

NOTE FOR PUBLIC WORKS SUBCOMMITTEE OF FINANCE COMMITTEE

Supplementary Information on 53CD – River Training Works for the Upper River Indus

INTRODUCTION

When considering PWSC(2002-03)16 on **53CD** at the Public Works Sub-committee meeting held on 8 May 2002, Members requested and the Administration undertook to provide an information note on the latest position of Government's legal action seeking to recover from Guangdong Water Conservancy and Hydro-power Engineering Development Company Limited (GWCH) the additional cost of works incurred due to re-entering of the contract.

THE ADMINISTRATION'S RESPONSE

2. GWCH of Mainland was admitted onto the List of Approved Contractors for Public Works on 26 October 1981 under the categories of "Buildings", "Port Works", "Roads and Drainage", "Site Formation" and "Waterworks". It was also included in the List of Approved Supplies of Materials and Specialist Contractors for Public Works under the categories of "Landscaping", "Land Piling", and "Supply and Installation of Pumpsets and Associated Pipework" between December 1982 and January 1999. From 1981 to 2000 it had completed 22 public works contracts amounting to \$1.4 billion and the performance had been satisfactory. We have been receiving the half-yearly accounts of GWCH and the last one is up to 31 December 2000. At present, only the June 2001 accounts which was due on 30 December 2001, is outstanding. In reply to our letter of 16 November 2001 asking for the June 2001 accounts, GWCH advised that the accounts would be provided to us by 31 March 2002. To-date, we have not yet received the outstanding accounts.

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3. Apart from issuing adverse reports on performance, we have instigated a series of actions against GWCH. On 9 May 2001, GWCH agreed to voluntarily refrain from tendering for public works in the Roads and Drainage category under the List of Approved Contractors for Public Works for poor performance in works contracts. On 7 June 2001, GWCH further agreed to voluntarily refrain from tendering for public works with effect from 1 June 2001 in all categories of works for which it was listed. Since 11 December 2001, we have suspended GWCH from tendering in all the categories for non-compliance with the financial criteria.

4. When we noted from the accounts that GWCH had encountered liquidity problems, we had as early as January 2001 requested GWCH to rectify the shortfall in working capital. As the company failed to do so and work progress was not satisfactory, we re-entered the contract on 20 December 2001.

5. We also initiated action for de-listing GWCH at the end of 2001 and GWCH was removed from the Approved Lists under all the aforementioned categories on 24 January 2002. We had been in contact with the contractor's registered contact personnel until December 2001. Since early 2002 we have not been able to contact him.

Actions to recover from GWCH the additional cost of works incurred due to the contract re-entering

6. To compensate for the Government's financial and time loss, a series of financial claims or actions are being initiated. We have issued four demand notes in December 2001 and January 2002 seeking liquidated damages totalling about \$65 million from GWCH. The liquidated damages are only part of the loss of the Government.

7. To assess the financial loss of the Government, we have compiled in May 2002 an interim debt summary for recovery based on the amount of debts estimated under individual contracts. In view of the complexity of the case, we are seeking legal advice on how best to tackle the case.

8. We plan to start the construction works of the completion contract under **53CD** in August 2002 targeting to enhance the flow capacity to cope with a one in 50 years rainstorm before the 2003 rainy season, and for the completion of the whole contract works in March 2004. We will closely monitor implementation of the works. In the meantime, we will consider the appropriate steps to recover from GWCH the additional cost of works due to re-entering of the contract.

Works Bureau
May 2002