



# The FIDIC Annual Review for 2009-2010

*Representing globally the consulting engineering industry*



**ENGINEERING A NEW CENTURY**

# Message from the President

## Global challenges - Sustainable solutions

The theme *Global challenges - Sustainable solutions* encapsulates the very heart of what is currently confronting the consulting engineering industry world-wide. The highly successful FIDIC annual conference in London in September 2009 established a new benchmark for FIDIC. It enabled consulting engineers to focus collectively on major global issues, from climate change, to the state of the world's infrastructure, summarized in the ground breaking *State of the World* report, released in London during the conference. FIDIC, Member Associations and consulting engineering firms were all encouraged to become actively involved in the debate on these global issues, especially as the world's major economies struggled to recover from a devastating worldwide financial crisis and the resulting severe credit crunch, which has had a profound impact on economic and social development that is still being felt in many countries today.

### A Call to World Leaders

In response to a FIDIC 2009 London Conference resolution, FIDIC leapt into action, and corresponded with the UN Secretary-General, leading international organisations and many of the world's political leaders through its Member Associations. FIDIC requested an invitation to give evidence at the *United Nations Framework Convention on Climate Change* COP15 Copenhagen climate change summit in December 2009, stating that it was "vital that agreement is reached not simply on carbon emission targets". While FIDIC was not invited to give evidence in Copenhagen, several Presidents and Prime Ministers responded positively, encouraging us to engage in the numerous COP15 side events that took place in the lead up to the ministerial-level meetings.

FIDIC has acknowledged that the non-binding *Copenhagen Accord* reached during the summit, while not a political agreement to start immediate action, was a step towards a global low-carbon economy. However, pending clear commitments and mitigation actions, much remains to be done to deliver a robust, legally-binding post-Kyoto 2012 framework agreement that provides the predictability needed to plan the necessary investments in existing and planned infrastructure. While the process to reach a global agreement has started, work is still needed to detail specific aspects, in particular those aimed at making monitoring, reporting and verification processes operational.

Initiatives leading to COP15 indicated that the industry groups responsible for a sector that makes significant contributions to global warming, namely building and construction, lacked a coordinated approach, a situation that needed to be corrected. Fortunately, a few initiatives were developed for the summit, notably the *Common Carbon Metric* by the United Nations Environment Programme's *Sustainable Buildings and Climate Initiative* of which FIDIC is a founder member. It provided a standardised method to measure a building's carbon footprint as the basis for establishing baselines, benchmarking, and monitoring building performance improvements.

### Industry Challenges

The past 12 months have been a challenging time for consulting engineers, especially in many countries of Europe and North America, where our member firms have had to deal with sharp reductions in project opportunities and backlog and with the resulting reductions in staff and costs to remain viable businesses. These circumstances in turn led to declining budgets of our Member Associations

at a time when they needed to maintain their capability to represent the industry and the interests of member firms. The downturn caused by the economic meltdown that began two years ago is still with us, but the good news is that the downward spiral we were in seems to have stabilised, but not yet reversed to the situation where we can start hiring again.

While no significant accomplishments were achieved at the global level with sustainable solutions to the global challenges of climate control, I am pleased to report that positive progress was made on several industry specific issues that impact our ability to be the global voice of the consulting engineering industry. As elaborated in this *FIDIC Annual Review*, a strategic agreement was reached with the European Federation of Engineering Consultancy Associations (EFCA) on collaboration between the two organisations, to better represent the interests of our European Member Associations to avoid possible overlaps and fragmentation of the industry in Europe. Moreover, FIDIC representation in South America will receive a significant boost with Brazil's application to rejoin FIDIC, together with new members for Trinidad and Tobago and for Montenegro. It is hoped this will also provide the impetus for other associations in South America to become members of FIDIC. A continuing focus on membership expansion in the Middle East has begun to yield good results. Finally, FIDIC's expanding activities in conferences, training and business practice and contract documents have provided additional financial resources to enable the Federation to provide more value to Member Associations without the need to raise fees.

