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**Panel on Planning, Lands and Works and
Panel on Environmental Affairs**

Joint meeting on 4 October 2001

**Background brief on mediation on contractual disputes
relating to the Strategic Sewage Disposal Scheme**

Background

In 1989, the Environmental Protection Department completed the Sewage Strategy Study which recommended, among other things, the implementation of the Strategic Sewage Disposal Scheme (SSDS) to deal with the water pollution arising from the disposal of sewage into the coastal and inshore waters of Hong Kong. Implementation was divided into four stages, with the first being designed to collect and treat sewage from the most densely populated and industrialized areas. SSDS Stage I comprises seven deep tunnels with a total length of 25.3 kilometres. The interim outfall tunnel, which is 1.7 kilometres in length and 100 metres below the Victoria Harbour, has already been completed and is now in operation. The other six sewage collection tunnels, which have depths up to 150 metres below ground surface, consist of -

- (a) two western tunnels from Kwai Chung to Tsing Yi and from Tsing Yi to Stonecutters Island; and
- (b) four eastern tunnels from Chai Wan to Kwun Tong, from Tseung Kwan O to Kwun Tong, from Kwun Tong to To Kwa Wan and from To Kwa Wan to Stonecutters Island.

Problems relating to SSDS Stage I tunnelling works

2. Works for the six sewage collection tunnels were originally grouped under two contracts (DC/93/13 and DC/93/14) and scheduled for completion in mid-1997. The two contracts were awarded to the Campenon Bernard SGE/Maeda Corporation Joint Venture (JVC) in December 1994. In mid-1996, JVC unilaterally suspended works in all six tunnels, claiming impossibility in complying with the contract specification due to unexpected water inflows in the tunnels. Despite the Administration's attempt to solve the technical impediments, JVC did not co-operate and took no action to resume

works but continued to seek re-negotiation of the terms of the contracts relating to both technical and financial matters. In view of JVC's failure in proceeding with the works with due diligence, the contracts were forfeited in December 1996. The outstanding works were regrouped into three tunnel completion contracts and re-let in July 1997 and January 1998.

Financial implications

3. In 1994, the Finance Committee approved a capital injection of \$6,800 million from the Capital Investment Fund to the Sewage Services Trading Fund (SSTF), of which \$5,174 million were earmarked for implementing the engineering works of SSDS Stage I. Taking into account the actual expenditure already paid to JVC for the work done, the cost of maintenance and security services for the partially completed tunnels and the legal costs for dispute resolution, the remaining funds available under SSTF capital account was not sufficient to cover the cost for the three completion contracts, an additional funding of \$2,000 million was approved for SSDS Stage I in December 1997. Given that SSTP was no longer able to fulfil its statutory obligation of meeting its expenses from revenue, it was wound up in March 1998. The completion works for SSDS Stage I tunnels were then funded under the Capital Works Reserve Fund. Consequent upon various increases in the approved project estimate over the years, the overall approved funding for SSDS Stage I was increased to \$8,498.7 million in March 2001.

Arbitration

4. The Administration had pursued a claim for losses arising from re-entry of the two tunnel contracts, including the additional costs for completing the tunnelling works. At the Panel meeting on 5 June 2001, the Administration was requested to provide an update on the arbitration. It was noted that the three arbitration hearings to determine liability in the two forfeited tunnel contracts had already been concluded. The Government had been successful in relation to all the most significant issues in the dispute. Most importantly, it had been established that the Government's action to re-enter the tunnel sites in December 1996 was both correct and valid. On that basis, the Government would expect to be able to recover substantial costs and damages from JVC. The recovery of these costs and damages, if disputed by the contractor, would become the subject of further arbitration proceedings on quantum which could not be commenced until the completion contracts had been completed and the additional costs fully certified by the Engineer. The task of certifying the completion contract costs would take some considerable time to complete.

5. On 21 September 2001, the Government and JVC issued a joint announcement that the disputes relating to Contract Nos. DC/93/13 and DC/93/14 had been amicably resolved by an agreement executed between both parties.