

**Unofficial translation.**

**Public bankruptcy report No. 21. pursuant to art. 73a of the Dutch Bankruptcy Act in the bankruptcy of PETROPLUS INTERNATIONAL B.V.**

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Particulars of the company	:	<b><u>PETROPLUS INTERNATIONAL B.V.</u></b> with its registered office at Rotterdam and its principal place of business at Spoorhaven 58 in (2651 AV) Berkel en Rodenrijs.
Bankruptcy number	:	F 12/538
Bankruptcy date	:	6 August 2012
Supervisory Judge	:	Mr. W.J. Roos-van Toor
Trustee	:	Mr. C.F.W.A. Hamm
Date of report	:	<i>27 March 2020</i>
Reporting period	:	<i>21 December 2019 – 22 March 2020</i>
Time spent in reporting period	:	<i>45 hours and 55 minutes</i>
Time spent - total	:	<i>6.251 hours</i>
Chamber of Commerce number	:	24250124
Activities of the company	:	Financial holding, holding- and finance company
Employees, average number	:	0

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**Preliminary remarks**

This is the public bankruptcy report *No. 21* in the bankruptcy of Petroplus International B.V. (hereinafter: 'PPI').

This general report is based on information received by the trustee from the company and third parties. No guarantee is given regarding the correctness and completeness of the information in this report. At a later stage it may appear that figures and other data and statements differ from what is stated in this report.

The trustee, as his office, is not liable for any damage as a result of possible incorrect or incomplete statements and more in particular the trustee points out that this information is not suitable or intended to rely upon, to execute or waive any transaction or investment decision, including a purchase or sales decision.

No rights can be claimed from this general report and/or from any future public bankruptcy reports.

## 1. SURVEY

- 1.1 Management and organisation : PPI is part of the Petroplus-Group. Petroplus Holdings AG, the top holding of the group, is the 100% shareholder of PPI. Until the beginning of 2012, the Petroplus-Group was the largest independent crude oil processor in Europe with refineries in a.o. France, Belgium, Germany and the United Kingdom. Since 27 January 2012 different companies of the Petroplus-Group, including Petroplus Holdings AG, are either under suspension of payment or in state of bankruptcy (or similar procedures pursuant to foreign law). At the date of bankruptcy the board constituted of mr. R. Trienen, mr. P. Ruoff and mr. D. Slob. They have withdrawn from their function. PPI was established by official documents on 25 August 1994.
- 1.2 Profit and loss : result after taxes for 2011 -/- USD 89,265,000.-- (based on the preliminary annual accounts for the year 2011). Result after taxes for 2010 -/- USD 32,139,000.-- (based on the annual accounts for the year 2010).
- 1.3 Pending legal actions : PPI has initiated an objection procedure against additional income tax assessments imposed by the Dutch tax authorities.  
6 September 2013: The trustee has continued the objection procedure. The Dutch tax authorities have annulled the imposed additional income tax

assessments. The objection procedure has been terminated.

- 1.4 Insurance : n/a
- 1.5 Rent : PPI rented an archive storage with Shurgard Rotterdam Alexander. Shurgard has terminated the lease contract with PPI. The archive previously stored at Shurgard is stored elsewhere.
- 1.6 Cause of the bankruptcy : according to the (former) directors, the cause of bankruptcy of PPI is caused by the bankruptcy of group companies. The former directors reported that the Petroplus-Group got into financial problems in 2011 and that in December 2011 the banks had frozen the credit facility of the Group. As a result, the Petroplus-Group remained in default towards bondholders, who had provided bond loans of USD 1.75 billion. PPI acted as guarantor for these received and on-lent loans, which guarantees have been claimed. The trustee is investigating the cause of bankruptcy.  
23 September 2016: See under 7.1 and 7.5.

## 2. EMPLOYEES

- 2.1 Number at the time of bankruptcy : 0
- 2.2 Number in the year preliminary to the bankruptcy : 0
- 2.3 Date of notice of dismissal : n/a
- Activities : none.

## 3. ASSETS

### Immoveable property

- 3.1 Description : n/a
- 3.2 Sales proceeds : n/a
- 3.3 Mortgage : n/a
- 3.4 Estate contribution : n/a

Activities : none.

