

EXECUTION

DATED 9 September 2022

**THE MINISTRY OF ECONOMY AND FINANCE
AS REPRESENTATIVE FOR AND ON BEHALF OF
THE REPUBLIC OF ECUADOR**

as Borrower

AND

CHINA DEVELOPMENT BANK

as Original Lender and Agent

**AMENDMENT AGREEMENT NO. 2 TO THE
PHASE V FACILITY AGREEMENT
DATED 12 DECEMBER 2018**

THIS AMENDMENT AGREEMENT NO. 2 (this “**Agreement**”) is dated 9 September 2022 and made between:

- (1) **THE MINISTRY OF ECONOMY AND FINANCE AS REPRESENTATIVE FOR AND ON BEHALF OF THE REPUBLIC OF ECUADOR** (the “**Borrower**”); and
- (2) **CHINA DEVELOPMENT BANK**, as the sole Original Lender and the sole lender as of the date hereof (in such capacity, the “**Lender**”) and as agent of the Finance Parties (in such capacity, the “**Agent**”).

For purposes of this Agreement, the Borrower, the Lender and Agent shall also be referred individually as a “**Party**” and jointly as the “**Parties**”.

WHEREAS

- (A) The Borrower, the Lender and the Agent have entered into a Facility Agreement dated 12 December 2018, as amended by the Amendment Agreement dated 16 December 2020 (such agreement, as amended, the “**Phase V Facility Agreement**”), pursuant to which the Lender provided the Borrower with loan facilities in the amounts of US\$675,000,000 and RMB1,530,000,000;
- (B) In accordance with Clauses 30.1 and 30.2 (*Amendments and Waivers*) of the Phase V Facility Agreement, the Phase V Facility Agreement may be amended with the consent of the Majority Lenders or, in respect of those amendments that have the effect of changing or which relate to the specific matters listed in that Clause 30.2, with the consent of all Lenders; and
- (C) In order to promote cooperation between Ecuador and China, the Parties hereby agree to amend the Phase V Facility Agreement on the terms and subject to the conditions set forth herein.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

“**Effective Date**” means the date on which the Agent notifies the Borrower that it has received all of the documents and other evidence listed in Clause 3.1 (*Conditions*) in form and substance satisfactory to it.

1.2 Except as otherwise provided or to the extent that the context requires otherwise, capitalized terms in this Agreement shall have the same meanings and shall be construed in the same manner as in the Phase V Facility Agreement.

1.3 The principles of interpretation set out in Clause 1.2 (*Construction*) of the Phase V Facility Agreement shall apply to this Agreement insofar as they are relevant to it.

2. AMENDMENTS TO THE PHASE V FACILITY AGREEMENT

Subject to the terms and conditions set out in this Agreement, the Parties agree, with effect from the Effective Date, that

2.1 the preamble on page 1 of the Phase V Facility Agreement starting with the word “**WHEREAS**” shall be deleted in its entirety and replaced with the following:

“**WHEREAS:**

The Lenders have elected to participate in supporting the development of the Republic of Ecuador by extending commercial loans to the Borrower, to be applied by the Borrower on the terms and conditions set out in this Agreement, which shall include (amongst other things) an interest rate of 6.3% per annum for the Tranche A Facility and an interest rate of 5.9% per annum for the Tranche B Facility.”

