxes, deductions, and withholdings etc., which were abandoned by the Cuban Authorities;
- (b) The Cuban Authorities assumed and undertook to maintain all Agreements concluded by Peberco related to the Hydro-Carbon Production Sharing Agreement and that Peberco was released from any obligations in this respect;
- (c) The rights of all active personnel of Peberco were taken over purely and simply by CUPET;

- (d) The Parties to the Agreement recognized that, subject to the execution of the clauses of the Agreement, they have no claim against each other. Furthermore, Peberco punctually fulfilled all of its obligations under the Agreement, and accordingly, the renunciation of claims by the Cuban party (or authority) is complete;
- (e) Moreover, Peberco released CUPET from any liability related, directly or indirectly, to any Agreement to third parties concerning the Production Sharing Agreement until the effective date of the Agreement.

6.8 Pursuant to the terms of the Agreement, the payment to Peberco was to be transferred from the Central Bank of Cuba to the Sabadell Bank in Madrid. Based upon the information provided by Mr. Maillot, any Cuban creditor, with little need for investigation, since the transaction was common knowledge in Cuba, could file an adverse claim with the Sabadell Bank on the amounts credited in its books to Peberco's account. Similarly, the Cuban parties were informed of the amount of US\$140,000,000.00 was subsequently transferred from Peberco's account at the Sabadell Bank to Peberco's account at BNP Paribas in Geneva.

6.9 Mr. Maillot further advised that the BNP Paribas account was well known to the Cuban parties (or authority) as the receptacle for past payments when Cuban entities paid for the oil delivered by Peberco. In addition, on the day of closing in Madrid, two representatives of the Cuban Authorities were on hand when the transfer was debited from the Central Bank of Cuba account at Sabadell, and thereby credited to the account opened by Peberco at the same bank.

6.10 Any action of this type by a Creditor would not have prevented the execution of the Agreement because Peberco had received in its account, as identified in the Agreement, the amount specified therein. More specifically, the absence of any claim or action of this type indicates that no private or public entity creditor existed in Cuba at that time, otherwise, such Creditor would not have failed to act as indicated above.

- 6.11 Moreover, it appears that the Cuban Authorities executed the Agreement under such conditions as to not cause any claims to be expressed in respect of Peberco. The Agreement was signed, the related transactions that were specified therein have taken place without any claims being made, including when Peberco's representatives were physically on Cuban soil.
- 6.12 All reasonable steps have been undertaken or pursued to identify all valid post liquidation claims of Peberco, and more specifically, any actual, contingent or perspective Cuban creditors.
- 6.13 All reasonable and necessary process were pursued within the restricted framework allowed in the Republic of Cuba to identify any actual, contingent or perspective creditors in Cuba, as well as making the request for publishing the closure of Peberco.
- 6.14 To date, no known or unknown suppliers and/or creditors in Cuba have responded with any claims, actual, contingent or perspective. Specifically, these efforts have not resulted in the identification of any active creditors in Cuba for Peberco.
- 6.15 All valid post liquidation claims of Peberco by any actual, contingent or perspective creditors in Cuba of Peberco shall be treated as claims of the Corporation and handled in accordance with the Canadian liquidation. Accordingly, there is no prejudice to any actual, contingent or perspective creditors in Cuba, and in fact, they will be in a better position for recourse and recovery within the Canadian liquidation process.

7. IDENTIFIED DEBTS AND OBLIGATIONS OF PEBERCO

- 7.1 The Claims Process did not result in the identification of any actual, contingent or prospective creditors for Peberco.
- 7.2 The efforts and steps taken in relation to the Cuban claims process did not result in the identification of any actual, contingent or perspective Creditors in Cuba.

8. VALUATION OF PEBERCO'S ASSETS

- 8.1 With the entirety of the amounts belonging to Peberco transferred to the Corporation in exchange for a Deeds of Indemnity to cover any possible claims, the sole asset that Peberco has today, is in fact, the Deeds of Indemnity.
- 8.2 The only value associated with the Deeds of Indemnity, would be an amount equal to the balance of known or potential claims against Peberco. Therefore, given the absence of any claims filed to date, no value can be assigned to the instrument at this time, and as such, it is believed that the valuation of Peberco's assets are nil.