### Organisational Changes

The Secretariat will see some organisational changes in the year ahead with the planned retirement in March 2011 of our General Manager, Dr Peter Boswell, whose departure will leave "big shoes" to fill. Peter has served the organisation well in several key positions, including the annual conference, contract documents and other FIDIC publications, training and seminars, and the management of FIDIC's infrastructure. Peter's retirement is an opportunity to reorganise the Secretariat to meet the needs of the next few years. We are currently identifying candidates to transition with Peter during the next few months. On behalf of FIDIC and our Member Associations, I extend our heartfelt thanks to him for his dedicated service to the Federation.



Gregs Thomopoulos, FIDIC President, speaking at the FIDIC 2009 General Assembly Meeting, London.

## *Significant expenditures planned for staff*

The accounts for the year to December 2009 showed an operating surplus of CHF 338,750 compared to a budgeted CHF 5,000. The surplus increased reserve funds to a total of CHF 1,723,068. Together with income received in advance (mainly licence fees), assets totaled CHF 3,333,126 at the end of 2009. Cash assets were held predominantly in conservative fiduciary deposits. The Executive Committee continued to seek prudent investment advice but the key priority was the security of the capital. Several comments to the 2009 accounts are noted below.

### **Income and Expenditure**

Member Association subscription fees were invoiced at CHF 1,184,045. This was higher than the previous year, owing to increased numbers reported in the industry and new member associations. However, the FIDIC Executive Committee remained concerned that member firm staff numbers were not being counted in a consistent manner.

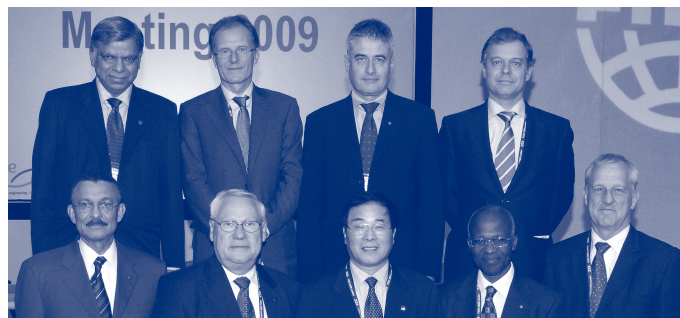
Publication sales, while falling compared to 2008, were higher than budgeted. They continued to make a key contribution to non-subscription income. Meanwhile events continued to rise in popularity and profitability with net income exceeding CHF 170,000. The annual conference in London resulted in a loss to FIDIC of some CHF 38,839 of which CHF 11,333 was booked in 2010.

Overall expenditure was CHF 225,000 less than budgeted. The largest component of this related to the non-expenditure of a special budget allowance to employ new staff to accommodate the long-standing need for additional resources, and to transition with Dr Peter Boswell ahead of his planned retirement in 2011. Some of this allocation will be expended in the 2010 year.

Accounting policies had been changed to include some Secretariat costs within committee expenses as this allowed a more favourable tax treatment. The result was that committee expenses were higher than budgeted. This was partly offset by the reduction in FIDIC Secretariat travel costs. Overall, Secretariat costs remained similar to the previous year.

### **Balance Sheet**

The balance sheet remained healthy and reserves were within the FIDIC Executive Committee guidelines to maintain cash assets equivalent to the federation's liabilities in the event of a winding up.



*The FIDIC 2008-9 Executive Committee, from the top left: Subhash Mehrotra, India; Andreas Gobiet, Austria; Adam Thornton, New Zealand; Pablo Bueno Tomás, Spain; Gregs Thomopoulos, USA; John Boyd, Canada; Xie Shaozhang, China; Patrick Batumbya, Uganda; Geoff French, UK.*

Remaining licence income received in advance totaled CHF 916,981 at the end of 2009. This represented payments by the multilateral development banks and other licensees for the use of the Harmonised Construction Contract and other documents for future years. Some CHF 173,000 was transferred from this source to actual income during 2009. These transfers will continue at current rates effectively until 2014.

