



Bahamas Chapter opens with a fanfare **page 2**
 The growing role of dispute boards **page 4**
 CI Arb's 95th Anniversary Conference in Dublin **page 5**

The Resolver



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News from the Chartered Institute of Arbitrators

www.ciarb.org

August 2010

Why we cannot afford to ignore mediation

By Kathryn Grant

ACROSS EUROPE, governments are taking the axe to public spending in an attempt to reduce their country's budget deficits, built up by spiralling debts from the financial crisis.

In the UK, the coalition government has announced cuts of 25 per cent to most government departments, a two-year public sector pay freeze and welfare cuts of £11 billion annually as part of an attempt to slash its deficit by £113 billion by 2015. Germany will cut 15,000 civil servants and €30 billion of welfare spending to help save €80 billion by 2014. It is a sobering pattern which is repeated across Europe.

What effect are such unprecedented public spending cuts likely to have on dispute resolution? With leading economists and ministers in fierce debate about the likely economic effects of the austerity measures, only one thing is clear: we are in for a tough time ahead.

In the UK, the government has recently announced proposals to close 54 county courts and 103 magistrate courts to save £15.3m a year in running costs. Its aim, according to

Courts minister Jonathan Djanogly, is to "create a more modern, fit-for-purpose justice system in line with the way we live our lives today."

He said: "Not all disputes need to be resolved in court. I want to explore whether more people can resolve their disputes in a way that leads to faster and more satisfactory solutions. I want to explore ways we can harness technology more effectively so people don't necessarily have to physically attend court when they give evidence or access court services."

Justice Secretary Ken Clarke made it clear that ADR had a role to play in this new regime. "We are looking into different methods of delivering justice," he said. "That...means things like alternative dispute resolution in some areas."

Some believe that this could be a watershed moment for mediation.

Lord Woolf FCI Arb, who was responsible for the last major reform of the civil justice system which resulted in the Civil Procedure Rules 1998, commented: "The availability and use of mediation is always important but the present financial situation has made its use, whenever possible, essential. No one can afford to ignore the benefits it offers."

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Lord Woolf FCI Arb

Margaret Bickford-Smith QC MCI Arb, a commercial mediator on CI Arb's Panel of Mediators and a practising barrister specialising in medical negligence cases, agreed: "This is a good time for mediation. There is no doubt that mediation is under-used in the civil justice system and it is down to the mediation community to reassure the public that there is another avenue open to them."

"As a mediator I have personally seen the effect on litigants when a solicitor tells them the costs to date and what the hearing costs and the other party's costs are likely to be, and it is a distressing sight in all too many cases. The climate has arrived in which, not least because of the finan-



cial circumstances in which the nation is in, clients great and small are going to want to hear about cost, and they don't want to find a solicitor saying, 'well I didn't think you'd be interested in mediation.'"

Philip Howell-Richardson FCI Arb (Mediation) added: "There is an emerging theme of mediation being used for public policy reasons. In this new world of public cuts, and rising court costs, where these are combined with legitimate concerns about delivery of quality at an accessible price, we could see further developments in judicial mediation and court-annexed mediation."

"In view of the tightening of the public purse, mediators have a fantastic opportunity to demonstrate how much money they have saved on each case that they settle. Ireland recently estimated that they could save 200 million euros of public money on legal bills in state disputes by using mediation. Clearly, policy-makers inside various government departments, not just in Ireland, are looking at savings they can make in response to public sector cut-backs. We have a great opportunity to increase the use of mediation – we should use it."

Continued on Page 2

CI Arb appoints Facilit8 to deliver mediation training

THE CHARTERED INSTITUTE OF Arbitrators (CI Arb) is pleased to announce that it has appointed training group Facilit8 to provide its commercial mediation training for 2010 - 2013.

Facilit8, led by Legal 500 and Chambers and Partners-ranked commercial mediators Amanda Bucklow FCI Arb (Mediation) and Charles Middleton-Smith, will deliver the training courses that make up CI Arb's unique Mediation Pathway. The professional training programme provides globally-recognised qualifications in mediation, leading to membership of the Institute at various grades, up to the gold standard of Fellowship of the Institute.

The key element of the mediation training is CI Arb's flagship 5 day core commercial mediation training and

half day assessment. Successful completion of the training and accreditation allows candidates to apply to become Members of the Institute (MCI Arb), following which they are awarded the qualification of CI Arb Accredited Mediator.

Amanda Bucklow said: "Most people who train as a mediator want to practise as a mediator and in this competitive world you need the best start possible. Nevertheless, mediation is an invaluable tool for professionals in many different areas of business, and this course is equally suitable for those who need to manage conflict and disputes as part of their job. For legal professionals, mediation training is invaluable if you want to build a practice in mediation or represent clients."

"Becoming a CI Arb Accredited Mediator demonstrates Membership of



Amanda Bucklow FCI Arb (Mediation) of Facilit8 and Michael Forbes Smith MCI Arb, Director General of CI Arb, signing the contract.

the leading professional organisation for ADR in the world, a professional

endorsement which is unique in the field. We are delighted to be appointed as

CI Arb's training partner to build on the Institute's strong reputation in this area."

The 5-day mediation training will not only give candidates the skills and knowledge necessary to practise as a mediator, but also prepare them to build a practice in mediation, with specialist pre and post-course mentoring. This will include training on the use of the latest technology and social media.

In partnership with CI Arb, Facilit8 will also develop CI Arb's Mediation Pathway, which offers a complete route for the beginner to the experienced practitioner, right through to the gold standard of Mediation Fellowship of the Institute. They are also set to develop mediation training internationally through CI Arb's branch network, to meet the growing demand for mediation globally.

Continued on Page 5

Power in numbers: co-mediation

Co-mediation is rarely used in commercial disputes, but it can bring real benefits to disputants, as Ray Farren, a mediator with the Institute of Chartered Accountants in England and Wales (ICAEW), explains.

AN EXPLOSION IS HEARD, the klaxon sounds. A key component has failed and the assembly line is brought to a halt. Almost immediately the management accountants are calculating the loss per hour to report to the board, the lawyers are reaching for the supplier contract and contemplating litigation.

Vast amounts of energy will be expended on blame, retribution and compensation. But is all the litigation worth it? The answer in most cases is no. All that is needed by any disputant is closure and to move on. Enter the Mediator(s).

So why co-mediation?

With co-mediation, the benefit is from the combined skills of two or more mediators; the skills of one mediator will normally enhance and complement the other, as well as facilitate more active analysis of the disputants' positions and proposals during the caucuses.

Let me give a practical example in which I was involved: a two person accountancy partnership where the partners had both a business and personal relationship.

Each side had prepared cessation accounts but neither agreed the other's figures and detailed technical arguments were presented. One of the mediators engaged the disputants in dialogue over the merits of their case.

The other was able, having got the disputants' permission to disclose, to present the disputants' figures back to them helping them to realise that the minutiae of their differences was not helping. Once they started talking about global position, things moved. An agreement was reached which before

that point had seemed impossible.

Flexibility is another big feature of co-mediation. In another case, a 20-plus partnership was going into dissolution. Three mediators were used to separate them into four factions. This action helped to save a firm, create a new one, and provide a fixed-term consultancy as well as an early retirement. Co-mediation flexes to meet the needs of the disputants involved.

Drawbacks

There are well publicised disadvantages to mediation. Mediators are sometimes seen as experts in their fields and may be asked, or expected, to judge arguments. This can also arise in co-mediation, along with each disputant regarding one of the mediators as being "on their side". A good mediator will spot and manage this; two good mediators will spot this for each other as well as for themselves.

Of course two mediators will mean increased costs may also be involved, but then aren't we worth it? The disputants will decide.

Advantages to mediators

For mediators who may be wary of working with other professions, and indeed other people, there can also be benefits. Two mediators provide a wider set of skills and experience, as well as being able to do more analysis. This will expose the mediators to new ideas and challenge their preconceptions. It eases the load and tension on the mediator during what is often a stressful process for them as well.

Often the mediation tasks can be comfortably divided and a team of two or more is less likely to be 'co-opted'



Ray Farren

by a disputant. In addition, mediators can benefit from the opportunity to explore options with each other before discussing proposals with the disputants. Separating to run two caucuses simultaneously accelerates the pace of the mediation, helping to save both time and costs.

