

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 and 29 August 2022.

1. INTRODUCTION

The Group initiated an investment dispute with the Chinese Government in August 2020 in relation to the cessation of the mining activities at Mine 1 and Mine 2 because of the Panda Park and the Chinese Government's request to vacate its mining site in the JiuDingshan Nature Reserve. This dispute was submitted to arbitration under the Rules of the International Centre for Settlement of Investment Disputes.

2. UPDATE

(i) International Arbitration Tribunal Ruling on Jurisdiction

On 17 February 2022, the Group's lawyers informed the Company that the International Arbitration Tribunal (the "Tribunal") issued a ruling on jurisdiction.

In summary, the Board would like to inform that, in a 2 to 1 majority decision, the Tribunal determined 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 dissenting arbitrator issued a strongly worded dissenting opinion criticising the majority's analysis and ruling.

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 Group is considering the feasibility of pursuing its claims against China in other forums, including future litigation in Chinese courts in advance of or in conjunction with a new international arbitration under the ASEAN Investment Treaty or the China-Singapore Free Trade Agreement. Further, the Group is entitled to file an appeal in the Swiss courts within 30 days of the ruling, i.e before 17 March 2023, to seek to set aside or the revision of the Tribunal's jurisdictional award. The lawyers are reviewing the Tribunal's ruling and will advise the Company on its options.

(ii) Financial Impact on the Consolidated Financial Statements.

As the Group has already recognised full impairment loss on its Mining Assets presented within "Assets of disposal group" in the financial statements for the year ended 31 December 2021, this ruling on jurisdiction by the arbitration tribunal is not expected to have

any material impact on the Group's earnings per share, net tangible asset per share, and cash flows for the year ending 31 December 2023. Further as the Group is entitled to file an appeal to the Swiss Courts, the impact of the legal cost to be awarded on the results and cash flows for the year ending 31 December 2023 will be dependent on the outcome of appeal. In the event the appeal is not successful and the Company has to reimburse China in connection with legal costs related to the arbitration, the said reimbursement will have an adverse material effect on the Group's earnings per share, net tangible asset per share, and cash flows

(iii) Plans

Pending the receipt of advice on filing an appeal, and the other available options to pursue the Group's rights against China for the damages that the government has caused, the Group will continue to grow its trading business and also focus on the negotiation with three potential parties on the divestment of its P4 Plant and land use rights which has been valued at around RMB81 million or approximately RMB 24 million above its net book value. Barring any unforeseen circumstances, the proceeds from a sale should be sufficient to repay the remaining bank loans and other liabilities, including, *inter alia*, the legal costs referred to in (i) above and for the Company to invest in new business.

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 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

21 February 2023

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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