### **Year-to-Date and 2011**

At mid-year 2010, income and expenditure was reasonably on budget with income from document sales increasing and events fairly buoyant considering the financial downturn. Member Association subscription fee receipts were received more slowly than in recent years reflecting a longer delay in paying fees owing to the net slowdown in workload within the industry. The forecast for the full year is a loss in accordance with the budget.

The budget proposed for 2011 has been based on previous financial performance and on the running year forecast, with provisions for increased staffing levels, including the pending retirement of the FIDIC General Manager. The 2011 budget submitted for discussion and approval at the 2010 General Assembly Meeting in New Delhi recommended keeping the same unit fee as for the approved 2010 budget, which will mean that this was the sixth successive year with no increase in the unit fee.

The Executive Committee has noted that the 2011 budget forecasted a loss of CHF 100,000 but was comfortable with this considering the large surpluses of the last two years and the need to increase Secretariat staff. It was further noted that proposed adjustments to the Member Association minimum fee (to be set at CHF 2,000) were not expected to have a significant impact. Longer term it was hoped that a clearer definition of member firm staff will see staff numbers reported by Member Associations increasing and becoming more balanced around the world.

### **Reporting Policies**

The FIDIC Executive Committee decided to change the federation's financial reporting format to show gross income and expenditure for all activities, including the annual conference and other events (which have previously been reported as the net result). The Executive Committee was mindful that the gross figure for these activities can vary considerably from year to year and that as a result, somewhat larger variances from the budgeted figures may be expected. However, the committee believed that it was more important to show the full extent of FIDIC financial activities and the impact of each line item on the total income or expenditure. The summary of FIDIC's financial situation to be reported in New Delhi therefore contained figures in the traditional format together with budgets for 2010 and 2011 in the proposed new format.

*Adam Thornton, FIDIC Treasurer*

## *Committees remain the basis for activities*

### Representation

#### *Four more countries joined FIDIC*

Elected at the FIDIC 2009 General Assembly Meeting (GAM) in London as new Member Associations, to bring the number of countries represented in FIDIC to 83, were the Lebanon Association of Consulting Engineers, the Union of Kuwaiti Engineering Offices and Consultant Houses, the Association of Consulting Engineers in Serbia (ACES), and the Sudanese Engineering and Architecture Consultancy Association. A feature of FIDIC's membership expansion was that a USAID regional competitiveness project had helped ACES become established, as had taken place in Bosnia and was taking place in Montenegro.

Acknowledged as Affiliate Members at the General Assembly Meeting (GAM) were: Bangalore Water Board, India, Construtora Queiroz Galvao SA, Brasil; Marseille and Al Ulla Group, Lebanon; Somah Associates Ltd, Mauritius; UQPM, Qatar.

The FIDIC Membership Committee (see insert) guided this membership growth and has been developing not only a strategy to reach 100 members by the time of the *FIDIC 2013 Centenary Conference* in Barcelona, but also ways to review and refine the services offered to Member Associations to ensure that FIDIC continued to add value.

#### *New Executive Committee members from around the world*

FIDIC continued to be well supported from within the industry through skilled practitioners who volunteered to serve on the Executive Committee for a period of four or more years. The 2009 General Assembly Meeting saw the election of new members from Japan, Jordan and Korea (see insert).

#### *Planning started for a very special centenary conference*

To mark its centenary in 2013 FIDIC has planned a very special version of its annual conference. Barcelona was confirmed by the FIDIC 2009 General Assembly Meeting in London as the venue for the *FIDIC 2013 Centenary Conference* (Palais de Congressos, Barcelona; 16-18 September), with logistics outsourced to a specialist event manager. An international committee, chaired by Geoff French, FIDIC Vice-President, and supported by Tecniberia, FIDIC's Member Association for Spain, has been established to develop the programme. FIDIC Member Associations as well as affiliated organisations, industries and partner groups are being invited to become involved. Volker Cornelius, CSZ, Germany, and William Howard, CDM, USA, have agreed to co-chair the international programme committee.