Operating assets

3.5 Description : n/a

3.6 Sales proceeds : n/a

3.7 Soil privilege tax : n/a

Activities : none.

Sales proceeds and activities

3.8 Description : n/a

3.9 Sales proceeds : n/a

3.10 Estate contribution : n/a

Activities : none.

Other assets

3.11 Description : At the date of bankruptcy PPI had an equity interest of 10% in three foreign companies, Deutsche Transalpine Olleitung GmbH, Transalpine Olleitung in Osterreich GesmbH and Societa Italiana per l'Oleodotta Transalpino S.p.A. ('**TAL companies**'). The trustee has sold these shares by agreement dated 22 August 2012. The shares were transferred to the buyer on 4 December 2012. The purchase price of EUR 6.5 million is received by the bankrupt estate. PPI also holds shares in different group companies that are insolvent or in state of bankruptcy and/or being liquidated. The trustee is investigating this.

6 September 2013: The investigation of the trustee points out that no revenue for the bankrupt estate is to be expected from these assets.

5 March 2014: PPI has a 99,9% interest in the Belgian company Petrobel N.V. which is insolvent and in liquidation. A payment to the shareholders of Petrobel N.V. is not to be expected.

22 September 2015: PPI holds one share in the bankrupt Belgian company Universal Holding N.V. The trustee of Universal Holding N.V. stated that PPI will not receive payments from the estate of Universal Holding N.V.

3.12 Sales proceeds : EUR 6.5 million.

Activities : none left.

#### **4. DEBTORS**

4.1 Amount receivable : the books and records of PPI show that PPI had claims of USD 1,725,809,137.-- on foreign group companies at the date of bankruptcy. These group companies are insolvent, the most and the most important ones are bankrupt. The trustee has filed claims in the relevant bankruptcies respectively insolvency proceedings. Part of these claims are provisionally contested. Correspondence and negotiations and proceedings about this are currently taking place.

5 March 2013: PPI has a substantial claim on its Swiss subsidiary Petroplus Marketing AG ('PMAG'). PMAG is involved in insolvency proceedings and is being compulsory liquidated. In order to ensure a formal position in those insolvency proceeding, the trustee has filed a request with the Swiss court to recognize the

Dutch Bankruptcy Proceedings in Switzerland. The court of first instance and the court of appeal have rejected the trustee's request for recognition. 5 September 2014: The trustee has filed appeal in cassation against the decision of the Swiss court of appeal.

5 March 2015: The trustee is awaiting the judgement of the Swiss cassation court.

The trustee has, with the consent of the supervisory judge sold the claim on PMAG for EUR 2.1 million to Deutsche Bank Trust Company Americas ('DBTCA'). After the fulfilment of a condition precedent on the part of DBTCA, the assignment of the claim shall be completed. The trustee has informed and requested the creditors of PPI by letters and by the interim report of 15 January 2015, to express their objections, if any, to the assignment of the claim. No objections have been filed. Reference is made to the interim report of 15 January 2015 for additional information regarding the assignment of this claim.

22 September 2015: The claim of PPI on PMAG was transferred to DBTCA.

The purchase price of EUR 2,1 million was received by the estate of PPI.

On 27 March 2015 the Swiss Cassation Court gave a positive decision on the trustee's request for acknowledgement of the Dutch bankruptcy order of PPI in Switzerland.

The Swiss Kantonsgericht Zug ordered the opening of mini-bankruptcy proceedings on 11 June 2015 and the Bankruptcy Authority of the Zug district was appointed the 'Swiss trustee of PPI'. The Swiss trustee is gathering information on the Swiss assets of PPI and also examines if there are preferential creditors that have a claim on PPI. If there are no preferential creditors (as expected), the Swiss assets of PPI will be made available to the Dutch trustee.

23 March 2016: an amicable settlement was reached between the trustee of PPI and the trustees of PMAG and DBTCA. The settlement concerns the aforementioned remainders of PPI's subordinated claim of USD 10 million on the bankrupt company PMAG.