Effectiveness

An effective co-mediation team is one that:

- enhances the expertise, insights and listening capacity of the mediators who may possess diverse backgrounds, professions and ethnicities
- multiplies the linkages that different disputants can develop with the mediators
- allows one mediator to take a risk while having the other available to come to the rescue.

Co-mediation, I would argue, is more likely to achieve the benefits that are being sought by both disputants.

ICAEW and ADR Group (ADRg) have joined together to offer a dedicated service for resolving commercial disputes using a panel of specialist mediators from the legal and accountancy professions. ■

Why we cannot afford to ignore mediation

Continued from Page 1

Perhaps one of the biggest areas for potential disputes will be employment. Clive Lewis is Director of Globis, a leading provider of workplace mediation services which will, from 2011, be delivering workplace mediation training for CIARB as part of its Pathways Programme.

He said, "The business case for mediation at work is gradually becoming better understood by organisations. There has been a 56 per cent rise in the number of cases going to employment tribunal over the past year and this trend looks likely to continue. Workplace disputes are growing across all sectors, with redundancy, unfair dismissal and breach of contract disputes representing the highest growth at tribunals. This is partly because, if the redundancy process has not been properly managed, an employee could bring multiple claims to try to get compensation, particularly if they don't know when they are going to get another job."

"Mediation provides a pragmatic alternative to an Employment Tribunal as it can result in a win-win solution for the parties. Employees often opt to go to Employment Tribunal because they believe they may achieve more compensation, but often they have a false idea of how much they can get. Average settlements can be in the region of £2,000 to £3,000. Litigation rarely results in a satisfactory conclusion for both sides. It's important for us to get the message across that mediation saves money for organisations by maintaining levels of productivity, reducing stress, sickness and absence, improving customer service and keeping important projects on track."

There's no doubt that, as businesses and individuals, we are in for a rough ride. But with many governments re-examining cost and ways of reducing spending, ADR has a real opportunity to step up to the mark and be counted. It's up to the dispute resolution community to drive home the message. ■

Sir John Dyson to address 3rd Mediation Symposium

FOLLOWING THE sell-out success of CIARB's first and second Annual Mediation Symposia, CIARB is delighted to invite members to its 3rd Annual Mediation Symposium on Wednesday 27 October.

The keynote speech will be delivered by the Rt Hon Sir John Anthony Dyson, Justice of the Supreme Court of the UK and Nadja Alexander, Professor of Law in Hong Kong.

Sir John Dyson is the most recent Justice to be appointed to the Supreme Court. He was appointed to the Court of Appeal in 2001 and was Deputy Head of Civil Justice from 2003 to 2006. He was Presiding Judge of the Technology and Construction Court from 1998 to 2001. In 2004, as a Lord Justice of Appeal, he ruled in the seminal case of *Halsey v Milton Keynes* which set out the factors to be considered in deciding whether a party has unreasonably refused to mediate and when costs sanctions should be imposed.

Nadja Alexander has spoken widely on the regulation of mediation. She has extensive experience as a mediation practitioner, researcher, trainer and educational consultant in Australia, Europe, USA and Asia.

Generously hosted by CMS Cameron McKenna for the second year at their offices in London, the 3rd Mediation Symposium is an essential date in the mediation professional's diary, suitable for all those with an interest in mediation. The one-day event provides the ideal opportunity for you to explore common experiences, discuss how to handle the key challenges for the future and network with your peers.

Michael Cover FCIARB (Mediation)



Rt Hon Sir John Dyson

and Tim Hardy, a partner at CMS Cameron McKenna, will chair panel debates on creating confidence in mediators and the process, with contributions from Sir Henry Brooke, Chairman of the CMC, Mark Jackson Stops, Simon Carne, Thierry Garby, Tony Willis FCIARB (Mediation) and others.

Delegates will then have the opportunity to take part in a selection of mediation skills workshops led by leading mediation practitioners and trainers. These include: family mediation, 'switching off you're your autopilot', developing your mediation practice, handling the lawyers and advocates in mediation and 'the makings of a master mediator'.

Attendance at the event will contribute to the CIARB's CPD scheme and may contribute to other professional CPD schemes.

CIARB members get a 20 per cent discount on the ticket price, making the price £150 + VAT. To guarantee your place, book now by completing and returning the booking form from the CIARB website.

W: www.ciarb.org/events/mediationsymposium ■

Bahamas Chapter opens with fanfare

CIARB WAS PLEASED to welcome the Bahamas Chapter of the Caribbean Branch at an opening ceremony on 7 June. With musical fanfare provided by the Royal Bahamas Defense Force Band and an impressive flag ceremony conducted by officers of the Royal Bahamas Defense Force, the opening ceremony featured speeches by the new Chapter Chair Bertha Cooper-Rousseau ACIARB, Caribbean Branch Chairman John Bassie FCIARB, CIARB President Joe Behan FCIARB, President of the Court of Appeal of the Bahamas, Dame Joan Sawyer and Kenneth Engstrom of the Bahamas Ship Owners Association.

On 20 May, the Bahamas enacted the Arbitration Act 2009 and the Arbitration (Foreign Arbitral Awards) Act 2009, which will help to establish the Bahamas as one of the premier hubs in the Americas for international commercial arbitration, conferences, seminars and training courses.



Joe Behan FCIARB



Roy Sherlock FCIARB, Joe Behan FCIARB, Steven Certilman FCIARB, Ian Rollitt FCIARB, and Bertha Cooper-Rousseau ACIARB

The official launch was followed by the presentation of two well-attended training programmes: Introduction to Arbitration and Introduction to Mediation. Present for this historic event were Trustee Roy Sherlock FCIARB and Chairman of the Board of Trustees Steven Certilman FCIARB, both of whom stayed on to participate as tutors in the training programmes. Chairperson Bertha Cooper-Rousseau expressed her confidence in the projected

increase in membership of the newly formed chapter from its present number of 11 to 75 before the end of 2010.

She was also very keen to indicate the Bahamas Chapter will play a crucial role in preparing multi-disciplinary professionals to facilitate the Bahamas' rise as a major international arbitration seat. Congratulations to the Bahamas Chapter on its highly successful opening. ■

Law reports

ARBITRATION

International arbitration – “one-stopness” in arbitration stops one party stopping play

Ben Holland of CMS Cameron McKenna reports on the case of *Norscot Rig Management PVT Ltd (Norscot) v Essar Oilfields Services (Essar)* [2010] EWHC 195 (Comm). In this case, a dispute concerning an Operations Management Agreement (OMA) arose between the two parties and was brought by Norscot before a sole arbitrator pursuant to the arbitration clause contained in the OMA. In response to Norscot's claims, Essar raised claims to set-off and counterclaims which were based on another contract between the same parties (the BOP Stack contract). This contract related to the condition and fitness for purpose of a Blow Out Preventer Stack, an important piece of safety equipment which Norscot supplied to Essar and that it had refurbished and fitted to the rig. The BOP Stack contract did not

contain an arbitration clause; however, the sole arbitrator concluded that he had jurisdiction to hear and determine Essar's claims to set-off and counter-claims. Norscot challenged the arbitrator's jurisdiction under s.67 of the Arbitration Act 1996. Norscot said that Essar's claims for set-off or other counterclaims could only be brought under the BOP Stack contract and as a result did not fall within the scope of the arbitration, which had been commenced pursuant to the arbitration agreement contained in the OMA. The Court of Appeal decided that the set-off and counterclaims brought by Essar either arose out of, or were “related to”, the OMA. The Court referred to the case of *UBS AG v HSH Nordbank AG* [2009] EWCA Civ 585, where the Court supported the concept of a “one stop shop” for disputes arising between the same parties connected to the same commercial relationship, which the Court of Appeal called “one-stopness”. CMS comments that sector participants should be careful to exclude from any broader arbitration

agreement any contract that needs different treatment, and ensure that the dispute resolution provisions in all their contracts accurately reflect how the parties wish any dispute to be determined.