The conference's main focus will be on ways to respond to the challenges the consulting engineering industry should expect in the coming decade. The aim will be to re-position FIDIC within the industry, and to make it more inclusive through greater engagement with strategic partners, notably organisations from

#### **FIDIC Executive Committee 2009 - 10**

Gregs Thomopoulos, *Chairman and CEO, Stanley Consultants, USA*, was elected as FIDIC President at the FIDIC 2009 General Assembly Meeting (GAM) in London, with Geoff French, *Chairman, Scott Wilson, UK*, elected as the FIDIC Vice-President. Stepping down were Dr John Boyd, *Golder Associates, Canada*, after eight years of dedicated service on the Executive Committee, along with Subhash Mehrotra, *Mehro Consultants, India*, and Xie Shaozhang, *Chelbi, China*, both of whom served four years. Elected at the GAM were: Akihiko Hirotani, *President, Oriental Consultants, Japan*; Bisher Jardaneh, *Executive Managing Director, Arabtech Jardaneh, Jordan*; Jae-Wan Lee, *CEO and Chairman, Sekwang Engineering Consultants, Korea*.

#### **FIDIC Membership Committee**

The FIDIC Membership Committee comprised: Subhash Mehrotra, *Mehro Consultants, India* (chair); Rasit Ünüvar, *Tempo Infrastructure, Turkey*; Kiran Kapila, *ICT, India*; India; Maxime Mazloun, *SYNTEC-Ingénierie, France*; Goro Fujie, *AJCE, Japan*.

client and other industry sectors, professional associations, the academic community, government agencies, development banks and aid agencies, civil society, and the media.

#### *Enhanced representation for Europe*

FIDIC President, Gregs Thomopoulos, and the President of the European Federation of Engineering Consultancy Associations (EFCA), Panos Panagopoulos, signed a new comprehensive FIDIC-EFCA agreement at the EFCA 2010 General Assembly Meeting in Rome. The agreement aimed to ensure consistency of policies, and will provide mechanisms for closer cooperation and representation of FIDIC in Europe by EFCA. Meanwhile a series of joint FIDIC-EFCA initiatives got underway, notably industry surveys and collaboration between committees for sustainable development in areas such as urban- and project-level indicators, climate change and innovation risk.

Another strong focus will be European Union (EU) procurement legislation and guidelines which impacted heavily not only on member states, but also on EU-funded projects. Experience gained by FIDIC on best practices in procurement were seen as beneficial to discussions with officials on EU procurement policies and procedures. Additional support was also envisaged for the use of FIDIC contracts in EU projects, notably initiatives to redress that poor implementation of industry best practice in the area of dispute resolution.

#### *ASPAC leadership changes*

Dennis Sheehan, *OPUS International, Australia*, took over as Chair of ASPAC, the Asia-Pacific group of FIDIC Member Associations, from Aki Hirotani, *Oriental Consultants, Japan*, who was elected to the FIDIC Executive Committee at the FIDIC 2009 General Assembly Meeting. During the past 12 months ASPAC had successfully coordinated information on capacity development events in the region, established a young professionals forum, created an effective environment for communication among members, and presented the region's concerns to multilateral organisations, notably the Asian Development Bank, and to regional political groupings. An ASPAC Task Force similar to that

which developed an action plan for GAMA, the Group of African Member Associations, was considered in order to respond to ASPAC's main challenge, namely the wide diversity of countries which make up the Asia-Pacific region. This diversity made it difficult to establish a common agenda and a range of activities that met the needs of all of the region's Member Associations. A heavy demand throughout Asia for FIDIC training reflected the rapidly expanding involvement of members in infrastructure projects, especially where international funding was involved, and FIDIC contracts often were the preferred conditions under which to manage such projects.

