



**IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION**

CAUSE NO: FSD OF 2023 ()

IN THE MATTER OF SECTION 15 OF THE COMPANIES ACT (2023 REVISION)

**AND IN THE MATTER OF REDUCTION OF SHARE CAPITAL OF ITOCHU OIL
EXPLORATION (BTC) INC.**

PETITION

TO: THE GRAND COURT

THE HUMBLE PETITION of ITOCHU Oil Exploration (BTC) Inc., whose registered office is the offices of Intertrust Corporate Services (Cayman) Limited, One Nexus Way, Camana Bay, Grand Cayman, KY1-9005, Cayman Islands **SHOWS THAT:**

Background

1. ITOCHU Oil Exploration (BTC) Inc. (the "**Company**") was incorporated on 4 June 2002 as an exempted company limited by shares under the Companies Act (as amended) (the "**Companies Act**").
2. The Company was formed for the purpose of enabling its shareholders to jointly invest in the Baku-Tbilisi-Ceyhan Pipeline Company ("**BTC Co.**"). The objects for

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which the Company was formed are unrestricted, and the Company has full power and authority to carry out any object not prohibited by the Companies Act.

Share Capital and Shareholders of the Company

3. There are currently only two shareholders of the Company holding ordinary shares:
 - a. ITOCHU Corporation, whose registered office is at 1-3, Umeda 3 Chome, Kita-ku, Osaka, Japan ("**ITOCHU Corp**"), which holds 44,031,000 ordinary shares in the Company; and
 - b. Japan Organization for Metals and Energy Security (formerly known as Japan Oil, Gas and Metals National Corporation), whose registered office is at 10-1, Toranomom 2 Chome, Minato-ku, Tokyo, Japan ("**JOGMEC**"), which holds 41,567,000 ordinary shares in the Company,

(together, the "**Shareholders**").
4. There are no preference shares in issue.
5. The Company was incorporated on 4 June 2002 with an authorised share capital of US\$100,000,000 consisting of 83,000,000 ordinary shares of US\$1.00 each and 17,000,000 preference shares of US\$1.00 each. Its issued share capital as at 4 June 2002 was US\$1.00 consisting of 1 ordinary share of US\$1.00.
6. From the incorporation of the Company until 22 March 2004, the Company:
 - a. issued a total of 73,083,000 ordinary shares;
 - b. repurchased a total of 9,118,000 ordinary shares; and
 - c. issued a total of 11,386,000 preference shares.

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7. On 26 March 2004, 11,385,999 preference shares of US\$1.00 value each held by ITOCHU Corp were redeemed by the Company.
8. From 23 March 2004 until 9 July 2006, the Company issued a total of 9,222,000 ordinary shares.
9. On 10 July 2006, the Company increased its authorised share capital from:
 - a. US\$100,000,000 consisting of 83,000,000 ordinary shares of US\$1.00 each and 17,000,000 preference shares of US\$1.00 each; to
 - b. US\$112,000,000 consisting of 95,000,000 ordinary shares of US\$1.00 each and 17,000,000 preference shares of US\$1.00 each.
10. From 10 July 2006 until 15 March 2009, the Company issued a total of 12,411,000 ordinary shares.
11. On 16 March 2009, the single remaining preference share held by ITOCHU Corp of US\$1.00 was redeemed by the Company.
12. The Company has not issued any ordinary shares or any preference shares since 16 March 2009.
13. On 26 January 2016, pursuant to Article 38 of the articles of association of the Company, as amended and restated on 10 July 2006 and as further amended on 12 April 2016 (the “**Articles of Association**”), the Company resolved by special resolution to reduce the par value of each ordinary share of the Company from US\$1.00 to US\$0.742, such that the authorised share capital would be reduced from:
 - a. US\$112,000,000 consisting of 95,000,000 ordinary shares of US\$1.00 each and 17,000,000 preference shares of US\$1.00 each; to

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- b. US\$87,490,000 consisting of 95,000,000 ordinary shares of US\$0.742 each and 17,000,000 preference shares of US\$1.00 each

(the "**2016 Capital Reduction**"), subject to the approval of and any conditions stipulated by the Court and registration of the relevant Order by the Registrar of Companies (the "**Registrar**").