9. THE LIQUIDATION PROCESS

- 9.1 Under the liquidation process currently underway, both the liquidation of the Corporation and Peberco are being carried out on an independent and parallel basis.
- 9.2 The Corporation is undertaking a voluntary liquidation pursuant to the CBCA, whereas Peberco is undertaking a voluntary liquidation under the *Act*.
- 9.3 That being said, in the absence of supervision by the Court, the Act provides that the dissolution of a company may be declared void on application by a creditor or other interested party within 10 years of the date of dissolution.
- 9.4 Given the ten (10) year period during which a creditor can pursue his claim notwithstanding the completed liquidation procedures, the existence of the Deeds of Indemnity between the Corporation and Peberco currently leaves an obligation that is today nil on the Corporation's balance sheet. This uncertainty of future claims may prevent or delay the orderly administration of the Canadian liquidation if a suitable mechanism is not adopted to bring certainty to the claims procedure in the Bermuda liquidation of Peberco.

- 9.5 In the absence of certainty, the liquidator will be required to carry out the difficult task of determining, for the entire period during which Peberco may be revived, a provision to cover any potential claim that may arise following the winding up of Peberco. In light of the fact that neither the directors nor the Liquidator have determined that there is any possible future or contingent Creditor, and no response has been received from any of the advertisements and other efforts Peberco has made, the uncertainty will work an injustice and cause unnecessary delay and expense to the administration of the Canadian plan of arrangement. Moreover, it is to be borne in mind that any Creditor who might appear thereafter will not participate in the distribution of the assets to the Member, or claim under the Indemnity, and the exposure to a potential Claim is entirely academic.

10. PROPOSED SOLUTION

- 10.1 To address this situation created by the aforesaid ten (10) year claims period, Peberco is proposing to undertake a Scheme of Arrangement under the Act with the sanction of the Bermuda Court. The overall objective of the Scheme would be to obtain authorization of an agreement whereby Peberco would agree to waive its Deeds of Indemnity of which it is a beneficiary from the Corporation in exchange for the Corporation agreeing, within the context of its Canadian liquidation, to treat all valid post-liquidation claims of Peberco in accordance with the Canadian liquidation of the Corporation.
- 10.2 If the proposed Scheme is rejected by this court, the liquidation process currently underway for Peberco would not be affected in any way.
- 10.3 If the Scheme is accepted by both the Bermuda and Canadian courts, the obligation of establishing a provision to cover possible claims stemming from the winding up of Peberco would continue for the Monitor of the Corporation. However, pursuant to the CBCA, Claimants will have the right to initiate proceedings against the shareholders of the corporation to the extent of amounts distributed to such shareholders within 2 years after the Corporation is dissolved.

- 10.4 Upon adoption of the Scheme and its sanction by the Bermuda Court, Peberco will be voluntarily wound-up pursuant to Section 99 of the Act.

11. INTERIM DISTRIBUTION BY THE CORPORATION

- 11.1 One of the key issues of the liquidator and Monitor is to accurately determine the amount that may be distributed on an interim basis. For the security holders, the timing of the distribution is as important as the accuracy of the amount of such distribution. For Peberco, there are certain tax incentives for distributing the amounts to the shareholders before Peberco is delisted from the stock exchange. The main incentive being the avoidance of certain tax withholdings on amounts intended for foreign security holders.
- 11.2 In order for any such distribution is carried out, the Court with the assistance of myself as Liquidator must consider the provision to be established for potential Peberco claims, the results of the claims process for Cuban suppliers and the provision for pending proceedings.
- 11.3 Please note that an interim distribution is not conditional on the expiration of the filing for potential claims (actual, contingent or perspective) in Peberco and on completion of all pending proceedings. The Liquidator believes that an initial distribution can be made to the shareholders of the Corporation, subject to this Court's approval (along with the Canadian Court's sanction).

12. MEETING

- 12.1 Once the resolution has been formally adopted, Philippe Jordan will report back to this Court by affidavit to report the results of the meeting by way of written resolution to this Honourable Court as soon as possible thereafter.