## *Africa regional conference addressed investment*

With as backdrop a 2008 World Bank estimate that sub-Saharan Africa needed USD 75 billion annually in infrastructure investment to meet demand, which was increased to USD 93 billion in 2009, the Right Honourable Raila Odinga, Kenya's Prime Minister, and also an engineer, opened the *FIDIC GAMA-Africa 2010 Regional Conference* in Mombasa, to lend weight to the critical role played by engineers in developing appropriate strategies for this investment. Interviewed after the opening, the Prime Minister noted that "most African consultants cannot get involved in World Bank projects because of conditionalities. I will petition the African Union to push for the review of African Development Bank policies." In her presentation, the GAMA Chair, Mayen Adetiba from Nigeria, echoed the Prime Minister's remarks in noting that a large percentage of infrastructure projects were being undertaken by foreign firms because local companies tended to be sidelined in bank-financed projects. This issue will receive further attention at the *FIDIC 2011 Tunis Conference*.

Other speakers at the conference, which attracted 120 participants from 15 African countries under the theme *The engineer as strategic partner*, mainly addressed the need for engineers to become more involved in political debate and policy development. The message was reinforced by presentations by FIDIC President, Gregs Thomopoulos and by Enrico Vink, FIDIC Managing Director, who noted the importance of infrastructure, the unprecedented recent stimulus packages, and the need for financial support and expertise to augment limited national resources in Africa. FIDIC presented a capacity building strategy that aimed to build upon the *FIDIC International Training Programme* by combining international expertise with local resources. Several development banks highlighted new opportunities for public/private investment at a special business opportunities workshop *Financing Africa's infrastructure tomorrow*, where many such initiatives were coordinated through the *Infrastructure Consortium for Africa*.

## *South America's expanding interest in global markets*

The FIDIC Executive Committee held its May 2010 meeting in Mexico to reinforce support and commitment not only to CNEC-Mexico, the Member Association, on the occasion of its 25th anniversary, but also to underpin strategic interest in Central and South America. Also present were representatives from FEPAC, the federation representing consulting engineering interests in South America. Closer collaboration was discussed in detail, in addition to the growing opportunities in South America. FIDIC has

been working hard to encourage countries in the region to re-join FIDIC, thereby strengthening industry representation. Meanwhile, FIDIC had successfully met a part of the growing demand for contracts training, where FIDIC contracts in Spanish and Portuguese were proving popular.

## *Gulf region's FIDIC activities expand*

Through a combination of various training courses and official visits to the Gulf states, FIDIC raised considerably its profile in the region. The availability of new trainers and Arabic translations of key FIDIC documents also facilitated expansion. Discussions were held with organisations representing engineers in Qatar, Oman and the UAE with regard to industry representation and ways to meet the growing interest in FIDIC membership.

## **Image and Communications**

### *FIDIC 2009 London Conference highlighted climate change*

FIDIC's 2009 conference in London, which was opened by HRH Princess Anne, called on the world's leaders to reach a political agreement at the *United Nations 2009 Climate Change Conference* in Copenhagen, reminding them that consulting engineers were essential in finding and implementing solutions to agreements that were reached. A consensus stressing the importance of a successful outcome to the negotiations was the leading proposal to emerge from the conference, with participants urging FIDIC, Member Associations and consulting firms to become more involved in global issues, to raise their voices, and to find better ways to deliver sustainable solutions. FIDIC subsequently wrote to Ban Ki-moon, the UN Secretary-General, requesting an invitation to give evidence at the summit, stating that it was "vital that agreement is reached not simply on carbon emission targets but on meaningful action to mitigate and adapt to climate change." This action was reinforced through personal letters to many of the world's political leaders sent by Member Associations that echoed the statement and call for action.

The FIDIC conference concluded that all sectors of infrastructure needed to be targeted, notably the transport, buildings (both residential and industrial), energy, waste, water, and waste water sectors. The FIDIC response came in conjunction with the launch of FIDIC's first-ever *State of the World* report that took a critical look at global infrastructure, and offered an engineering perspective to solutions. The report highlighted infrastructure deficits, and was used by the industry to reinforce the need for sustainable investment in infrastructure and the inclusion of engineers at an early stage of investment decisions. In summing up, John Boyd, Immediate FIDIC Past-President, noted that "never before in the recent history of mankind was there such a need for engineers to be heard. The world faces critical issues on several fronts, and engineers will be expected to find solutions. The main issue for the industry was to find a better way for engagement with decision makers."