14. On 23 March 2016, the Court approved the 2016 Capital Reduction, the Order for which was filed by the Registrar on 12 April 2016.
15. As at the date of this Petition, the authorised share capital of the Company remains US\$87,490,000 consisting of 95,000,000 ordinary shares of US\$0.742 each and 17,000,000 preference shares of US\$1.00 each. The issued and fully paid-up share capital of the Company remains US\$63,513,716 consisting of 85,598,000 ordinary shares of US\$0.742 each.

The Company's Financial Position

16. According to the audited financial statements of the Company for the year ended 31 December 2021, the Company was in a net asset position of US\$69,096,000 as at 31 December 2021.
17. The Company's unaudited financial statements dated 30 September 2022 showed a net asset position of US\$71,155,000.
18. In the event that the capital reduction, which is described in detail below, is approved by the Court, the assets of the Company would reduce by US\$29,959,300, which equates to \$0.35 per ordinary share. Taking this hypothetical reduction into account and in view of the net asset position described at paragraphs 16 and 17 above, there would still be more than sufficient headroom in the Company's financials to ensure the Company's ongoing ability to meet the obligation owed to the creditors; and in any event, the Company will have more

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than enough cash on hand, following the Proposed Capital Reduction, to meet its debts.

19. As at the date of this Petition, the Company's legal advisors Walkers, ITOCHU Corp and ITOCHU Oil Exploration Co., Ltd (a former member of the Company and a wholly owned subsidiary of ITOCHU Corp) are the only creditors of the Company. The creditors each consent to the Company presenting this Petition, and accordingly the Proposed Capital Reduction (as defined below) will not affect or prejudice any creditor of the Company.

Purpose of the Proposed Capital Reduction

20. The Company does not require its current level of capital. The Proposed Capital Reduction will reduce the Company's capital to a more appropriate operating level, and allow the resulting distributable capital to be returned to its shareholders.
21. The directors of the Company are of the view that in order to achieve this, the Company should pay off excess paid-up share capital.

Form of the Proposed Capital Reduction

22. The proposed capital restructuring requires the reduction of the par value of each ordinary share of the capital of the Company from US\$0.742 to US\$0.392. The result of this will be that the authorised share capital shall be reduced from:
 - a. US\$87,490,000 consisting of 95,000,000 ordinary shares of US\$0.742 each and 17,000,000 preference shares of US\$1.00 each; to
 - b. US\$54,240,000 consisting of 95,000,000 ordinary shares of US\$0.392 each and 17,000,000 preference shares of US\$1.00 each

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(the "**Proposed Capital Reduction**").

23. Upon completion of the Proposed Capital Reduction:
- a. The Company's distributable reserves will increase by US\$33,250,000, which resulting credit will be paid to the shareholders in proportion to the amount of shares held by each of them in accordance with the Articles of Association, such payment having been considered and approved by the Company's Board of Directors.; and
 - b. the total number of shares held by each of the Shareholders will not be altered.

Directors' and Shareholders' Resolutions

24. Article 38 of the Articles of Association states that:

"The Company may by Special Resolution reduce its share capital and any capital redemption reserve in any manner authorised by law."

25. Further, Article 1 of the Articles of Association provides that:

"Special Resolution" means a resolution passed in accordance with Section 60 of the Companies [Act], being a resolution:

(a) passed by a majority of not less than two-thirds of such Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting of the Company of which notice specifying the intention to propose the resolution as a Special Resolution has been duly given and where a poll is taken regard shall be had in computing a majority to the number of votes to which each Member is entitled; or

(b) approved in writing by all of the Members entitled to vote at a general meeting of the Company in one or more instruments each signed by one or more of the Members and the effective date of the Special Resolution so adopted shall be the date on which the instrument or the last of such instruments if more than one, is executed."