Full article available at:
www.law-now.com

ARBITRATION

Court of Appeal holds religious criteria for appointment of arbitrators unlawful

Herbert Smith reports on the case of *Nurdin Jivraj v Sadruddin Hashwani*, [2010] EWCA Civ 712. In this case, the parties entered into a joint venture agreement for investment in real estate projects worldwide. The agreement contained an arbitration clause which stipulated that arbitrators were to be “respected members of the Ismaili community and holders of high office within the community”. The Ismaili community was considered to be a religious group under the meaning of the Equality (Religion and Belief) Reg-

ulations 2003 (the “Regulations”). Further, the chair of the tribunal was to be “the President of the HH Aga Khan National Council for the United Kingdom for the time being”. When the parties terminated their venture and attempts to divide up the assets had failed, Mr Hashwani formally notified Mr Jivraj of a £1.5 million claim and the appointment of Sir Anthony Colman as one of three arbitrators. Mr Jivraj applied to the Commercial Court for a declaration that the appointment was invalid as Sir Anthony was not a member of the Ismaili community. Subsequently Mr Hashwani made an application to court (under section 18 Arbitration Act 1996) to appoint Sir Anthony as a sole arbitrator. He did so primarily on the basis that the arbitration agreement was void under the “Regulations”. At first instance, Steel J declared Sir Anthony's appointment invalid as it did not comply with the arbitration clause. He held that arbitrators were not “employees” for the purposes of the “Regulations” and therefore that the “Regulations” did

not apply. The Court of Appeal disagreed as to the nature of an arbitrator's appointment. In the view of the higher court, arbitrators are employees for the purpose of the “Regulations”. In addition, the Court held that the arbitration clause breached the prohibition for an employer to discriminate when determining to whom he/she should offer employment, and therefore it decided that the arbitration clause was held to be void in its entirety. Steel J's declaration that Sir Anthony should be appointed was set aside. Although the religious requirements were not to be upheld, Sir Anthony's appointment also could not be affirmed, as the agreement to arbitrate no longer existed. Herbert Smith comments that this decision will restrict parties' ability to select characteristics of arbitrators in commercial agreements and that care should be taken not to be overly prescriptive in the characteristics requested of arbitrators.

Full article available at:
www.herbertsmith.com

CI Arb launches breakfast seminars for lawyers



Tony Marks MCI Arb, Director of Legal Services at CI Arb

CI Arb's DIRECTOR OF LEGAL SERVICES, Tony Marks MCI Arb, and the Events Team are organising a series of breakfast seminars designed primarily for litigation associates in London firms.

The aim of the seminars is to continue to educate lawyers about the various aspects of ADR. By highlighting and promoting membership of CI Arb, it will also help to build the next generation of members.

The launch is timely given Lord Justice Jackson's recent recommendation, in his Civil Litigation Costs Review, for a concerted campaign to raise awareness of the benefits of mediation among businesses and lawyers. It was a message reiterated by Master of the Rolls, Lord Neuberger, at the CMC's 4th National Conference in May, where he called for mediation “to be part of every lawyer's education”.

CI Arb intends to run at least one series of breakfast seminars a year, each series having four briefings. Each briefing will focus on a different topical and practical aspect of arbitration,

mediation or other form of ADR. The speakers will include leading members of the Institute and the legal profession and delegates will have the opportunity to question the speakers after the presentations. The seminars will have Law Society CPD accreditation. The autumn programme will include briefings on the CI Arb Protocol on expert witnesses in arbitration as well as an update on the recent developments in expert determination.

Confirmed speakers include Peter Rees QC FCI Arb, Tony Willis FCI Arb (Mediation) and John Kendall. CI Arb is very grateful to the following firms who have kindly agreed to host these events, Bird & Bird, CMS Cameron McKenna LLP and Reed Smith LLP. Details will shortly be available on the website. If any member would like to nominate a non-member to receive information, please contact the Events Team.

E: events@ciarb.org
W: www.ciarb.org/events

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> 3rd Annual Mediation Symposium 2010 Creating Confidence in Mediators

Wednesday 27 October 2010 09:00 – 17:00 hrs
CMS Cameron McKenna LLP



Creating Confidence in Mediators

An opportunity for mediation professionals to review and explore common experiences, discuss how to handle the key challenges for the future as well as network with their peers. The event includes a number of workshops on technical and specialist issues.



Keynote Addresses by:

The Rt Hon Sir John Dyson, Justice of the Supreme Court and Nadja Alexander, Professor of Law in Hong Kong

Tickets:

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Non members £180 + VAT @ 17.5% + £20 (Proceedings) = **£231.50**

For the full programme and updates visit our website

To Book:

W www.ciarb.org/events/mediationsymposium



E events@ciarb.org T +44 (0)20 7404 7441

The role of Dispute Boards in IP and IT transactions

Dispute Boards have gained increasing acceptance over the past decade, but their use has largely been restricted to construction and engineering projects. **Michael Cover FCI Arb**, a member of the CI Arb's Board of Management and Professional Member of the Dispute Board Federation, explores whether their use could be extended to major IT infrastructure contracts and IP agreements.

DISPUTE BOARDS have made significant inroads into dispute resolution in international infrastructure



Michael Cover FCI Arb

projects, not least because of the influence of the funders, the Multilateral Development Banks (MDBs).

In his book, *'Chern on Dispute Boards 2008'*, Dr Cyril Chern estimates that, by the start of 2007, well over 1,700 projects had been completed or were underway utilising dispute boards of one sort or another. He also estimates that some 3,000 disputes were referred to these boards. He goes on to say that only one per cent of the resulting disputes (around 30) were referred on to national courts or arbitration and that the board's decision was generally upheld by the court or arbitral tribunal.

What is a Dispute Board?

A dispute board (DB) is a standing dispute resolution and avoidance body, generally, although not always, comprised of three independent and impartial people. Its output, for disputes that go that far, is an adjudication, which is binding pending further review, generally by an arbitration tribunal. A dispute board is a creature of contract and will be established typically by the main contract for the project.

The members of the dispute board will generally visit the site three to four times per year and will conduct conciliation (no caucusing) and dispute avoidance and, if necessary, sit as adjudicators. The dispute board becomes a real part of the project and the project team. It is paid a monthly retainer for the life of the project and any additional period covering guarantees, which may be three to five years. The total cost of a dispute board might be 0.1 per cent of the project value.

Dispute boards originated in the US some thirty years ago. The favoured form of dispute board in the US is the Dispute Review Board, which in fact gives a non-binding recommendation on a dispute. Elsewhere, it is the Dispute Adjudication Board (DAB) that tends to be used, which gives an adjudication, which is binding in the interim, pending any referral to arbitration.

A typical example of a dispute board was that on the Hong Kong airport project (value US \$15 billion). Six disputes were referred to the dispute

board, which is a low number bearing in mind the size and complexity of the project. Of those six, only one was referred to arbitration and the decision of the DB was upheld. This is a typical outcome of a reference to arbitration of a DB decision.

Dispute Boards in other sectors

The penetration of Dispute Boards beyond construction and engineering into other and potentially fertile areas has been less dramatic. This includes UK domestic construction and engineering projects but this probably has more to do with the adjudication system here.

In his book, Dr Chern looks at the application of dispute boards to the maritime industry, principally in the area of shipbuilding. He compares the complexity of a ship with that of a dam or other major infrastructure project. There is also anecdotal evidence of the use of DB's in financial services, long term concession agreements and operational and maintenance contracts.

But what about other areas, which should be well-suited to the utilisation of DB's?

IT infrastructure projects

When I was in practice as Head of IP at Davies Arnold Cooper, I was struck by the similarity between construction and engineering contracts and major IT infrastructure contracts and IP licences and agreements.

There are many close similarities between IT infrastructure projects and construction and engineering projects. They both may involve some or all of the following:

- design
- build and/or supply
- operate
- great complexity with many interfaces
- the need to keep the project moving, whilst dealing with "interlocutory" disputes
- a network of sub-contractors
- a need to deal with variations to the specification and delays/extensions of time due to unforeseen circumstances and resulting increased cost
- testing for acceptance
- stage payments
- site access and preparation; site security
- continuing support by the contractor
- limitations of liability.

Perhaps the main difference is the ubiquitous presence of the Engineer in the construction and engineering contracts, whose role extends to acting as the first line in claims and dispute resolution. The Customer's Representative or equivalent may play a similar role in IT and IP contracts.

With their blend of dispute avoid-

ance, conciliation and adjudication, dispute boards would seem perfectly suited to at least major IT projects. The cost savings that flow from less conflict and less litigation would seem to make them highly attractive; yet, on the ground, little appears to be happening.

How might this be changed?