- 2.2 the definition of “**Agreement**” under Clause 1.1 (*Definitions*) of the Phase V Facility Agreement shall be deleted in its entirety and replaced with the following:
- “**Agreement**” means this Facility Agreement between the Parties dated 12 December 2018, as amended by the Amendment Agreement dated 16 December 2020 and the Amendment Agreement No. 2 to the Phase V Facility Agreement dated 9 September 2022.”
- 2.3 the definition of “**Final Repayment Date**” under Clause 1.1 (*Definitions*) of the Phase V Facility Agreement shall be deleted in its entirety and replaced with the following:
- “**Final Repayment Date**” means the 12 December 2027.”
- 2.4 the definition of “**Interest Rate**” under Clause 1.1 (*Definitions*) of the Phase V Facility Agreement shall be deleted in its entirety and replaced with the following:
- “**Interest Rate**” means:
- (a) in relation to the Tranche A Facility, a fixed interest rate of six point three per cent (6.3%) per annum; and
- (b) in relation to the Tranche B Facility, a fixed interest rate of five point nine per cent (5.9%) per annum.”
- 2.5 the definition of “**Multiparty Agreement**” under Clause 1.1 (*Definitions*) of the Phase V Facility Agreement shall be deleted in its entirety and replaced with the following:
- “**Multiparty Agreement**” means the Multiparty Agreement between the Borrower, PetroEcuador, PetroChina International, Unipetec and the Agent dated 27 December 2018 as amended by the Amendment Agreement No. 1 to the Phase V Multiparty Agreement dated 9 September 2022.”
- 2.6 Clause 6.1.1 (*Repayment of the Tranche A Loans*) of the Phase V Facility Agreement shall be deleted in its entirety and replaced with the following:
- “6.1.1 The Borrower shall repay each Tranche A Loan made to it in instalments (each a “**Tranche A Repayment Instalment**” and together being the “**Tranche A Repayment Instalments**”) in the amounts and on the Repayment Dates set out in Part I of Schedule 4 (Tranche A Facility Repayment Schedule).”
- 2.7 Clause 6.2.1 (*Repayment of the Tranche B Loans*) of the Phase V Facility Agreement shall be deleted in its entirety and replaced with the following:
- “6.2.1 The Borrower shall repay each Tranche B Loan made to it in instalments (each a “**Tranche B Repayment Instalment**” and together being the “**Tranche B Repayment Instalments**”) in the amounts and on the Repayment Dates set out in Part II of Schedule 4 (Tranche B Facility Repayment Schedule).”
- 2.8 Clause 7.5.1(B) (*Mandatory Prepayment*) of the Phase V Facility Agreement shall be deleted in its entirety and replaced with the following:
- “(B) (1) the PetroChina International Sales and Purchase Contract is terminated, (2) the Unipetec Sales and Purchase Contract is terminated for a reason other than, whichever is earlier: the natural end of its term on the end date specified in that contract or the fulfilment of all terms by all the parties thereto under that contract (including the supply and lifting of the total number of barrels of crude oil to be supplied thereunder), or (3) any event or circumstance occurs that gives PetroChina International or Unipetec (as the case may be) the right to terminate the Sales and Purchase Contract to which it is a party;”
- 2.9 Schedule 4 (*Repayment Schedules*) of the Phase V Facility Agreement shall be amended and restated in its entirety as set forth in Schedule 1 of this Agreement.

- 2.10 The Parties acknowledge and agree that, as at the date of this Agreement, the Borrower has fully and timely repaid to the Lenders all Repayment Instalments under the Phase V Facility Agreement up to and including the Repayment Instalments that were due on the last Repayment Date prior to the date of this Agreement (*i.e.*; the Repayment Instalments that were due on 12 June 2022).
- 2.11 The Parties acknowledge and agree that the reduced fixed interest rates indicated in the new and replacing definition of “Interest Rate” of Clause 2.4 of this Agreement shall start to apply from the first Interest Period after the Effective Date.