26. On 22 February 2023, the directors of the Company passed resolutions to recommend to the Shareholders that:

'conditional upon (i) approval of the Proposed Capital Reduction by the Cayman Islands Court; (ii) registration by the Registrar of the order of the Cayman Islands Court confirming the Proposed Capital Reduction and the minute approved by the Cayman Islands Court containing the particulars required under the Companies Act in respect of the Proposed Capital Reduction; and (iii) compliance with any condition as may be imposed by the Cayman Islands Court in relation to the Proposed Capital Reduction:

(a) the Proposed Capital Reduction be effected by the reduction of the par value of each ordinary share in the capital of the Company from US\$0.742 to US\$0.392, such that the authorised share capital shall be reduced from US\$87,490,000 consisting of 95,000,000 ordinary shares of US\$0.742 each and 17,000,000 preference shares of US\$1.00 each to US\$54,240,000 consisting of 95,000,000 ordinary shares of US\$0.392 each and 17,000,000 preference shares of US\$1.00 each;

(b) upon the completion of the Proposed Capital Reduction:

(i) the Company's distributable reserves will increase by US\$33,250,000, which resulting credit will be paid to the shareholders in proportion to the amount of shares held by each of them in accordance with the Articles of Association, such payment

having been considered and approved by the Company's Board of Directors; and

(ii) the total number of shares held by each of the shareholders not be altered.

(c) the necessary shareholders' resolutions be passed to this end.'

27. By special resolution passed as written resolutions dated 22 February 2023, the Shareholders resolved, *inter alia*, that:

'conditional upon (i) approval of the Proposed Capital Reduction by the Cayman Islands Court; (ii) registration by the Registrar of the order of the Cayman Islands Court confirming the Proposed Capital Reduction and the minute approved by the Cayman Islands Court containing the particulars required under the Companies Act in respect of the Proposed Capital Reduction; and (iii) compliance with any condition as may be imposed by the Cayman Islands Court in relation to the Proposed Capital Reduction:

(a) the Proposed Capital Reduction be effected by the reduction of the par value of each ordinary share in the capital of the Company from US\$0.742 to US\$0.392, such that the authorised share capital shall be reduced from US\$87,490,000 consisting of 95,000,000 ordinary shares of US\$0.742 each and 17,000,000 preference shares of US\$1.00 each to US\$54,240,000 consisting of 95,000,000 ordinary shares of US\$0.392 each and 17,000,000 preference shares of US\$1.00 each;

(b) upon the completion of the Proposed Capital Reduction:

(i) the Company's distributable reserves will increase by US\$33,250,000, which resulting credit will be paid to the shareholders in proportion to the amount of shares held by each of

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them in accordance with the Articles of Association, such payment having been considered and approved by the Company's Board of Directors; and

- (ii) the total number of shares held by each of the Shareholders not be altered.*

("Resolution 1");

[S]ubject to the Proposed Capital Reduction being effected as set out in Resolution 1 above, clause 8 of the memorandum of association of the Company be amended by deleting it entirely and replacing it with the following provision:

"8. The capital of the Company is US\$54,240,000 divided in 95,000,000 ordinary shares of a nominal or par value of US\$0.392 each and 17,000,000 preference shares of a nominal or par value of US\$1.00 each provided always that subject to the provisions of the Companies Act (as amended) and Articles of Association the Company shall have the power to redeem or purchase any of its shares and to sub-divide or consolidate the said shares or any of them and to issue all or any part of its capital whether original, redeemed, increased, or reduced with or without any preference, priority, special privilege or other rights or subject to any postponement of rights or to any conditions or restrictions whatsoever and so that unless the conditions of issue shall otherwise expressly provide every issue of shares whether stated to be ordinary, preference or otherwise shall be subject to the powers on the part of the Company hereinbefore provided"

("Resolution 2").