Particularly in the UK, there is a need to raise awareness of the value and effectiveness of dispute boards. This could be led by the UK Government which, for national projects, is in the same position as the MDB's on international infrastructure projects; it funds them.

The UK Government could insist on DB's for major projects, including IT projects, which in the public sector, seem to have an unfortunate propensity to go wrong, causing huge delays and additional expenditure. Even in relation to 2012 projects, the dispute resolution process stops short of a DB arrangement, which will probably store up disputes which will manifest themselves after 2012 is long over.

In fact, the UK Government is a significant funder of major IT projects and could usefully be educated that DB's not only reduce conflict and preserve relationships but also lower bid costs, because there is much less need on the part of the contractor to inflate prices to cover the risk of injustice and delay. Taking conflict and hence cost out of infrastructure projects will not just be attractive but essential.

Other contracts in this area that might benefit from the application of dispute boards include:

- **Outsourcing transactions** - outsourcing of technology or business processes will usually involve multi-year relationships of considerable complexity and may, over a very long period, relate to sums of money that can be as large as a major physical infrastructure project.
- **Franchise agreements** - these share some of the characteristics of outsourcing transactions, whilst also sharing many of those of long term IP licences.
- **Standard setting organisations (SSO's)** - industry groups that develop, promote and support common specifications for particular products, generally in IT and comms. These are, by definition, complex, long term, multi-party relationships. Examples include 3G, DVD, Bluetooth and Blu-Ray. Before the standard in question can include, for example, patented technology, the owner of the patent(s) usually must agree to license all-comers on a FRAND (fair, reasonable and non-discriminatory) basis.

Disputes can arise as to whether a particular licence enables a particular licensee to comply with the standard or as to basic issues relating to the operation of the SSO.

- **Transition service agreements** - these are agreements generally put in place following large scale acquisitions and mergers, particularly in the case of spin-offs of existing businesses that will require long term support from shared systems.
- **Long term significant IP licensing transactions** - these could be commercial transactions or settlement agreements following a dispute and will generally involve long term relationships and often great complexity.

What else could be done?

The Dispute Board Federation could target IP and IT professionals and their lawyers to attend their conferences and symposia and also develop intensive training programmes for this sector, focusing both on the suppliers and the customers and the funders.

Suitable clauses are available. The Standard ICC Dispute Board Clauses

would work perfectly well for IT contracts. The methodology of the DB Clauses and General Conditions of Dispute Board Agreement and (DB) Procedural Rules that appear in the "Pink Book" could be adapted for IT contracts by the substitution of "the Engineer" for "the Customer Representative" or equivalent, who generally appears in IT contracts and some other amendments. This would of course require the permission of or a copyright licence from FIDIC, to which application would have to be made.

Ultimately, however, more funders and customers and even suppliers may need to embrace and adopt DB's for their projects, perhaps starting at the top end, where DB's are easier to justify from a financial perspective. The UK Government would be wise to "get with the programme" on this, as there are huge savings to be made for relatively little pain. ■

This is an abridged version of the paper that was first presented at the Dublin Forum on Resolution of Intellectual Property Disputes in June.

The Dublin Forum on Resolution of IP Disputes



President Joe Behan FCI Arb, James Bridgeman FCI Arb and Gearoid Schutte, President of the Association of Patent and Trade Mark Attorneys.

THIS YEAR'S DUBLIN FORUM in Ireland took place on 18 June. An established event in the International Arbitration calendar, the forum is a high level, round-table discussion of topical issues in the field of international commercial arbitration and mediation by an invited group of practitioners.

Having completed three consecutive years addressing antitrust and arbitration, the forum shifted its focus this year to intellectual property disputes and, more particularly, the choices facing parties and their representatives. This was reflected in the beguiling title: Forum Shopping and Beauty Parades.

As in previous years, participants were well represented by CI Arb members. President Joe Behan FCI Arb chaired the morning session and other

members included: Thomas Hallet FCI Arb, who presented a paper on Choice of Law, Michael Cover FCI Arb (Mediation), a member of CI Arb's Board of Management whose paper on the role for Dispute Boards in IP Disputes is published here, Professor Guido Carducci FCI Arb, who gave a civil law perspective on the various institutional rules and James Bridgeman FCI Arb, who concluded the programme with a presentation on the new WIPO Mediation and Expedited Arbitration Rules for Film and Media Disputes.

This year's participants travelled from the United States, United Kingdom, France, Switzerland and Ireland. Attendance at the event is limited to around 30, with invitations aimed at ensuring a wide geographical spread of participants from common law and civil law jurisdictions. ■

Facilit8 to deliver mediation training

Continued from Page 1

Michael Forbes Smith MCI Arb, Director General of CI Arb, commented: "The Chartered Institute of Arbitrators' professional qualifications have set a benchmark for standards in ADR. We would like to thank Mediation and Training Alternatives (MATA), led by David Richbell FCI Arb (Mediation) and Jane Gunn FCI Arb (Mediation), for their partnership with CI Arb for the past five years in developing and delivering our commercial mediation training.

"Delivering high standards of professional training and education is vital to develop the market for mediation,

which will have increasing relevance for businesses and individuals in the years to come, and we look forward to working with Facilit8 to further this aim."

The next CI Arb commercial mediation training course and assessment starts on **1 November 2010**. Courses will also take place in April and November 2011. To find out more, or to book your place, please contact the Education and Training Team:

T: +44 (0)207 421 7439
E: education@ciarb.org
W: www.ciarb.org/mediation-training

PROFILE Amanda Bucklow

Amanda Bucklow FCI Arb (Mediation) is a leading commercial mediator and founder of Facilit8. Together with training partner, Charles Middleton-Smith, she will deliver CI Arb's commercial mediation training. Amanda has had an independent mediation practice for over 15 years and a portfolio of over 800 mediations. She has first-hand experience of large international corporations and was once owner of three high street businesses.

What makes a good mediator?

You need a real interest in people and self-esteem so that you don't push yourself forward as the star; it's about helping the parties to uncover the sources of conflict themselves. Your role as a mediator is to create the context for people to change their mind without losing self-respect.

To become a practising mediator, you may have to be prepared to build a business to support your practice and this is what the CI Arb training will help you to do. The training is hugely important in developing the essential skills, but you also need to be able to apply your skills to the market.

Before the CI Arb training course, we give you a few basic questions to ask yourself to assess your suitability for the course. If your interest has peaked at the end of this, then you should pursue it.

When did you decide to become a mediator?

When I sold my businesses, I remember sitting down and writing a matrix of all the things I was good at, what I wasn't so good at, what I enjoyed and what I didn't enjoy. I realised that all the things I was good at and enjoyed in business: communication, negotiation, language skills and problem-solving, pointed me towards conflict resolution. With my legal education and experience in negotiating contracts, it seemed so obvious that business should solve its problems in a grown-up way.

When I started my training, I realised I'd been doing mediation for a long time already. I walked out of my assessment and haven't looked back since.

What do you enjoy most about the job?

I enjoy seeing people become their

very best in a way that almost makes me invisible as the protagonist of that. A successful mediation for me would be one where, when there is agreement, I could just pick up my briefcase and no one would notice when I left.

Where do you see the mediation market going?

The mediation market is having a growth spurt. In Europe, there is a mandate from the EU Directive for all cross-border disputes to be mediated, and all around the world businesses are discovering mediation as a grown-up way of settling disputes.

In the UK, the government is working collaboratively and that is setting the tone for mediation. The judiciary is also taking a lead in encouraging people to mediate and there is a strong costs incentive.

What is going to help is if businesses understand why addressing conflict early is a sensible business approach. Mediation offers businesses an opportunity privately to resolve contractual disputes which are a consequence of changes in the economy. In terms of their brand, reputation and future relationships, that is absolutely invaluable.



CI Arb launches season of evening seminars

By Sue Frye, Events Manager

CI Arb's EVENTS TEAM is organising a diverse programme of events starting in September, in response to the increasing demand from members for more events with CPD accreditation and networking opportunities. In addition to our flagship events, the Mediation Symposium and the Alexander Lecture, we are also putting together a programme of evening seminars in London. These kicked off in fantastic style in June with a seminar on Culture and Mediation by Niall Lawless FCI Arb.