3. CONDITIONS

- 3.1 The Effective Date shall occur upon confirmation in writing by the Agent that it has received the following documents and evidence in form and of substance satisfactory to it:
- (a) this Agreement, duly executed by all parties to it;
 - (b) the Amendment Agreement No. 1 to the Phase V Multiparty Agreement between the Borrower, PetroEcuador, PetroChina International, Unipet and the Agent dated on or about the same date of this Agreement, has been duly executed by all parties to it and has become effective in accordance with its terms (in the case of effectiveness, other than satisfaction of an equivalent condition precedent to this one included in that agreement);
 - (c) the Amendment Agreement No. 1 to the Phase V Account Management Agreement between PetroEcuador, the Central Bank of Ecuador and the Agent dated on or about the same date of this Agreement, has been duly executed by all parties to it and has become effective in accordance with its terms (in the case of effectiveness, other than satisfaction of an equivalent condition precedent to this one included in that agreement);
 - (d) a certified copy of the Debt and Financing Committee Resolution or of the Ministry of Economy and Finance Resolution (as applicable) (i) authorizing the Borrower to enter into this Agreement and (ii) approving the terms and conditions of this Agreement;
 - (e) a certified copy of the authorisation from the Attorney General of the Republic of Ecuador (*Procurador General del Estado*) authorising the Borrower to agree to Clause 7 (*Governing Law*) and Clause 8 (*Dispute Resolution*) of this Agreement;
 - (f) a certified copy of the approval by the Minister of Economy and Finance of the Republic of Ecuador or the General Legal Co-ordinator (*Coordinador General Jurídico*) of the Ministry of Economy and Finance if delegated by the Minister of Economy and Finance, authorising the Borrower to agree to Clause 8 (*Dispute Resolution*) of this Agreement;
 - (g) a certified copy of the Executive Decree, which contains the appointment of the Minister of Economy and Finance of the Republic of Ecuador, or delegation granted by the Minister of Economy and Finance of the Republic of Ecuador for the execution of this Agreement;
 - (h) if applicable, a certificate issued by the Minister of Economy and Finance of the Republic of Ecuador listing the person(s) authorized to sign, on behalf of the Borrower, this Agreement and all related requests, certificates and other documents in connection with this Agreement and to take all other measures and/or sign all other necessary documents on behalf of the Borrower under this Agreement;
 - (i) if applicable, a specimen of the signatures of each person listed in the certificate mentioned in paragraph (h) above;
 - (j) evidence that this Agreement has been registered with the Public Debt Registry of the Ministry of Economy and Finance;
 - (k) a legal opinion in relation to English law from Pinsent Masons LLP addressed to the Agent;
 - (l) a legal opinion in relation to the laws of Ecuador issued by Bustamante Fabara addressed to the Agent; and

- (m) a legal opinion from the General Legal Co-ordinator (*Coordinador General Jurídico*) of the Ministry of Economy and Finance of the Republic of Ecuador, confirming (amongst other things) on or before the date of this Agreement:
 - (i) that the amendments contemplated by this Agreement are legal, valid, binding and enforceable under the laws of the Republic of Ecuador;
 - (ii) all required authorisations and approvals for the full validity and effect of this Agreement have been obtained and are in full force, and there are no legal provisions or administrative orders that in any way limit or restrict the power and authority of the Borrower to enter into this Agreement, or the validity and effect of any of the provisions of this Agreement; and
 - (iii) such other opinions to be agreed between the Borrower and the Agent.
- (n) confirmation in writing from the Borrower that:
 - (i) no Default is continuing or would result from the occurrence of the Effective Date; and
 - (ii) each representation in Clause 15 (*Representations*) of the Phase V Facility Agreement made by the Borrower is true.

3.2 The Agent must give notice to the Borrower as soon as practicable after the conditions in Clause 3.1 of this Agreement have been satisfied (or, if applicable, waived by the Agent).

4. REPRESENTATIONS AND WARRANTIES

The Borrower makes the representations and warranties set out in clause 15 (*Representations*) of the Phase V Facility Agreement as at the date of this Agreement and as at the Effective Date, by reference to the facts and circumstances then existing as if references to the Finance Documents included references to this Agreement.

5. SCOPE OF AMENDMENT

- 5.1 This Agreement amends and is supplemental to, and shall be construed as one with, the Phase V Facility Agreement.
- 5.2 The Borrower, the Lender and the Agent hereby designate this Agreement as a Finance Document under the Phase V Facility Agreement.
- 5.3 Except as varied by the terms of this Agreement, the Phase V Facility Agreement shall remain in full force and effect and any reference in any Finance Document to the Phase V Facility Agreement or to any provision of the Phase V Facility Agreement shall be construed as a reference to the Phase V Facility Agreement, or that provision, as amended by this Agreement.
- 5.4 Except as otherwise provided in this Agreement, the Finance Documents remain in full force and effect.

6. FURTHER ASSURANCE

- 6.1 Each Party shall promptly execute and deliver any document and do any act or thing in order to implement the designs and requirements in this Agreement and to confirm or establish the validity and enforceability of this Agreement.
- 6.2 The Borrower shall be responsible for the payment of all reasonable costs and expenses (including legal costs) incurred by the Agent in connection with the preparation, negotiation and finalization of this Agreement in accordance with clause 14.1 (*Amendment Costs*) of the Phase V Facility Agreement.

7. GOVERNING LAW

This Agreement shall be governed by English law.

