Editorial

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This edition of *Management, Procurement and Law* contains papers that were mostly submitted in response to a call for papers on the theme of ‘International perspectives on construction contracts’. There are three briefing articles and five full papers covering a wide range of topics of relevance to international construction contracts. Some of the papers discuss issues that are applicable generally to international construction contracts, wherever they are being carried out, while others are presented from the perspective of more specific regional locations, such as Taiwan, Asia and the United Arab Emirates.

The briefing on ‘The expert witness and international arbitration rules’ by John Mullen (2015) presents a comparative overview of some of the major institutional arbitration rules used for international arbitrations in different regions around the world, from the perspective of a practising expert witness. The institutional rules discussed cover both civil and common law jurisdictions and the author highlights the different degrees to which the various procedural rules refer to tribunal-appointed experts and party-appointed experts, including some ‘unusual provisions’. In addition to the institutional procedural rules, the article also refers to rules of evidence prepared by the Chartered Institute of Arbitrators and the International Bar Association that can be used in any jurisdiction. Mentioned in the paper is the book *The Expert Witness in Construction*, which was co-authored by John Mullen with Robert Horne (Horne and Mullen, 2013) and reviewed in an earlier edition of this journal (Manie, 2015).

A second briefing article, by Adrian Chan (2015), looks at ‘Statutory adjudication for construction disputes: an overview’ and compares the statutory adjudication regime in different jurisdictions, principally in relation to the resolution of payment disputes. Noting the development of security of payment legislation from the UK in the 1990s to other, mainly common law, jurisdictions, the article identifies a number of fundamental differences between the legislation adopted (or proposed) in Singapore, Hong Kong and Australia in respect of who can be a claimant, the types of dispute that can be adjudicated, the length of adjudication after appointment and the enforceability of the adjudication award. The article also briefly touches on the matter of ‘evidential ambush’.

The third briefing article, by Bernard Fleming (2015), ‘Taiwan high-speed railway and international contractors’ describes the strategies adopted to encourage international contractors to participate in the Taiwan High Speed Rail Project, concentrating on the civil works of tunnels, viaducts, bridges and embankments. The article first outlines the history of the project and identifies some of the issues that could be seen as a disincentive to participation by international contractors, then

explains the tender selection procedure, the employer’s management structure, payment rules and approach to dispute resolution before considering how successful the adopted approach had been.

The first full paper, ‘A contract manager abroad: cultural awareness in Asia’, by Eric Webb (2015), addresses some of the difficulties that a western contract manager can face in respect of differences in culture and management style when working in Asia, and how they might be overcome. The importance of understanding cultural diversity in a project is often overlooked or underestimated and Mr Webb offers some helpful advice and insights. He explains the traditional ways of doing business in Asia and highlights particular cultural issues and differences between the eastern and western ways of doing things, leading on to a discussion of how this can affect contract negotiation and choice of construction contract.

The paper, ‘Construction disputes under UAE law: some initial considerations’, by Gordon Blanke and Sally Kotb (Blanke and Kotb, 2015), presents a most useful explanation of the application of the law of the United Arab Emirates to construction disputes, highlighting a number of key issues that typically arise. A company executing a construction contract in the UAE will often find that the contract is subject to UAE law and the authors advise that the importance of UAE law as a governing law on the merits of a dispute should not be underestimated. This is particularly true for a company coming from a common law jurisdiction because the UAE Civil Code will import a number of requirements into the operation of construction contracts, which might differ from their common law expectations.

Another paper on construction contracts from the perspective of the UAE is ‘The concept of partnering in public–private partnership projects in the United Arab Emirates’ by Mohamed Khalifa, Peter Farrell and Hassan Emam (Khalifa *et al.*, 2015). After a review of literature on partnering, the authors describe a study to investigate partnering projects in the UAE and conclude with some recommendations for improving the implementation of partnering in public–private partnership projects, which, until now, have not been widely used in the UAE.

The last two papers are relevant to international contracts generally. The paper on ‘BIM and construction contracts – CPC 2013’s approach’ by David-John Gibbs, Stephen Emmitt, Wayne Lord and Kirti Ruikar (Gibbs *et al.*, 2015) investigates how the Chartered Institute of Building’s *Complex Projects Contract 2013* (CPC 2013) addresses the perceived barriers to greater use of building

information modelling (BIM) techniques on a project. And 'The use and abuse of programmes in construction contracts' by Andrew Kidd, Stuart Appelbe and Anthony Morgan (Kidd *et al.*, 2015) identifies and discusses several ways in which construction programmes are often abused as a result of tensions between their legitimate use as a collaborative tool in project delivery and their use in the management of commercial risk.

It is hoped that most readers will find something of interest amongst the topics covered in this edition. Some might like to think how the issues raised by the papers might be considered from the perspective of wherever they are individually located in the world and perhaps be encouraged to submit similar articles of their own. As always, at the end of each article there is an invitation to readers to initiate a possible discussion with the author(s) by submitting up to 500 words by email to the editor at journals@ice.org.uk.

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