

# The Dispute Board Federation

Excellence in Dispute Resolution since 2001

April 2012

Issue: 78



## Fraud Prevention

One of the little known and least understood aspects of Dispute Boards is their ability to help prevent fraud and corruption during the infrastructure development process. We all know that Dispute Boards, whilst fulfilling the need for adjudication also act as an independent "judging" facility. They also act as a source of dispute prevention during the construction process by offering opinions and acting as a sounding board when requested per the terms of the contract involved.

One of the main reasons that Dispute Boards started was to give the parties confidence that any disputes which could arise during the course of construction would be fairly and most importantly quickly resolved so that progress on projects would not be impeded. This was especially the case where contractors and consortium of contractors were frequently not from the country where the construction was taking place and where fear of local court and legal systems caused concern to non-local contractors. A Dispute Board was at a minimum independent, not composed of nationals of the project's country, and not involved with nor related to any of the parties.

As a result of these key elements Dispute Boards are also perfect to "audit" and/or monitor not just the progress of a project but also to assist in sorting out quantities and qualities of materials delivered to the job and used on a project. This is a new and developing area and interest is beginning to develop where this additional capacity can be utilised effectively. At the DBF's upcoming Symposium in Malta this is one of the key topics which will be discussed -- for when used effectively corruption and fraud can be effectively eradicated on infrastructure projects.

**Herbert Wilson**  
Executive Director

### Featured Events and Continuing Professional Development Units 2012

There are several new programmes and events which are shown on our website and these include:

**Members' Dinner**  
June 1  
Istanbul

**FTIP 2012**  
June 27 - July 3  
Dublin

**Decision Writing Seminar**  
Autumn  
Amsterdam

**The DBF Intensive**  
DAB Training Programme  
September  
London

For further information on any of the above please contact [info@dbfederation.org](mailto:info@dbfederation.org)

For a full listing please go to our website [www.dbfederation.org](http://www.dbfederation.org)

### "War Stories" Needed

The DBF is looking for real life "War Stories" from DAB members of unique situations they have faced whilst on dispute boards and how they dealt with the situation. The best one each month will be published in the Newsletter and the author will receive a £100 honorarium. Please send to [info@dbfederation.org](mailto:info@dbfederation.org)

## Are All Mediators Equal?



Gatherings of mediators often leads to a discussion of whether any mediator can mediate any matter. Generally the younger and more inexperienced mediators take the view that a "good mediator" can mediate anything - from a dispute over a fence between neighbors to a multi-national dispute involving billions. More experienced mediators know that there is a big difference between resolving disputes involving family matters such as divorce settlement agreements and handling large construction projects. Yes the techniques used in mediation are generally the same - the underlying knowledge needed for complex construction matters however is not.

This gap is particularly evident in mediations arising in a construction setting and especially in Dispute Board settings. The DBF maintains a list of accredited mediators specifically for this purpose. The reason being that in large construction matters it is not just the skills of a mediator which are needed but also understanding and knowledge of the underlying contracts used and how they relate to the project as a whole. Most importantly for infrastructure mediation work the mediator must be knowledgeable in the FIDIC forms of contract as these frequently are the basis for the work being performed. Additional skills include litigation experience, cross-cultural awareness, and the ability realise the difference between "emotional" solutions and "business/commercial" solutions.

The DBF offers programmes for mediators to enhance these skills which include the FIDIC Contracts *Total Immersion* Programme which gives extensive knowledge of the entire set of FIDIC Contracts, The Construction Mediator Workshop, and the Mediator Masterclass. For more information please email [info@dbfederation.org](mailto:info@dbfederation.org).