8. DISPUTE RESOLUTION

Any Dispute arising out of or in connection with this Agreement or any of the Finance Documents (other than the Account Management Agreement and the Settlement Account Agreement) shall be resolved by arbitration at the LCIA under the LCIA Rules as at present in force as modified by this Clause 8 (*Dispute Resolution*), which LCIA Rules are deemed to be incorporated by reference into this Clause 8 (*Dispute Resolution*). The provisions in the LCIA Rules regarding an emergency arbitrator shall not apply. In particular:

8.1 Parties' Addresses for Service

The Parties' addresses for service of any documents in relation to any such arbitration (including any request for arbitration) are set out in Clause 26.2 (*Addresses*) of the Phase V Facility Agreement.

8.2 Service of Request for Arbitration on All Parties to the Finance Documents

At the same time as serving the request for arbitration on the respondent(s), the claimant(s) in any such arbitration shall serve copies of that request for arbitration on all parties to this Agreement and the Finance Documents.

8.3 Number and Nomination of Arbitrators

8.3.1 the number of arbitrators shall be three;

8.3.2 except as provided in Sub-clauses 8.3.3 and 8.3.4 below, each party to the Dispute shall be entitled to nominate one arbitrator;

8.3.3 if there are multiple claimants and/or multiple respondents, all claimants and/or all respondents shall attempt to agree upon their respective appointment(s);

8.3.4 if any such party or multiple parties fail to nominate an arbitrator within thirty (30) days from and including the date of the relevant request for arbitration, an arbitrator shall be appointed on their behalf by the LCIA in accordance with its rules. In such circumstances, any existing nomination or confirmation of the arbitrator chosen by the Party or Parties on the other side of the proposed arbitration shall be unaffected, and the remaining arbitrator(s) shall be appointed in accordance with the LCIA Rules; and

8.3.5 the third arbitrator and chairman of the tribunal shall be jointly nominated by the two party-nominated arbitrators. The chairman of the tribunal shall be nominated thirty (30) days from and including the date of the LCIA's formal appointment of the second arbitrator. Where the two party-nominated arbitrators fail to nominate the chairman of the tribunal or such nomination is not made within time, the chairman shall be appointed by the LCIA in accordance with its rules.

8.4 Seat of Arbitration

The seat, or legal place, of arbitration shall be London, England. Accordingly the Parties submit to the jurisdiction of the English courts over such arbitration proceedings.

8.5 Language

The language to be used in the arbitration shall be English.

8.6 Intervention

Any Party may intervene as a party to any arbitral proceedings under this Agreement or any of the other Transaction Documents (other than the Account Management Agreement and the Settlement Account Agreement), provided that:

- 8.6.1 such intervention is based upon a Dispute substantially related to the Dispute in the relevant request for arbitration; and
- 8.6.2 such intervention is made by written notice to the LCIA and to all other Parties within either thirty (30) days from the receipt by such party of the relevant request for arbitration or such longer time as may be determined by the LCIA or the arbitrators.

8.7 Counterclaims

Any joined or intervening Party may make a counterclaim against any Party, provided that:

- 8.7.1 such counterclaim is based upon a Dispute substantially related to the Dispute, in the relevant request for arbitration; and
- 8.7.2 such counterclaim is made by written notice to the LCIA and to all other Parties within either thirty (30) days from the receipt by such Party of the relevant request for arbitration or such longer time as may be determined by the LCIA or the arbitrators.

8.8 Binding Nature of Award

- 8.8.1 Any joined or intervening Party shall be bound by any award rendered by the arbitral tribunal even if such Party chooses not to participate in the arbitral proceedings.
- 8.8.2 Any award rendered shall be final and binding and nothing shall prevent any Party from enforcing such award in any court.

8.9 No Prejudice to Obligations

Notwithstanding the commencement of any legal or arbitral proceedings arising out of or in connection with this Agreement, and save for any orders made or awards published by the arbitral tribunal or orders made by a supervisory court, the obligations of the Parties under this Agreement or the performance thereof shall remain and continue.