13. THE SCHEME

13.1 The primary object of the Scheme, if sanctioned, is to provide for the voluntary winding up of Peberco, along with the authorization of an agreement whereby Peberco would agree to waive the provisions of the Deeds of Indemnity of which it is a beneficiary contained in the Deeds of Indemnity in exchange for the Corporation treating all valid post-liquidation Claims against Peberco by any Claimant as Claims of the Corporation to be administered in accordance the Canadian Liquidation.

13.2 In accordance with the terms of the Scheme:

- (a) A mechanism for potential unknown creditors to make a claim in the liquidation of the Corporation under the Deeds of Indemnity will be provided for;
- (b) Any and all potential creditors of Peberco will be able to participate and thereby advance any post-liquidation claims as Claims of the Corporation in the Liquidation of the Corporation, and under the supervision of the Canadian Court;
- (c) The period during which post-liquidation claims may be filed in relation to Peberco will be two years from the date of the order, thereafter the ability of any potential creditors to claim as against Peberco is cut off and thereby limited pursuant to the Scheme;

- (d) Any potential creditors will not be prejudiced or otherwise compromised by the scheme, and in fact, will be in a better position by being able to access any potential claims through the Corporation in accordance with the Canadian Liquidation;
- (e) On the Effective Date (as defined in the Scheme), the Deeds of Indemnity by the Corporation of which Peberco is a beneficiary, contained in the Deeds of Indemnity shall be released and duly discharged;
- (f) As of the Effective Date, any valid post-liquidation Claims by any Claimants shall be accepted as a Claim of the Corporation and administered in accordance with the Canadian Liquidation.

13.3 In accordance with the laws of the Bermuda, the Scheme shall only become effective and binding on the members upon an office copy of the Order of the Court sanctioned Scheme being delivered to the Registrar of Companies in Bermuda for registration.

13.4 The Scheme may not prevent Creditors from taking action against the Company in jurisdictions outside Bermuda in the event that the proper law of the Contract governing the debt is not Bermuda law.

14. VOTING

14.1 The Member shall vote on the Scheme by way of written resolution.

15. TERMINATION OF THE SCHEME

15.1 The Scheme will terminate on the date when Peberco is wound up in accordance with the terms of the Scheme.

15.2 Peberco shall give notice of the date of termination of the Scheme to the members as soon as practicable after termination.

16. NOTICE OF MEETING

16.1 In accordance with the directions of the Court, the meeting will be convened by way of written resolution for the purpose of considering and approving the Scheme.

16.2 In accordance with the direction of the Court, any notice required for such a meeting is hereby waived.

17. RECOMMENDATION FOR THE SCHEME

17.1 The Scheme of Arrangement is hereby recommended for the following reasons:

- (a) it will permit the Canadian Court to monitor the process for Peberco claims that could affect the liquidation of the Corporation;
- (b) it will eliminate the risk of an application being made to declare the dissolution of Peberco void;
- (c) It will allow the early cancellation of the Deed of Indemnity granted by the Corporation to Peberco;

- (d) it will allow the orderly and timely voluntary winding up of Peberco.
- (e) the effect of the Scheme will be to extend the claims period for potential creditors of Peberco for up to an additional two years under the Canadian Liquidation of the Corporation.

18. REPORT OF THE MEETING

18.1 At the direction of the Court, Philippe Jordan was appointed to report on the meeting by way of written resolution.

19. CAPACITY OF THE LIQUIDATOR

19.1 The Liquidator, neither the legal advisors nor any of their representatives, partners, staff or agent shall incur any personal liability under the terms of the Scheme or otherwise.

20. DOCUMENTS AVAILABLE FOR INSPECTION

20.1 A copy of the documents set out in Schedule I of this document are available for inspection by the members upon reasonable prior notice to Peberco through the Liquidators at 750 Marcel-Laurin Boulevard, Suite 106, Montreal, Quebec, Canada, and at Mello Jones & Martin, attorneys for the Liquidator at “Thistle House”, 4 Burnaby Street, Hamilton HM11, Bermuda.