CI Arb is looking forward to an event on 16 September in association with PA Consulting Group, examining 'Expert Witnesses'; in October we will be joining forces with ICC (UK) for an evening seminar and in November the topic will be 'Mediation involving Governments'. Details of all these events,



Niall Lawless FCI Arb

including presentation topics and speakers, as well as booking information, can be found on the events calendar of the website. If you would like to suggest topics or speakers for next year's programme, please contact me.

T: +44 (0)207 421 7441
E: sfrye@ciarb.org
W: www.ciarb.org/events



CIS Group takes shape

NICKI ALVEY, CI Arb Director of Membership and Marketing, and Sue McLaughlin MCI Arb, Member Services Manager, discussed the possibility of a future Commonwealth of Independent States (CIS) Countries Branch in Moscow on 9 June.

A meeting took place, hosted by White and Case, to discuss whether there was sufficient interest and support locally for setting up a CIS Countries Branch. The potential branch would be based in Moscow, although informal groups could also be formed in the Ukraine and Kazakhstan, as part of the branch's jurisdiction.

The meeting, led by David Goldberg FCI Arb, partner at SJ Berwin and President of the Anglo-Russian Lawyers Association (ARLA) was attended by local lawyers and other professionals, as well as those from Poland, Ukraine, Kazakhstan and England. Many were in Moscow to attend the two-day International Arbitration Conference on 9-10 June, organised by ARLA and CI Arb among others, hosted by the Chamber of Commerce of the Russian Federation and administered by BE Capital.

The meeting agreed that there was sufficient support to start the process of setting up a branch. A steering committee was identified which will now work with the Executive to prepare for local registration and draft the official application to the Board of Trustees.

Branch activities would include the delivery of training programmes tailored to local jurisdictions and languages, networking and social events, evening and breakfast talks. Local law firms including Allen and Overy, Norton Rose, White and Case and SJ Berwin generously gave their support to host various events in the forthcoming months.

CI Arb 95th Anniversary Conference

THE IRISH BRANCH is hosting a one day conference entitled 'The Global Growth of ADR' to celebrate CI Arb's 95th Anniversary. Organised by this year's President, Joe Behan FCI Arb, the conference will be held in Dublin starting with a pre-conference reception at Dublin City Hall on the evening of Thursday 23 September, and a full conference on Friday 24 September at the Davenport Hotel, Dublin.

The conference will be followed by a Gala Dinner in Trinity College. Speakers will include: Nael Bunni FCI Arb, Guido Carducci FCI Arb, Christopher Dancaster FCI Arb, Thomas Hallet FCI Arb, Chandrakant Kamdar FCI Arb, Alan Limbury FCI Arb, Justice Catherine McGuinness, Justice Roderick Murphy and Axel Reeg MCI Arb.

CI Arb members receive a €50 discount on the ticket price, making the total cost €300 for members, €350 for non-members. The price of dinner only is €100 (including wine).

You can book directly online or download the booking form from the Irish Branch website.

W: www.arbitration.ie
T: 353 1 7079039
E: info@ciarb.ie

Appointments

New

Director of Education and Academic Affairs

WE ARE PLEASED to announce that Leslie Alekel joins CI Arb this month as Director of Education and Academic Affairs.

Leslie comes from the International Bar Association in London where she was Director of Divisions and Head of the Legal Practice Division. Her role at the IBA has given her five years experience of providing high-quality professional training to a worldwide membership.

Previously, as Director of the Disability Mediation Center in Los Angeles, Leslie developed and delivered training and mediated her own caseload. She also taught as an adjunct professor at Loyola Law School from where she gained the degree of Juris Doctor with first class honours in Mediation.

Chairman of the Board of Management appointed



Richard Morris FCI Arb

RICHARD MORRIS FCI Arb, Head of Disputes at Systech International and based in London, has been appointed Chairman of the Board of Management, following a meeting of the Board of Trustees on 12-13 May.

Richard is an arbitrator, adjudicator and expert witness specialising in forensic delay analysis on construction and engineering projects worldwide.

Steven Certilman FCI Arb, Chairman of the Board of Trustees, congratulated Richard on his appointment and also expressed the appreciation of the Institute to Mark Entwistle, for his invaluable service in the role.

W: www.ciarb.org/news

Send us your paper

IS THERE A PARTICULAR topic of ADR that you would like to write about? CI Arb is inviting members to send in a research paper to be considered for publication on the CI Arb website.

All papers will be anonymously peer reviewed and the best ones will be published on the members' area of the CI Arb website. If the papers are of a sufficiently high quality, CI Arb will

look at developing a series of evening lectures next year, to be based around these. Please send an email to Julio César Betancourt by 1 December 2010 giving your name, contact details and the title of your paper in the body of the email. You should also send your paper in the same email, but attach it as a Word document which should not include your name. **E: jbetancourt@ciarb.org**

UK – London Branch

Mediation goes to work

By Jackie Elliman FCI Arb

They all laughed when I said that employment mediation was a hot topic. But when a crack team of speakers, assembled with the invaluable support of Littleton Chambers, started to speak at the CI Arb London Branch seminar on 8 June...well, they certainly changed their minds.

What effected this transformation? First off Madeleine Thomson, Head of the Employment Law Department at host firm Sprecher Grier Halberstam, came to the role fresh from an intensive few days of workplace mediation training and a huge enthusiasm for the process. Professor Erika Szyszczak emphasised the fact that mediation during employment could resolve problems that would otherwise lead to dismissal in many cases.

Andrew Stafford QC then took the audience to more familiar territory: dispute resolution, litigation and the high value minefield of post-employment restrictive covenants. Finally Judge Mary Stacey explained the new

role of judicial mediation in employment disputes. She too emphasised that tribunals should be considered as a last resort, where cases could not be solved in any other way.

A lively Q&A session ranged from alleged judicial bullying where judge mediators had been perceived as engineering settlements, to the problems of mediating employment disputes in sectors such as education and health where the parties might wish to settle but could not in fact do so without departmental approval.

All in all, a stimulating evening. Trouble is, now everyone knows how interesting employment mediation can be...they're all going to want to do it!

The London Branch's next event will be the London Branch and LCIA 6th Annual Joint Seminar, 'Arbitration in India' at 6.30 pm on Wednesday, 8 September at Clifford Chance.

To book, please contact Elinor Pritchard.

E: elinor@thevirtualpartnership.co.uk
W: www.londonarbitrators.org

The Franco-British Lawyers Society

By Hew Dundas FCI Arb

The Franco-British Lawyers Society (FBLS) has, for a number of years, hosted stimulating and valuable debates over the relative merits of arbitrating in various European arbitral centres. In May 2009, CI Arb London Branch and FBLS jointly hosted a highly successful 4-way debate between England, France, Germany and Scotland, in London. Notwithstanding excellent and erudite contributions from the other three countries, audience feedback 'gave it' to Scotland by a mile! Of course, that was not acceptable to those who finished (at best) second.

Part 2 of Ye Greate Battel took place in Paris on 10 May with the addition of Switzerland, with particular focus on the role of the courts in arbitration. On home territory, France wheeled in Top Gun in the shape of legendary Judge Dominique Hascher of the Cours d'Appel du Paris, a man whose titanic intellect is matched only by his immense wit.

Germany, fully conscious that national pride was at stake (long

before the World Cup kick off), was represented by European Branch Committee member Dr Susanne Kratzsch MCI Arb and England by a very thoroughly prepared and highly-persuasive Stephen Bickford Smith FCI Arb, Chairman of the London Branch.

France, England, Germany and Switzerland gave powerful and persuasive presentations but could not match the Scottish 'gift of the gab'. As in 2009, audience reaction 'gave' the debate to Scotland.

Ye Greate Battel Part 3 will take place on 16 May 2011, in Edinburgh. ■



The retiring Chair, Stephen Bickford-Smith QC FCI Arb is pictured (right) handing office to new Chair Hew Dundas FCI Arb (left), a past President of CI Arb, at the London Branch AGM on 28 April, where Lord Hoffman delivered the keynote address.

UK – East Anglia Branch

East Anglia Branch holds summer of events

Cambridge University was the impressive venue for two East Anglia Branch events this summer.

ON 11 JUNE, the Branch held its popular Annual Summer Seminar at Downing College, Cambridge. The event is a fixture in many practitioners' diaries and is always very well attended, this year attracting some 40 people.

It has been held at Downing College for many years and the venue and the surroundings are always a delight.