8.10 Waiver of Right to Appeal

For the purposes of arbitration pursuant to this Clause 8 (*Dispute Resolution*), the Parties waive any right of application to determine a preliminary point of law or appeal on a point of law under Sections 45 (*Determination of a preliminary point of law*) and 69 (*Appeal on a point of law*) of the Arbitration Act 1996 except for the purposes of annulment and/or enforcement procedures.

9. MISCELLANEOUS

This Agreement forms part of and shall be construed together with the Phase V Facility Agreement, and the provisions of Clause 1.3 (*Third Parties Rights*), Clause 21 (*Disclosure of Information*), Clause 26 (*Notices*), Clause 28 (*Partial Invalidity*), Clause 29 (*Remedies and Waivers*), Clause 31 (*Counterparts*) and Clause 32 (*Immunity*) of the Phase V Facility Agreement shall apply to this Agreement as they apply to the Phase V Facility Agreement.

SCHEDULE 1**REPAYMENT SCHEDULE****PART I – TRANCHE A FACILITY REPAYMENT SCHEDULE**

Tranche A Repayment Instalment	Repayment Date	Tranche A Repayment Instalment Amount in USD
1	12 March 2021	42,187,500
2	12 June 2021	42,187,500
3	12 September 2021	42,187,500
4	12 December 2021	42,187,500
5	12 March 2022	42,187,500
6	12 June 2022	42,187,500
7	12 September 2022	19,180,000
8	12 December 2022	19,180,000
9	12 March 2023	19,180,000
10	12 June 2023	19,180,000
11	12 September 2023	19,180,000
12	12 December 2023	19,180,000
13	12 March 2024	19,180,000
14	12 June 2024	19,180,000
15	12 September 2024	19,180,000
16	12 December 2024	19,180,000
17	12 March 2025	19,180,000
18	12 June 2025	19,180,000
19	12 September 2025	19,180,000
20	12 December 2025	19,180,000
21	12 March 2026	19,180,000
22	12 June 2026	19,180,000
23	12 September 2026	19,180,000
24	12 December 2026	19,180,000

25	12 March 2027	19,180,000
26	12 June 2027	19,180,000
27	12 September 2027	19,180,000
28	12 December 2027	19,095,000
	Total	675,000,000

PART II – TRANCHE B FACILITY REPAYMENT SCHEDULE

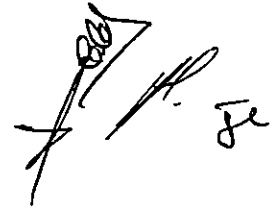
Tranche B Repayment Instalment	Repayment Date	Tranche B Repayment Instalment Amount in RMB
1	12 March 2021	95,625,000
2	12 June 2021	95,625,000
3	12 September 2021	95,625,000
4	12 December 2021	95,625,000
5	12 March 2022	95,625,000
6	12 June 2022	95,625,000
7	12 September 2022	43,460,000
8	12 December 2022	43,460,000
9	12 March 2023	43,460,000
10	12 June 2023	43,460,000
11	12 September 2023	43,460,000
12	12 December 2023	43,460,000
13	12 March 2024	43,460,000
14	12 June 2024	43,460,000
15	12 September 2024	43,460,000
16	12 December 2024	43,460,000
17	12 March 2025	43,460,000
18	12 June 2025	43,460,000
19	12 September 2025	43,460,000

20	12 December 2025	43,460,000
21	12 March 2026	43,460,000
22	12 June 2026	43,460,000
23	12 September 2026	43,460,000
24	12 December 2026	43,460,000
25	12 March 2027	43,460,000
26	12 June 2027	43,460,000
27	12 September 2027	43,460,000
28	12 December 2027	43,590,000
	Total	1,530,000,000

IN WITNESS WHEREOF this Agreement has been executed by the duly authorized representatives of the Parties and delivered on the date stated at the beginning of this Agreement

BORROWER

**THE MINISTRY OF ECONOMY AND FINANCE
AS REPRESENTATIVE
FOR AND ON BEHALF OF
THE REPUBLIC OF ECUADOR**
acting by:



Name:
Title:

AGENT

CHINA DEVELOPMENT BANK

acting by:


Name: KUANG LAN
Title: General Manager
of China Development Bank Shandong Branch



LENDER

CHINA DEVELOPMENT BANK

acting by:


Name: KUANG LAN
Title: General Manager
of China Development Bank Shandong Branch

