

Welcome - from the man on the Hill

Since our last newsletter in Summer 2009 the first signs of economic recovery have begun to emerge in some economies. In others, the stresses and strains of the banking crisis continue.

These strains are, to be frank, the bread and butter of Traprain Consultants: our clients rely on our specialist services to ensure their contracts are sound and to protect their interests in the event of disputes: and a significant by-product of the current fragile economy is of course a growth in both areas.

Our most significant announcement in this newsletter – the opening by Dennis Brand of a Traprain office in Dubai - may appear on the face of it be a case of ‘wrong place, wrong time’. But our belief is that the challenges faced by Dubai will in fact create demand for our specialist service, as well as providing a gateway for Traprain into the entire UAE and Middle East market, and an effective way to service our existing clients who have projects in the region.



I hope you find this Newsletter useful – if you have any feedback, please do contact me.

Peter Foreman Chief Executive

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STOP PRESS.....

New Dubai office for Traprain Network

We're delighted to announce the opening of our new associate office in Dubai...read on for further information about this exciting venture!

The Traprain network's presence in the United Arab Emirates has been bolstered with the opening of a Traprain Consultants office in Dubai by Dennis Brand, who has long been one of the company's associates in the region.

Dennis' background is in commercial and legal areas, specialising in construction, development and energy projects: Traprain Consultants in Dubai will work in association with the UK-based company and act as a hub for all of Traprain's consulting activities in the Middle East.

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The Burj Khalifa, the tallest man-made structure in the world, opened in Dubai in January 2010.

New Dubai Office for Traprain....continued from page 1

In 2005 Dennis relocated to Dubai to join the Construction, Development and Energy Group of the Dubai office of London law firm Berrymans Lace Mawer, with particular responsibility for its non-contentious construction and engineering practice. In January 2008, with others, he established the Dubai office of HBJ Gateley Wareing heading its non-contentious practice, which included construction, development and engineering projects as well as a range of commercial and corporate services.

Commenting on the decision to branch out with the formation of Traprain Consultants in Dubai, Dennis said:

“After some years in the area, I recognised that there is a market for good quality management consultancy services providing specialist contractual, commercial and corporate advice on a cost effective basis. There are large numbers of both indigenous and joint venture companies which need high order advice and training of the kind offered by the Traprain network: working with Peter and the other members of the network I envisage strong demand for the range of services we provide.”

A regular speaker at conferences and seminars, Dennis is a founder member of the Society of Construction Law (Gulf) as well as regular contributor to MEP Middle East.

More about Dennis and the Traprain office in Dubai on the Traprain web site: www.traprain.com or contact Dennis on dennis.brand@traprain.com.



Dennis Brand who has opened the Traprain Consultants office in Dubai.

Hold the Phone! Traprain advises Egyptian mobile phone company

While Traprain has a strong background in the oil & gas, engineering and construction sectors, our understanding of contracting in an international context continues to attract clients from other industries.

A recent example was the decision by Etisalat Misr, the Egyptian operation of the Abu Dhabi-based Etisalat mobile phone company, to commission a course on Contracts Management from Traprain's partner Glomacs: a course which was then developed and delivered by Traprain.

The intensive three-day programme was delivered in Cairo over a long weekend to a group of senior managers, and included a full review of a standard contract used by Etisalat.

The course was well received, and demonstrates the ability of Traprain to provide focused advice and training on commercial contracts in wide ranging industries and different jurisdictions.



Jill Simpson, Fellow of the Institute of Marketing and principal of DEVA

DEVA Joins Traprain Network

The latest addition to Traprain's professional network is DEVA, a training consultancy that specialises in developing excellent communication and training skills within organisations, particularly focusing on training a company's own staff to train others. This approach effectively means that precious experience and knowledge are shared and multiplied, creating sustainable training.

DEVA is the brainchild of Jill Simpson, a Fellow of the Institute of Training and Occupational Learning, who has many years' experience of working across the private, public and voluntary sectors in skills-related projects.

