

International Arbitration – Update

Capitalised terms used herein, unless otherwise defined, shall have the definitions ascribed to them in the offer document dated 25 September 2013, and registered by the Singapore Exchange Securities Trading Limited acting as agent on behalf of the Monetary Authority of Singapore on 25 September 2013 and the Company's announcements dated 21 July 2016, 3 March 2017, 24 November 2017, 30 November 2017, 4 December 2017, 24 January 2018, 9 February 2018, 28 February 2018, 28 March 2018, 10 April 2018, 26 April 2018, 22 June 2018, 29 August 2018, 31 August 2018, 26 October 2018, 30 October 2018, 1 November 2018, 15 November 2018, 20 December 2018, 1 March 2019, 30 April 2019, 2 August 2019, 4 November 2019, 28 February 2020, 3 April 2020, 11 August 2020, 19 August 2022, 29 August 2022, 21 February 2023, 22 March 2023, 13 July 2023 and 19 July 2023

1. INTRODUCTION

On 21 February 2023, the Company announced that the International Arbitration Tribunal (the “Tribunal”) in a 2 to 1 majority decision, decided that Article 13(3) of the China-Singapore Bilateral Investment Treaty (1985) (the “Treaty”) does not afford jurisdiction over the Group’s expropriation claims and Article 4 of the Treaty does not afford jurisdiction over the Group’s remaining claims. The Tribunal’s jurisdictional ruling only applies to arbitration under the Treaty and did not address the merits of the claims. The Tribunal also ordered the Group to reimburse China the sums of USD0.28 million and RMB 6.35 million in legal costs related to the arbitration.

The dissenting arbitrator issued a strongly worded dissenting opinion criticising the majority’s analysis and jurisdictional ruling.

On 20 March 2023 the Group’s Swiss lawyers filed a petition to the Swiss Supreme Court seeking to *inter alia* set aside the Tribunal’s jurisdictional award and the legal costs awarded.

On 13 June 2023, China requested, *inter alia*, that the Swiss Supreme Court order the Group pay security for costs in the amount of CHF300,000.

On 7 July 2023, the Swiss Supreme Court ordered that security for costs in the amount of CHF250,000 to be paid by the Group on or before 28 August 2023.

On 12 July 2023, the Company remitted CHF250,000 to its lawyers for the payment of the security for costs.

2. UPDATE

(i) Decision of Swiss Supreme Court

On 24 January 2024 the Group was informed by the Swiss Lawyers that the Swiss Supreme Court has turned down the appeal and ordered that it pay CHF250,000 compensation to China. This amount will be settled from the security for cost remitted on 12 July 2023.

(ii) Impact on financial statements

As the appeal has not been successful, the reimbursement of China's cost awarded by the Arbitral Tribunal and the write off of the security for cost deposit will increase the Group's loss for the year ended 31 December 2023 and the net tangible liability as at 31 December 2023.

(iii) Plan

The Group is in the process of divesting its Phase 1 Factory Assets and will use the proceeds to settle the costs to be reimbursed to China. The Group is also in the process of diversifying into a new business and will deploy the balance of the proceeds for acquisition of business and working capital.

3. DIRECTORS' RESPONSIBILITY STATEMENT

The Directors collectively and individually accept full responsibility for the accuracy of the information given in this announcement and confirm after making all reasonable enquiries to the best of their knowledge and belief, this announcement constitutes full and true disclosure of all material facts about the International Arbitration Tribunal's jurisdictional ruling, the Company and its subsidiaries, and the Directors are not aware of any facts the omission of which would make any statement in this announcement misleading.

The Company will make such further announcements at the appropriate juncture, as and when there are material developments in relation to this matter.

Shareholders and potential investors should exercise caution when trading in the Company's shares. Persons who are in doubt as to the action they should take should consult their legal, financial, tax or other professional advisers.

BY ORDER OF THE BOARD

Dr Ong Hian Eng
Executive Director
AsiaPhos Limited

25 January 2024

This announcement has been reviewed by the Company's Sponsor, Asian Corporate Advisors Pte. Ltd. (the "Sponsor"). It has not been examined or approved by the Singapore Exchange Securities Trading Limited (the "Exchange") and the Exchange assumes no responsibility for the contents of this announcement, including the correctness of any of the statements or opinions made or reports contained in this announcement.

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