The aforementioned parties agreed that CHF 5,078,150.- of PPI's claim of in total CHF 9,233,000.- is admitted as an unsecured claim in the PMAG bankruptcy. The trustees of PMAG expect to pay between 3,97% and 17,99% of each unsecured claim. Payments will be made via the Swiss bankruptcy of PPI. DBTCA reserved the right to claim payments with preference. Reference is made to the interim report of 15 January 2015 for additional information regarding the position of DBTCA.

23 September 2016: In the next reporting period an interim dividend from the bankruptcy of PMAG at about EUR 700,000 is expected. The trustees of PMAG will distribute this dividend to the estate of the Swiss mini-bankruptcy proceedings of PPI. This dividend will be paid to

the Dutch estate of PPI, if no Swiss preferential creditors will make a claim in the Swiss mini-bankruptcy proceedings and after verification of the Dutch claims in the Dutch insolvency proceedings.

23 March 2017: the trustee is preparing the verification of the Dutch claims.

25 September 2017: the meeting of creditors for the verification of the claims will take place on 24 January 2018.

27 March 2018: the meeting of creditors took place on 24 January 2018. Except for one disputed claim, all the other submitted claims were validated (see under 8 hereinafter).

The Swiss lawyer of the bankrupt estate is preparing a request to the Swiss Bankruptcy Authority in the Swiss mini-bankruptcy of PPI in order to make the Swiss assets of PPI (which are held by the Swiss Bankruptcy Authority) available to the Dutch trustee.

27 June 2018: the Swiss Kantonsgericht Zug has decided that the Swiss Bankruptcy Authority is allowed to transfer the Swiss assets to the account of the Dutch bankrupt estate. The Dutch trustee is currently waiting for the assets to be transferred.

27 September 2018: the Dutch bankrupt estate has received EUR 1,076,461.35 from the Swiss Bankruptcy Authority.



*27 March 2020: PPI will receive one last distribution from the bankruptcy of PMAG.*

5 March 2013: PPI has a substantial claim on its English subsidiary Petroplus Refining & Marketing Ltd. ('PRML'). This company is also involved in insolvency proceedings. The liquidators of PRML have taken the position that the claim of PPI on PRML is subordinated to the unsecured creditors, as a result of which PPI will not participate in the dividend to unsecured creditors. This is subject to discussions taking place.

5 September 2014: The trustee has advanced a defence against the position of the liquidators of PRML.

5 September 2014: The largest creditor in the bankruptcy of PPI and in the other Petroplus-bankruptcies proposes that he will have a coordinating role between all bankruptcies to enhance an efficient and less expensive liquidation in order to realise a higher revenue.

23 March 2016: a settlement with the trustees of PRML has not been reached yet. The trustees of PRML stated that they are looking for a solution to the problem of subordination, that will benefit all creditors.

23 September 2016: The trustees of PMAG maintain the view that the claim of PPI against PMAG is subordinated to the non-privileged claims of PRML. The trustee sees insufficient

basis to make objections against this point of view.

*27 March 2020: The trustees of PRML stated that PPI's subordinated claim will not be paid.*

23 March 2016: a settlement with the trustees of PRML has not been reached yet. The trustees of PRML stated that they are looking for a solution to the problem of subordination, that will benefit all creditors.

23 March 2016: In the bankruptcy of SKI Participations SA the claim of PPI was admitted for EUR 1,260,295.02. In this context a payment of EUR 1,970.85 was received.

- 4.2 Proceeds : 22 September 2015: EUR 2,1 million + p.m.  
23 March 2016: EUR 2,101,970.85 + p.m.  
27 September 2018: EUR 3,178,432.20 + p.m.
- 4.3 Estate contribution : n/a
- Activities : see under 4.1.

## **5. BANK / SECURITY**

- 5.1 Claims of bank(s) : PPI has kept bank accounts at Delta Lloyd and Deutsche Bank. These accounts showed a credit balance at the date of bankruptcy, which credit balance is transferred to the account of the bankrupt estate.

23 March 2017: in the last reporting period it turned out that PPI kept an account with a credit balance at Willis Towers Watson. Willis Towers Watson has transferred EUR 18,219.86 to the account of the bankrupt estate.

- 5.2 Lease contracts : n/a
- 5.3 Description of securities : the directors have stated that PPI has not provided securities. Meanwhile it proves that major creditors claim substantial pledge- and assignment rights on the principal claims of PPI on third parties. The trustee is investigating this.