Jill has worked as Senior International Expert supporting the development of a sustainable competency framework for the Centre for Enterprise Development Business Gateway in St Vincent and the Grenadines. This project included the development and delivery of assessor and internal verifier training programme.

"I love helping people to develop their confidence in communicating in business and passing on their skills to others," says Principal Jill Simpson. "People who become involved in training others derive great benefit from it: they realise just how much they know; they review and improve their own practice in order to pass it on; they gain great satisfaction from sharing their experience."

Read more about DEVA on the Traprain web site www.traprain.com

New Contract with Major Shipping Group

Braemar Steege Ltd, part of the Braemar Shipping Group, has appointed Traprain as consultants to provide advice on legal and contractual issues. The contract will also enable other members of the Group to access Traprain's services on an *ad hoc* basis, and follows a model already used successfully when Traprain supports other large groups of companies.

The arrangements will enable Braemar Steege and its sister companies to have immediate access to advice on contractual issues as their engineering and consultancy businesses move further into fields, notably offshore oil & gas, where Traprain has specialist knowledge and experience.

Traprain Chief Executive, Peter Foreman said: "This is another example of our being able to offer a cost-effective solution to the need for quality advice and assistance without large overheads or retainer arrangements. We can structure arrangements where the client only pays for the services they actually require."

Changes to Construction Act Imminent (maybe)

The UK parliament has passed the Local Democracy, Economic Development and Construction Bill which, when it receives Royal Assent, will modify the Housing Grants, Construction and Regeneration Act 1996 (generally called the Construction Act). These Acts have sections referring to the Construction Industry but it will seem from their titles that this is perhaps not their main focus. The 1996 Act introduced Statutory Adjudication in Construction Disputes and the new legislation brings in significant changes to this process.

Of particular interest is the removal of the requirement for construction contracts to be in writing. Adjudication will be able to take place even if the contracts are wholly or partly oral. This will still produce difficulties on proving the terms of the contract, but will remove a lot of the technical arguments that related to contracts that were mainly, but not entirely, in writing.

There is also a new section 108A, which removes the ability to pre-agree how the costs of adjudication should be dealt with, unless this agreement is reached after the matter has been referred to adjudication. This will render illegal the practice in some contracts of saying that if the contractor takes the dispute to adjudication he has to pay all the costs, whatever the result.

There are also a number of other changes, in relation to provisions for payment and suspension for non-payment and the notices that have to be served.

The complication is that it is uncertain when the new Act will come into effect. For the moment it seems likely that this will be after the United Kingdom General Election, which has to take place no later than June 2010. Of course, a change of government increases the uncertainty as it is impossible to predict whether this matter will receive any particular priority from a different administration. We cannot therefore say whether these changes will take effect later in 2010, or indeed at all.

However, if you are involved in construction contracts in the United Kingdom these are important changes, and we particularly ask you to note that the old "trick" of having oral agreements, or partly oral agreements, to evade the adjudication provisions may well disappear. If you require further information on this, or assistance with adjudication processes, please speak to your normal contact within Traprain.

Arbitration Legislative Update

In previous Newsletter articles, we have explained how Scotland has been developing a new law on arbitration (both domestic and international), and how Traprain has been actively involved in the process.

We are pleased to confirm that the Act was passed by the Scottish Parliament on 18 November 2009, and received Royal Assent on 5 January 2010. It is expected to take legal effect in late Spring 2010, once rules of court have been amended.

This will give Scotland a world-class "fit for purpose" legislative framework for arbitrations to replace what was, as most agreed, a wholly unsatisfactory muddle of ancient and incomplete law.

Traprain believe the passage of the new law will make Scotland an attractive hub for international arbitration with a stable legal system, availability of good quality arbitrators and lawyers, and a cost structure that is competitive with major centres in Europe and elsewhere. All this and stunning scenery, golf, and whisky as well!