## *Prangey Award for integrity champion*

Dr Felipe Ochoa Rosso from Mexico, FIDIC's long-serving champion of integrity management and the key contributor to the development of the *FIDIC Integrity Management System* (FIMS) guidelines and GPIMS, its counterpart for government procurement agencies, received a *FIDIC Prangey Award* at the FIDIC 2009 London Conference. This is the consulting engineering industry's primary award for valued contributions to the industry and to FIDIC over many years. Dr Ochoa had been able to obtain support from the multidevelopment development banks for the drafting and publication of guidelines for the FIMS predecessor, the *FIDIC Business Integrity Management System* (BIMS), the industry's international protocol for managing integrity in firms.

FIMS draws extensively upon the *OECD Anti-Bribery Convention* that has been encapsulated in the *UN Convention against Corruption* which has global reach and was the only global road-map in the fight against the systemic corruption. The G20 heads of state and leading business organisations in the fight against corruption called upon the UN Convention to set up an implementation review mechanism at the 2009 *Conference of States Parties* in Doha, at which FIDIC participated, demonstrating the practical application of FIMS and GPIMS.

## *Member Association visits*

In order to bring FIDIC closer to its Member Associations, the programme of official visits was expanded to enable and support members of the FIDIC Executive Committee to call on members in their regions, to lend support to local initiatives and to clarify FIDIC policies and activities. Examples included participation in:

- The 150th anniversary of civil engineering in Austria, where selection of consulting engineers on the basis of quality was a key focus.
- The 10th anniversary of the Bulgarian association BACEA, at which the Deputy Minister of Public Works commented on the important role played by consulting engineers in developing the country's infrastructure. Marin Bakalov, BACEA President, also acknowledged the important part played by FIDIC in helping to set up the association in 1999, and in assisting the industry to develop to its current strength of 120 member firms.
- Regional conferences in Poland and Romania, where ongoing challenges were highlighted for users of FIDIC contracts on European Union funded projects in Central Europe. Attention was drawn to the employers' reluctance to adopt Dispute Adjudication Boards (DAB's) that were mandatory for the Multilateral Development Bank Harmonised Edition of the *FIDIC Construction Contract*, and the preferred option for all FIDIC major works contracts. Subsequently, FIDIC and the European federation EFCA agreed to engage in more robust debate with the European Commission on both the benefits of using international best practice and on the changes in legislation, funding and capacity development that were needed if international best practice was to be effective.

## *A steady stream of new books on FIDIC contracts*

FIDIC's suite of works contracts undoubtedly represented benchmarks for international best practice, with experts from all relevant disciplines continuing to publish comprehensive guides. Authors were based in several different countries and many aimed to share experience of using the contracts in various types of legal jurisdictions. *FIDIC - A Guide for Practitioners* (Springer-Verlag; ISBN 9783642020995) by Sebastian Hök and Axel Jaeger provided invaluable guidance on how FIDIC standard forms of contract, with their origins in common law, should be used in legal systems based on civil codes. Both authors were FIDIC accredited trainers, with Dr Hök having a legal background and Axel Jaeger an engineering background (he was a member of FIDIC Contracts Committee for many years and stepped down in 2009 as the committee chair). *The FIDIC Contracts - Law and Practice* (Informa Law; ISBN: 9781843116288) by Ben Mellors, Ellis Baker, Anthony Lavers, and Scott Chalmers provided an excellent blend of legal practitioner and academic opinion by highlighting controversial issues and outlining the main schools of thought. *Practical Guide to Engineering and Construction Contracts* (CCH Australia; ISBN: 9781921593529) by Philip Loots and Donald Charrett offered a concise, practical guide to the law relating to construction contracts in Australia that illustrated many best-practice principles that have been taken up in the FIDIC contracts. In each case, the authors regularly presented FIDIC contracts to international audiences. A complete list of books relevant to users of FIDIC contracts was kept in the FIDIC User Forums website.