The subject-matter for the day was 'The Psychology of Disputes'. The first talk was given by Peter Birch on the subject of 'The Beaufort Scale and levels of conflict' which was a highly entertaining way to start the day.

This was followed by most informative and thought-provoking talks by Peter Stewart on 'Heart or head, emotion or logic' and James Savory MCI Arb on 'The psychological barriers to the settlement of disputes'. Immediately after lunch, Branch



Branch Chairman, Peter Barnes FCI Arb and James Savory MCI Arb.

Chairman Peter Barnes FCI Arb gave a talk on 'Is the avoidance of, and resolution of disputes just like a game of chess?' and the day was rounded off in

style with audience participation generated by David Miles FCI Arb's workshop on 'Non-verbal communication'. ■

THE SEMINAR WAS followed on 10 July, by the East Anglia Branch's Annual Dinner at St Catharine's College, Cambridge. It was very well attended, and held in idyllic surroundings, starting with pre-dinner drinks on the Senior Fellows' Lawn, followed by a sumptuous three course meal and wine in the Senior Combination Room. The weather was absolutely glorious, and the surroundings and ambience of the College (which dates back to 1473) made the whole occasion one to remember.

The branch was most fortunate that Joe Behan FCI Arb, CI Arb President, was able to attend the dinner and deliver a most informative after dinner speech. The evening was hosted by Peter Barnes, who gave a brief talk on the history of St Catharine's College. The Annual Dinner has a well deserved reputation for providing good food and wine in tranquil and unique surroundings, and is therefore one of the highlights of the East Anglia Branch calendar. ■



Richard Morris FCI Arb, Chairman of Board of Management, Joe Behan FCI Arb, President, Peter Barnes FCI Arb, Chairman of East Anglia Branch and Niall Lawless FCI Arb, UK Trustee.

UK – Western Counties Branch

Western Counties Branch sets sail

IN GLORIOUS SUNSHINE on 20 June, twenty members and guests of the Western Counties Branch met by the sparkling waters of the Barbican, Plymouth, for a boat trip at the start of their summer meeting, organised by vice chairman, Jonathan Wyatt FCI Arb.

The visit comprised the group leaving the Barbican on a pleasure boat, cruising around Plymouth Hoe up past the famous historic dockyards, then landing at Mount Edgcombe House and Country Park.

Before leaving the Barbican, the boat captain manoeuvred to give the group a closer look at the Mayflower Monument. It marks the point of departure on the 16 September 1620 of the Pilgrim Fathers for a new life in the land of America. Committee member, Steve Wilkinson MCI Arb of Midas Group Limited, had been project man-



The Mayflower Monument, West Pier, Sutton Harbour

ager for improvements to the monument in the year 2000, carried out as part of ITV's Year of Promise campaign. ■

Scotland Branch – Northern Chapter

DEREK AUCHIE MCI Arb, chair of the Northern Chapter of the Scottish Branch welcomed over 20 people on 27 April to hear Richard Noble MCI Arb describe how arbitrators and expert witnesses resolve rent review disputes at a seminar at the Robert Gordon University in Aberdeen.

There are 400 applications a year to resolve rent review disputes and Richard compared the pros and cons of arbitration with the use of expert witnesses. He commented that ideally disputing parties would make their own selection of arbitrator or expert witness rather than leaving this to RICS. The new Arbitration (Scotland) Act will

affect procedure for new cases, although there is a transition period of 5 years.

Doug Fiddes FCI Arb gave an update on the New Engineering Contract NEC3 2005. He gave a whistle stop tour of the NEC3 contract, which includes provision for adjudication. He commented that it is used extensively for public works and that its purported strength lies in its use of clear English and user orientation. He concluded that if the collaborative aim of NEC3 came true, there would be few disputes, as the impact of common areas of dispute would be resolved during the contract and not at the end. ■

UK – East Midlands Branch

Construction conference

THE EAST MIDLANDS BRANCH will hold a joint conference with the Society of Construction Law at Pride Park, Derby at 12.30 pm on 24 September. Confirmed speakers include HH Judge David Grant, Simon Hughes

of Keating Chambers, Rudi Kline and John Riches FCI Arb. All interested parties are welcome. For further details and cost, please visit the website: [W: www.scl.org.uk](http://www.scl.org.uk) ■


UK – Southern Branch

A mediation conversion

By Cliff Wakefield FCI Arb

AS EACH SESSION unfolded, the Annual Mediation Workshop of the Southern Branch turned into the best value for money I have expended on CPD. It was definitively informative, but above all it was fun!

When the first session began I had little idea that there were such divided opinions within mediation circles about the different kinds of mediator. The Course Director, Andrew Parsons FCI Arb, barrister and mediator, fell into the 'facilitator' mediator group, whilst several delegates attending fell into the 'evaluative' group. Whilst reference was made to a third group, that is, 'head-bashing' judge mediators, unfortunately, none were present to argue their corner. What ensued was a highly informative, thought-provok-

ing and, at times, emotive debate about the perceived advantages and disadvantages of the different roles.

The afternoon only got better, with a mock mediation. The scene was set: two neighbours in dispute, one titled 'old money'; the other vulgar 'new money'. The disputes involved claims for compensation for damages to hedge, replacement plants in greenhouse, uncontrollable dogs, lawns dug up, repairs to vintage cars and loss of enjoyment.

Andrew played the mediator and conducted proceedings in a neutral manner to try and facilitate a settlement between the warring parties. The calibre of the role-playing delegates was such that he soon found himself in a quagmire of allegations of illegal class A drugs, adultery, incriminating photographs and blackmail.

The course director not surprisingly gave a master-class in how to conduct proceedings in a minefield of allegations, demonstrating an amazing dexterity of mind as he avoided the traps set by the participants, not to mention the potential conspiracy charges arising from his consultations with them.

In case one thinks such subjects are far-fetched, one of the role-playing delegates informed us that he had encountered such a flagrant attempt at blackmail in a mediation he had conducted.

If mediation is a field in which you practice, I would thoroughly recommend attendance at the Southern Branch's next Annual Mediation Workshop with Course Director, Andrew Parsons, to be held on 26 March 2011.


INDIA – India Branch

India Branch launches awareness-raising campaign

THE INDIA BRANCH is launching an arbitration training programme to help develop arbitration in the country. By educating legal professionals, company secretaries, chartered accountants, retired bankers and judges in India, the branch aims to create a professional elite of arbitrators to encourage the development of arbitration on an institutional basis. There is a huge backlog of cases in the Indian courts and it is hoped that arbi-

tration will transform the administration of justice for civil and commercial disputes. The first Introduction to Arbitration course is being held, as we go to press, on 30 and 31 July at the Bombay Stock Exchange.

At the same time, the India Branch is also running a series of awareness-raising events to showcase successful institutional arbitration schemes such as that of the Commodities Exchange to encourage more businesses and

lawyers to refer disputes to arbitration. The first two events were held in Mumbai in May and July, and further events are planned in Mumbai, Delhi, Calcutta and Chennai in August and September.

For more information, please contact the India Branch Secretary Chandrakant Kamdar

T: 91 22 61325555 ext. 514

E: ckamdararbitrator@yahoo.co.uk


MIDDLE EAST – Lebanon Branch

Successful reunion for new Associates

THE LEBANON BRANCH held a CI Arb Members' Reunion gathering on 18 June at the Intercontinental Le Vendome Hotel in Beirut, warmly welcoming 25 of the newly joined Associates after their successful achievements on the Introductory Course to International Arbitration in September 2009. The evening began with George Feghaly MCI Arb's presentation of the speakers, followed by Muhyiddin Itani MCI Arb's opening speech, introducing the basic steps to the CI Arb Pathways Programme to the audience.

Dr Sami Mansour MCI Arb talked about his experience as a judge and the importance of joining CI Arb. Dr Nayla Comair-Obeid FCI Arb talked about the 'Practical Case in Arbitration' that was held lately in the Middle East and Gulf countries and advised people to become better educated and have sufficient knowledge in arbitration. She ended her speech by talking about the upcoming event on mediation to be held at the end of September.

The evening closed with a social

cocktail reception where all members, old and new, got to know one another. Moreover, the reunion was a success and all look forward to another upcoming event later in the year.