23 March 2016: Research has shown that PPI assigned a claim on PMAG of USD 200 million plus interest under English law to a third party as security.

- 5.4 Secured creditors position : n/a
- 5.5 Estate contribution : n/a
- 5.6 Retention of title : n/a
- 5.7 Rights of recovery : n/a
- 5.8 Rights of retention : n/a

Activities : there are no activities left.

## **6. CONTINUATION / RELAUNCH / TRANSFER OF ASSETS**

- 6.1 Description : n/a
- 6.2 Proceeds : n/a

Activities : there are no activities left.

## **7. LAWFULNESS**

- 7.1 Accounting obligation : under investigation. The books and records of PPI are in the possession of PPI's Swiss subsidiary, PMAG. The books and records of PPI are not available in the Netherlands. Based on Swiss law, the administrators of PMAG are not willing to hand over the books and records of PPI to the bankrupt estate without a court order. Via a letter of request, as referred to in art. 1 and 3 of the Hague Convention of 18 March 1970 on the

taking of Evidence in civil or commercial matters the Obergericht Zug, Switzerland has been asked to make it possible for the trustee of PPI to obtain the entire hard copy and digital books and records of PPI that are stored at PMAG in Switzerland.

6 September 2013: The bankrupt estate has obtained a part of the physical books and records of PPI from PMAG. Furthermore, the trustee has received books and records from the directors. The received books and records have been inventoried and are being investigated by the trustee.

5 March 2014: The received books and records of PPI have been investigated and processed.

22 September 2015: the trustee appointed an external expert to assess the administration and policy of PPI. The expert's report is expected to be finalized coming reporting period and presented for feedback to the former directors of PPI. The fact that a lot of information about PPI can only be found in Switzerland, will not be handed over and that the computer systems of the Petroplus-group, that give access to the administration of PPI, are not accessible is a complicating factor and causes sincere delay.

23 March 2016: the external expert sent his draft report to the former directors for feedback for comment.

23 September 2016: See under 7.5.

7.2 Filing of annual accounts : the annual accounts of 2010 are published on 30

September 2011; the annual accounts of 2009 are published on 3 May 2010; the annual accounts of 2008 are published on 26 October 2009.

- 7.3 Auditor's audit certificate : no audit certificate is attached to the annual accounts (exemption on the grounds of art. 2:396 of the Dutch Civil Code).
- 7.4 Share payment obligation : n/a
- 7.5 Improper management : under investigation. Based on his provisional findings the trustee is preliminary of the opinion that the former directors of PPI have manifestly improperly managed PPI. Also to secure the time limit for reporting a claim stated in the Directors' and Officers' Liability Insurance policy the trustee has held the former directors liable for the deficit in the bankruptcy in December 2012. The trustee is investigating this further, has asked the directors to comment and has reserved the right to subsequently amend, supplement and/or withdraw the accusations and claims.

6 September 2013: The directors have disputed their liability. The trustee continues his investigations and involves the statements of the directors and the received books and records in his investigation.

5 March 2014: The trustee has made a factual reconstruction of the rights and obligations of PPI and, as far as possible, of the policy and course of business of PPI. Based on this reconstruction and the comments of the directors, the trustee will form a final opinion about the management of PPI and the important causes of the bankruptcy.

5 September 2014: The meeting with the former directors will take place in the next reporting period. Also further investigations will take place as a result of information received from the directors.

6 March 2015: The meeting with the former directors has taken place.

The trustee carries out further investigations. After completion of his investigations the trustee will send his preliminary findings to the (former) directors for their comment.

22 September 2015: coming reporting period the aforementioned investigations will be finalized and presented for feedback to the former directors of PPI.

23 March 2016: the external expert sent his report to the former directors for comment.

23 September 2016: The former directors have commented the draft report. The external expert will incorporate these comments where relevant.

The external expert will finalize his report in the coming reporting period.

After the report has been finalized, the trustee will form his final opinion about the management of PPI and the important causes of the bankruptcy. This opinion will be submitted to the (former) directors for their comment, after which the trustee will decide if legal actions would be started.

23 March 2017: the external expert has finalized his report. In view of the final report the trustee maintains his claim for liability . The trustee and (the lawyers of) the former directors are investigating whether this matter can be solved through mediation.