## *Multilateral development bank consultant proposals harmonised*

FIDIC was consulted by the Multilateral Development Bank (MDB) Heads of Procurement on a proposal to harmonise a Standard Request for Proposals (SRFP) "master document" based on the World Bank's *Standard Request for Proposals: Selection of Consultants* (May 2004). For the World Bank, the SRFP is mandatory for contracts costing more than USD 200,000, and borrowers and implementing agencies of bank-financed projects were encouraged to use the document for contracts costing less than this limit. It must be used "whenever possible" in the selection of consultants, and could be used with the different selection methods described in the *Guidelines - Selection and Employment of Consultants by World Bank Borrowers*.

Updates to the SRFP aimed to facilitate the ability of the MDBs' borrowers to evaluate proposals and to maximise insurance coverage. They involved provisions in the Instructions to Consultants and in the General and Special Conditions of Contract regarding taxes, limitation of liability, conflict of interest, the composition of joint ventures, the requirements for personnel, deadlines for confirming participation, and computational errors in lump-sum contracts.

## *Contributing to development bank policies*

During annual visits to the major development banks in Washington, Tunis, London, and Manila, FIDIC took the opportunity to appraise officials of key issues affecting the industry, as well as learn of new or amended policies and procedures being implemented by the banks. In addition to contributions to ongoing discussions on the harmonisation of policies and procedures, discussions also focused on the impact of the financial crisis on investment in development projects.

A special meeting took place between FIDIC and eight of the development banks in late-2009, in conjunction with the banks' annual Heads of Procurement meeting. The meeting was greatly appreciated by both sides given that the last meeting of its type was the 2007 biennial BIMILACI meeting. The relatively informal arrangements allowed frank and open discussions of issues affecting the industry, such as the financial crisis, sustainability, integrity, and climate change. Input was sought from FIDIC on proposed harmonisation of policies and procedures covering, for example, consultant procurement and expedited procedures. In promoting best practice in procurement, FIDIC continued to define quality not only in terms of consultant resources and experience, but also in terms of integrity management and the adherence to sustainability principles.

## Revised World Bank guidelines

FIDIC was invited in late-2009 to comment on a revised version of *Guidelines: Selection and Employment of Consultants under IBRD Loans and IDA Credits by World Bank Borrowers*. It was noted that, although the World Bank still provided details on several alternatives for the selection method, greater clarity was given for Quality-Based Selection, along with more precision on several practical considerations such as tax in the country of operation. Proposed revisions cover significant policy changes, changes to adjust to best practice, clarifications to avoid misinterpretation, and editorial changes for consistency between procurement and consultant guidelines. FIDIC coordinated responses from its committees and consulted colleagues in the European federation EFCA and in ACEC-USA who, on FIDIC's behalf, attended briefings held by the bank in Washington DC.

## New version of the harmonised contract released

FIDIC released in June 2010 a new version - the third - of the General Conditions of the Multilateral Development Bank Harmonised Edition of the *FIDIC Construction Contract*. This followed three years of discussions with all the major stakeholders in the construction industry. The contract is widely acknowledged as the worldwide standard for development bank financed construction works designed by the employer, or client. As such an increasing number of bilateral aid agencies have also taken out licences to use the conditions for their projects. Particular Conditions rendering the *FIDIC Plant and Design-Build Contract* compatible with the harmonised Construction Contract have also been released pending a possible development of a fully harmonised edition.