This year's reunion comes after the high-profile and successful comeback event organised by the Lebanon Branch on 25 - 26 September 2009 in Beirut. This followed a three-year absence due to the critical political situation in the country. The event took place under the auspices of His Excellency the Lebanese Prime Minister Designate, Saad Rafic Hariri, and in the presence of Her Excellency the British Ambassador to Lebanon, Frances Guy, along with other politicians and senior officials, as well as senior representatives from CI Arb. The high-profile seminar on the first day attracted some 90 professionals, and was followed by a successful Introduction to International Arbitration course on the second day, directed by Trustee Norman Mururu FCI Arb and attended by 33 candidates.



From left to right: Muhyiddin Itani MCI Arb, Dr Sami Mansour MCI Arb, Dr Nayla Comair-Obeid FCI Arb, Judge Carla Kassiss MCI Arb, George Feghaly MCI Arb, and Mohamad Soubra ACI Arb.

Welcome

AS CI Arb CONTINUES TO GROW, it is delighted to welcome the following individuals who have joined its ranks in the first quarter of 2010.

Australia Mr Stephen Klomp Ms Mariana Krsticevic Ms Katherine Johnson Mr Richard Ian Hanger Professor Andrew Christie Mr Geoffrey Digby Mr Romauld Andrew Mrs Brydget E T Barker-Hudson	Austria Dr Stefan Riegler	Brazil Mr Eduardo Grebler	Canada Mr Robert Hordo Mr Moses Moyal Mr Simon Gregoire Mr Moustafa Atia Ibrahim Kotait Mr Alvin Hwang Mr Kyle Dickson-Smith	China Ms Shishi Chen Mr Sek Keung Li Mr Zhong Wang Mr Guangming Cui	Cyprus Mr George Savvides Mr Petros Mikallos Mr Tasos Coucounis	Egypt Ms Silke Kumpf Mr Ahmed Saeed Ismail	Falkland Islands Mr Alastair Trevaskis	France Mr Ulrich Zschunke	Mr Eliseo Castineira	Germany Prof Achim Rogmann	Ghana Mr Sivert Ofori	Hong Kong Mr Chun Ho Tse Mr Ham Dick Mok Mr Parissa Notaras Mr Cheuk Hin Leung Mr Ho Leung Mr Chung Hing Cheung Mr Che Fai Sham Mr Chuen Fat Lam Mr Kwai Keung Kwok Mr Ka Lok Arnold Chiu Mr Tin Chi Ng Mr Hing Lam Tang Ms Yee Ting Mok Ms Yuen Man Maria Lam Mr Chung Fai Chu Mr Wai Kin Leung Mr Sonny Payne Mr Kung Him Thomas Chan Mr Hong Cheng Mr Cho Sy Mr Chun Yu Chan Ms Yun Fong Kun Ms Pik Yan Lam	India Dr Stephen Louie Mr Ratan Kaul Mr Ajay Abhay Monga Mr Sidhartha Srivastava Mr Arunachalam Murugan Ms Smita Baliram Telange	Mr Deba Roy	Indonesia Mr Immanuel Indrawan	Ireland Mr Andrew FitzSimons Mr Greg Ryan Mrs Joanna Watters Mr Anthony John Clifford Mr Damien Keaney Ms Siobhan Kirrane Mr Malcolm Hennigan Mr John O'Shaughnessy Mr Padraig Leahy Mr William Nowlan	Kazakhstan Mr Mike Teeling	Kenya Mr Edward Obondy Mr Arthur K Igeria Mr Jonah Mbogo Ms Tracy Masinde Ms Kerubo Okioiga Mr Harit Sheth Mr Howard M'Mayi Mr Samora Owino Mr Benson Njeri Mr Gilbert Ngondi Mr Paul Ngotho Ms Mercy Muendo Ms Terry Ngure Eng Richard Mahinda Justice Aaron Ringera	Latvia Ms Liena Rubene	Lebanon Mr Guevara Mouawad Mr Farah Farah Mrs Zouha Sakr Mr Mansour Abou Saab	Malaysia Mr Silva Velu Ms Huei Yong Teo	Netherlands Mr Timucin Ogretir	New Caledonia Mr Cameron Mansel Diver	Nigeria Miss Natacha Ibis Mrs Seno Isong Bamgbose Mr Paul Kasimawuna Miss Damilola Tijani Mrs Vivian Osayande Mrs Betty Eboka Miss Omonigho Egbegbedia Mr Bello Mohammed Salihu Mr Joseph Ademola Miss Azeezat Adekola Ms Mobisola Opemipo Akerele Mr Oluwole Afolabi Miss Azeezat Adekola Ms Oluseun Olofinlade Mr Anthony Okonmah Mr Joe Okafor Mr Aminu Hashim Chief Olawale Solagbade Miss Ruth Akani Mr Aigbe Ohiohin Ms Victoria Nwuche Mr Victor Shoneye Mr Chimzie Ojiabo Mrs Olumuyiwa Martins Mr Ayokunle Balogun Mr Omolara Okubule	Hon Justice Tamunoigoni Oji Mr Emmanuel Agbaje Miss Chika Ozurumba Miss Genevieve Igboekwe Miss Helen Ijewere Mr Rilwan Umar Esq Mr Cletus Adeosun Mr Rotimi Rhodes-Vivour Mr Ignatius Chibututu Ms Otome Augoye Mr Adejuwon Adenuga Mrs Muawiyah Idris Miss Oludamilola Alamu Ms Modupe Akinboade Mrs Marilyn Eze Mrs Adetutu Ogunsanwo Mr Oluwasogo Oyelami Mr Ayodeji Adeyemi Mr Abimbola Odunaike Miss Simisola Olukolu Mr Kayode Akintola Mr Ememobong Udoh Mr Benjamin Oji Miss Elewachi Obasi Mrs Olubunmi Olugasa Mr Okechukwu Okereke Miss Simisola Olukolu Miss Mujibat Oshodi Mrs Esther Adenipekun	Oman Mr Derek Joseph Lowth	Pakistan Mr Wasif Majeed	Qatar Mr Ian David Harding Mrs Natasha Harding-Baxter	Mr Hamish Stuart	Russia Mr Sergey Usoskin	Seychelles Mr Shelton Jolicoeur	Singapore Ms Jeyanthi Rama Krishnan Mr James Williams Mr Robert Brown Mr Pei Lo	South Africa Mr Leonardo Arthur Errera	Sri Lanka Mr Kalum Sudeshana Malawaraarachchi	Sudan Mr Ahmed Sharafeldin Ibrahim Bannaga	Sweden Ms Angela Eriksson	Switzerland Mr Eric Franco Regio	Thailand Mr Paul Anslow	Trinidad & Tobago Mr Kermit Dick Ms Nievia Ramsundar	Uganda Mr Paul Habyarimana	Ukraine Ms Angelina Ilchenko Mr Denys Rabomizo	United Arab Emirates Mr Ziad Obeid Mr Craig Gibson Mr Andrew McLeish	Mr Hisam Uddin Mr David Murphy Dr Raa'ed Al Tartouri Mr Paul Mathew Mr Andrew Corton Mr Ehsan Al Barak Mr Peter Gray Mr Dantha Upul Bandara Elekumbura Ratnayake Ms Catherine Coubrough-Smith Mr Lee Barry Mr Christopher Mainwaring-Taylor Mr Essam Elderwi Mr Tamer Khalifa Mr Mark Delahoyde Mr Timothy Craddock Mr Daniel Charles Boatwright Mr Richard Howard Ingham Mr Manoj Srilal Lokuwithana Mr Glenn William O'Brien Mr Jacob Antony Mr Alan Stewart Mr Tristan Hurley Mr Muhammad Faisal Chaudhary Mr Mark Boyle Mr Peter Strickland Mr Shaji Plathottathil Mr Nishan Guruge Ms Claire Clutterham Mr Uthpala Anjana Koggalla Hewage Mr John Boardman	Mr Raja Flora United Kingdom Ms Cairtriona Stewart Short Mr Mark Giles Mr Eoin O'Reilly Dr Tetteh Afotey-Walters Dr John Kelleher Mr Jeremy Nicholson Mr Mark Curties Ms Malka Smith Mr Thomas Earley Ms Christina Igbaniho Mr Frank Emeka Onyeka Mr Simon Davis Miss Justine Mensa-Bonsu Mr Isaac Okeya His Honour Paul Focke Mr Samir Hesham Kamal Safar-Aly Mr James Popperwell Mr Clive Rich Mr Malcolm Norton Mr Kevin Wishart Mr Richard Lang Mr Martin Black Mr Simon Silbernagl Mr Robert Andrew Slaughter Mrs Ifeoma Ezeani Umeh Mr Mark Trotter Mr Mark Coghlan Ms Audrey McFarlane Mr Justin Bennett Mrs Kirsty Clarke Mr Lewis Solomon Mr Christopher Battersby Mr Imran Abrahams	Mr Lee Britten Mr Michael Jones Mr Hefin Rees Rabbi Joshua Posen Mr Sidney Smith Mr Koji Tanaka Mr Timothy Pendrill Mack Mr Robert William Shorter Mr Alistair Pye Mr John Byers Mr Colin Pettitt Mr Brian Jeremy Wheeler Mr Ben Crossland Mr Jason Hunt Mrs Marie Brittenden Mr Oliver Segal Ms Rosemary Jones Professor Nestic Mrs Ngor Ojabo Mr Francis Okanigbuan	USA Mr Lionel Schooler Mr Luis O'Naghten Mr Richard Dewitt Mr Jeffrey Poster Mr Stanley Block Mr Alan Parker	Zambia Mr Chishimba Chilekwa Ms Kabanda Lopa Ms Charity Chileshe Mr McRobby Chiwale Mr Patrick Chiluba Mr Royd Mwangu Mr Victor Kayawe
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Disclaimer: The contents of this publication are not intended to be a substitute for either general or specific legal advice on individual matters, and readers are strongly encouraged to seek competent legal advice.