25 September 2017: Mediation has started.

27 December 2017: Mediation is ongoing.

27 March 2018: Mediation is ongoing.

27 June 2018: Mediation is ongoing. Experts have been appointed to advise the trustee on certain issues.

27 September 2018: Mediation is ongoing.

27 December 2018: Mediation is ongoing.

27 March 2019: Mediation is ongoing.

27 June 2019: Mediation is ongoing.

27 September 2019: Mediation is ongoing.

27 December 2019: Mediation is ongoing.

*27 March 2020: The mediation has been terminated without a settlement. The trustee will serve a writ of summons on the (former) directors.*

## 7.6 Fraudulent acts in respect of

creditors : under investigation.

Activities : continuing the mediation discussions and possibly starting legal proceedings if the mediation fails.

## 8. CREDITORS

- 8.1 Claims against the bankrupt estate : EUR 490.88 + P.M. (liquidation costs);
- 8.2 Preferential claim of the tax authorities : EUR 13,257;
- 8.3 Preferential claim of Social Security Agency "UWV" : n/a
- 8.4 Other preferential creditors : EUR 0;
- 8.5 Number of unsecured creditors : approximately 19.
- 8.6 Claim of unsecured creditors : EUR 3,512,382,281.31;
- 8.7 Expected liquidation procedure : Distribution to preferential creditors and unsecured creditors after the creditor's meeting. The creditor's meeting will take place on 24 January 2018.

27 March 2018: the meeting of creditors took place on 24 January 2018. Except for one disputed claim, all the other submitted claims were validated.

The supervisory judge has referred the trustee and the creditor whose claim was disputed to the claim validation proceedings of 21 March 2018. The creditor has not appeared in court. Therefore the disputed claim was dismissed.

An interim distribution of proceeds is being prepared.

27 June 2018: after having received the assets from Switzerland (see under 6) an interim



distribution of proceeds will take place to the unsecured creditors.

27 September 2018: the interim distribution list has been approved by the court. From 17 September 2018 the interim distribution list will be available for ten days for inspection. As soon as it becomes irrevocable (which means that no creditors have lodged an objection against it) an interim distribution of proceeds to the creditors will take place. The claims of the preferential creditors will be fully paid and the claims of the unsecured creditors will be paid for 0.15% respectively 0.35%. The difference between unsecured creditors is caused by the agreement that three unsecured creditors shall not share in the proceeds of the sale of the claim of PPI against Petroplus Marketing AG (cf. the interim report of 15 January 2015).

27 December 2018: the interim distribution of proceeds has been completed and the trustee has rendered account to the supervisory judge.

Activities : Informing creditors about the state of affairs with regard to the bankruptcy; if and when applicable: making a final distribution to the creditors.

## 9. GUARANTEE

9.1 Guarantee : no.

9.2 Amount : n/a

9.3 Provided d.d. : n/a

Activities : none.

## 10. MISCELLANEOUS

- 10.1 Term for liquidation : an estimation is not possible at this moment;
- 10.2 Plan of action : the following activities need to be accomplished:
1. further investigation;
  2. possibly starting legal proceedings with regard to the directors' liability;
  3. collecting the claims on the debtors (PMAG)/ settlement of the Swiss mini-bankruptcy;
  4. informing creditors about the state of affairs with regard to the bankruptcy; and
  5. if and when applicable: making a final distribution to the creditors.
- 10.3 Submission of next report : *29 June 2020*

No rights can be claimed from this general report. The trustee does not guarantee the correctness and completeness of the hereby provided information, and this report forms solely general information for provisionally recognized and provisionally verified creditors in the bankruptcy.

Creditors in the bankruptcy can obtain further information from the undersigned and Mrs. S.C. Louer: for contact details see below if it falls under their legal right of information.

Rotterdam, *27 March 2020*

Carl Hamm, trustee

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This bankruptcy is handled by Mr. C.F.W.A. Hamm and Mr. S.C. Louer, Borsboom & Hamm N.V., Weena 614, 3012 CN Rotterdam, (PO Box 293, 3000 AG), telephone number 010-2012939, telephone number 010-2012949, e-mail: rotterdam@borsboomhamm.nl.