28. The following resolutions were then passed by the Shareholders as ordinary resolutions:

"IT IS RESOLVED that, in connection with or to carry out the actions contemplated by the foregoing resolutions, the Directors, any officer or (if applicable) any attorney or duly authorised signatory of the Company (any such person being an "Attorney" or "Authorised Signatory" respectively) be, and such other persons as are authorised by any of them be, and each hereby is, authorised, in the name and on behalf of the Company, to do such further acts and things as the Directors or any officer or such duly authorised other person shall deem necessary or appropriate, including to do and perform (or cause to be done and performed), in the name and on behalf of the Company, all such acts and to sign, make, execute, deliver, issue or file (or cause to be signed, made, executed, delivered, issued or filed) with any person including any governmental authority or agency, all such agreements, documents, instruments, certificates, consents or waivers and all amendments to any such agreements, documents, instruments, certificates, consents or waivers and to pay, or cause to be paid, all such payments, as any of them may deem necessary or advisable in order to carry out the intent of the foregoing resolutions, the authority for the doing of any such acts and things and the signing, making, execution, delivery, issue and filing of such of the foregoing to be conclusively evidenced thereby."

("Resolution 3"); and

"IT IS RESOLVED that any and all actions of the Company, or of the Directors or any officer or any Attorney or Authorised Signatory, taken in connection with the actions contemplated by the foregoing resolutions prior to the execution hereof be and are hereby ratified, confirmed, approved and adopted in all respects as fully as if such action(s) had been presented

to for approval and approved by, the Directors prior to such action being taken."

("Resolution 4").

29. The Proposed Capital Reduction does not involve (i) an alteration or variation to the rights attached to the Company's shares; or (ii) a diminution of the liability of either Shareholder in respect of amounts unpaid on issued share capital.
30. Although the Proposed Capital Reduction will apply only to one of the two classes of shares comprising the Company's authorised share capital, the Company currently has no preference shares in issue and does not plan to issue any preference shares in the near future. Accordingly, all of the Shareholders will be treated equally and on the same terms.
31. The form of the Minute proposed to be registered is as follows:

"The authorised share capital of ITOCHU Oil Exploration (BTC) Inc. was by virtue of a special resolution passed unanimously by all its shareholders, and with the sanction of an order of the Grand Court of the Cayman Islands dated [...], reduced from US\$87,490,000 consisting of 95,000,000 ordinary shares of US\$0.742 each and 17,000,000 preference shares of US\$1.00 each to US\$54,240,000 consisting of 95,000,000 ordinary shares of US\$0.392 each and 17,000,000 preference shares of US\$1.00 each. As at the date of registration of this minute, 85,598,000 of the said ordinary shares have been issued and fully paid up."

YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:

1. The Proposed Capital Reduction that is proposed to be effected by the special resolution set forth in paragraph 27 of this Petition be confirmed and the Minute set forth in paragraph 31 of this Petition be approved by the Court.
2. To this end all necessary inquiries and directions may be made and given; and/or

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3. Such other order may be made in the premises as the Court shall deem fit.

AND YOUR PETITIONER WILL EVER PRAY ETC:

DATED this 30th day of March 2023

FILED this 30th day of March 2023



**WALKERS
ATTORNEYS-AT-LAW FOR THE COMPANY**

NOTE: It is not intended to serve this Petition on any person.

THIS petition was presented by Walkers Attorneys-at-Law of 190 Elgin Avenue, George Town, Grand Cayman KY1-9001, Cayman Islands for the Company, whose address for service is that of its said Attorneys-at-Law.

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ENDORSEMENT

This petition, having been presented to the Grand Court of the Cayman Islands on the 30th day of March 2023 will be heard at the Grand Court of the Cayman Islands on:

Date:

Time:

(or as soon thereafter as the petition can be heard).

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