CI Arb professional training diary – August – December 2010

BLOOMSBURY SQUARE COURSES:

Dispute Resolution

Introduction to Commercial Dispute Resolution (online course)	4 October	3 months	£949 + VAT
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Mediation

Introduction to Mediation	12 October	1 day	£499 + VAT
Module 1 Mediation – Commercial Mediation Training	1-3 & 5-6 November	5 days	£2595 + VAT
Module 2 Mediation – Commercial Mediation Assessment	12 November	1 day	£1295 + VAT
Module 3 Mediation – Law for Mediators	1 November	7 months	£1549 + VAT
Module 4 Mediation – Mediation Theory	Open Entry	6 months	£549 + VAT
Peer Interview – Mediation	9 September	1 day	£249 + VAT

Arbitration

Introduction to Arbitration	23 November	1 day	£499 + VAT
Module 1 Law of Obligations and Civil Evidence	1 November	7 months	£1549 + VAT
Module 2 Arbitration – Law of Arbitration	18 October	5 months	£999 + VAT
Module 4 Arbitration – Award Writing	8 November	4 months	£999 + VAT
Peer Interview – Arbitration	29 September	1 day	£249 + VAT
Peer Interview – Arbitration	8 December	1 day	£249 + VAT
Accelerated Route to Membership	16 – 17 November	2 days	£999 + VAT
Accelerated Route to Fellowship	20 – 21 October	2 days	£1549 + VAT

International Arbitration

Introduction to International Arbitration	7 December	1 day	£499 + VAT
Module 1 Law of Obligations and Civil Evidence	1 November	7 months	£1549 + VAT
Module 4 International Arbitration – Award Writing	8 November	4 months	£999 + VAT
Diploma in International Commercial Arbitration	11 – 19 September	9 days	£4999 + VAT
Accelerated Route to Fellowship	20 – 21 October	2 days	£1549 + VAT

BRANCH COURSES

Entry Course	Kenya	23 – 25 August	2 days
Entry Course	Nigeria	16 – 18 September	2 days
Introduction to Adjudication	Western Counties	18 September	1 day
Module 1 (Law of Obligations & Civil Evidence)	UAE (Qatar)	24 October	7 months
Accelerated Route to Membership	Nigeria	28 – 29 October	2 days
Accelerated Route to Fellowship	Kenya	29 – 30 October	2 days
Introduction to Mediation	Western Counties	13 November	1 day
Entry Course	Nigeria	18 – 20 November	2 days
Entry Course	East Asia (Korea)	27 November	1 day

Further information on all professional training courses can be found at: www.ciarb.org/education-and-training/course-finder
Education Team • T + 44 (0)20 7421 7439 • F +44 (0)20 7404 4023 • E education@ciarb.org



EUROPE – European Branch

Committee reconvenes in Geneva

AS A RESULT OF the cancellation of the European Branch's Edinburgh Spring Conference in mid-April due to the closing of air space over most of Europe, the European Branch Committee reconvened its meeting in the splendour of Geneva, Switzerland on 22 May.

With committee members travelling from such disparate locations as Istanbul, Latvia, Amsterdam, Frankfurt and Rome, Geneva was a perfect location for the postponed meeting.

After the hard work of discussing the branch's current and forthcoming affairs, which included the branch conference in Frankfurt in October, the committee relaxed by enjoying a gourmet dinner cruise on the Savoie as it cruised Lake Geneva in the evening.

The branch committee is greatly indebted to Bernd Ehle MCI Arb, Partner at Lalive's offices in Geneva, for his kind hospitality in

making us welcome and in making all the arrangements for the committee meeting.

The European Branch is now looking forward to welcoming its members to its Autumn Conference to be held in Frankfurt on 21 and 22 October 2010. **W: www.europeanbranchconference.com**



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AMERICAS – North America Branch

NAB supports next generation

THE NORTH AMERICAN BRANCH (NAB) was again active in the Willem C Vis International Arbitration Moot, providing arbitrators and support for pre-moots at Loyola University (the Chicago Chapter), the University of Georgia and the University of Miami (Southeast Chapter) and South Texas College of Law (Texas Chapter).

North American Branch members also acted as coaches, with two NAB-led teams moving into semi-final rounds: Osgoode Hall Law School in the Vienna competition, coached by Toronto Chapter Chair, Professor Janet Walker MCI Arb, and the University of Houston Law Center in the Hong Kong competition, coached by NAB Chair Ann Ryan Robertson FCI Arb and Texas Chapter Chair Ben Sheppard. Other NAB members, including Northern California Chair Sue Nusbaum FCI Arb and NAB Committee member Professor Stacie Strong MCI Arb, judged written work.

NAB members were also active in the ICC's 5th Annual International Commercial Mediation Competition. Sue Nusbaum, Ken Alwyn FCI Arb and Jason Meek MCI Arb from the Northern California Chapter helped to prepare the team from the University of California's Hastings Law School, before heading to Paris to act as judges and mediators.

NAB also sponsored the ABA Dispute Resolution Section's Twelfth Annual Conference, as well as the Institute for Transnational Arbitration's Twenty-first Annual Workshop. Numerous NAB members were involved in these events, with Jean Kalicki MCI Arb of the DC Chapter serving as a co-chair for the ITA and Ann Ryan Robertson serving on the faculty. ■

Resolver gets a new look!

THE RESOLVER IS CHANGING! From November, we will be moving to a new format, with a glossier look and more ADR news and features. We welcome contributions from members on news and developments in ADR, as well as your suggestions for things you would like to see in the magazine. Please send in your contributions by Friday 17 September at the latest.

E: editorial@ciarb.org

To advertise, please contact Sarah Ball.

T: +44 (0)20 7421 7488 E: sball@ciarb.org ■

Accelerate your career

CI Arb's next Accelerated Route to Fellowship runs again in October. If you are a qualified lawyer with substantial experience of arbitration, this course provides you with a convenient route to CI Arb Fellowship by assessing your skills over two days. Candidates will also be required to complete Module 4 and a Peer Interview.

If you are a lawyer with some experience of ADR, the Accelerated Route to Membership is designed for you. Running in November this year, the course involves a one and a half day workshop and assessment through written coursework and an examination.

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Approved Faculty List

The Approved Faculty List is updated on a monthly basis and is available online. **W: www.ciarb.org/education-and-training**

Forthcoming CI Arb events

- Evening seminar on the role of expert witnesses in IT and telecoms, in association with PA Consulting Group, 16 September, London
- 3rd Mediation Symposium, 'Creating confidence in mediators', 27 October, London
- Alexander Lecture, 'The Many Faces of International Arbitration', given by Professor Loukas Mistelis on 24 November (provisional), London

To book your place, please complete the relevant booking forms which can be found on the website or contact the Events Team.

E: events@ciarb.org

W: www.ciarb.org/events

CI Arb offers a range of sponsorship opportunities. For more information please contact Sarah Ball.

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