## Business Practice

### International contracts event programme continues to grow

FIDIC contracts events over the past 12 months included the first-ever *FIDIC Middle-East Contracts Users Conference* (Abu Dhabi; 24-25 February 2010), as part of a programme to expand FIDIC's premier contracts conference series (User Conferences were also held in London in December 2009 and in Hong Kong in June 2010). Other international contracts conferences that involved various forms of FIDIC involvement with international organisations were the International Chamber of Commerce (ICC)-FIDIC conference, the Dispute Resolution Board Foundation conference and the Dispute Board Federation symposium. Meanwhile, the

### FIDIC Contracts Committee

The FIDIC Contracts Committee comprised: Philip Jenkinson, *Atkins, UK* (chair); Christoph Theune, *Pöyry Environment, Germany*; Zoltan Záhonyi, *Consulting Engineer, Hungary*. Christopher Seppala, *White and Case, France*, served as Legal Adviser. Special Advisers were Nael Bunni, *Bunni and Associates, Ireland*, Axel Jaeger, *Consulting Services, Germany* (immediate past-chair), Michael Mortimer-Hawkins, *Consulting Engineer, Denmark*, and Christopher Wade, *Consulting Engineer, UK*, all of whom stepped down as members in 2009.

*FIDIC International Training Programme* (ITP) contracts training series continued with training seminars in India, Jakarta, Kosovo, Montenegro, Syria, and Libya. There was also a full programme of contracts training courses and workshops, with new series started in South America, Botswana, Copenhagen, Libya, Singapore, Syria, and Turkey complementing the regular series of events that now take place in some 15 countries.

The FIDIC programme to accredit trainers continued, with trainers becoming available to train for ITP events worldwide while acting as the link to national and regional training programmes. FIDIC accredited trainers were expected to be associated with accredited training suppliers capable of organising training events. Active during the past 12 months were five accredited suppliers for courses and workshops in English covering the various *FIDIC Contracts Training Manual* modules, and new suppliers were established for other major languages.

### FIDIC Construction Subcontract published

The need for FIDIC to produce a subcontract for the *FIDIC Construction Contract*, for both the standard 1st Edition 1999 (the "1999 Red Book") and the Multilateral Development Bank (MDB) Harmonised Edition, arose for a number of reasons, notably the MDBs' insistence that subcontracts for EPC projects should be recognised internationally. The FIDIC Contracts Committee's Subcontract Task Group (chaired by Nael Bunni, *Bunni and Associates, Ireland*, with as members: Richard Appuhun, *Civil Engineer, Italy*, Edward Corbett, *Corbett & Co., UK*; Shiobhan Fahey, *Consulting Engineer, Ireland*; Zoltan Záhonyi, *Consulting Engineer, Hungary*) expended considerable energy in developing *FIDIC Conditions of Subcontract for Construction*, which were published as a Test Edition in mid-2010.

The first FIDIC subcontract was published in 1994 for use with the *FIDIC Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer*, 4th Edition 1992 (the "1987 Red Book"). The new FIDIC Construction Subcontract was drafted on the same basis as the 1994 form: (a) the subcontractor assumed the duties and obligations of the contractor under the main contract; and (b) paid-when-paid conditions have been maintained. The drafters were mindful that paid-when-paid conditions were not enforceable in some

jurisdictions so guidance notes and sample Particular Conditions were included to ensure that completed subcontracts complied with national law. Meanwhile, the increasing demand for a subcontract to the *FIDIC Plant and Design-Build Contract* has provided additional challenges for the task group.

## *Adjudicators gain entry to the FIDIC President's List*

Thirteen candidates passed the rigorous entry requirements for the *FIDIC President's List of Approved Dispute Adjudicators* (curriculum vitae and contact details are available at [www.fidic.org/dab](http://www.fidic.org/dab)). Entry on the list called for pre-assessment for suitable experience in international dispute resolution and FIDIC contracts followed by successful completion of a two-day *Adjudicators Assessment Workshop* organised by the FIDIC Assessment Panel for Adjudicators.

The FIDIC President appoints adjudicators from the list if called upon to make an appointment under a FIDIC contract. Those listed are also available for appointment as dispute adjudication board members. The new listees increased significantly the availability of skilled adjudicators to help meet the growing demand for support under FIDIC contracts world-wide.

## *Ensuring procurement law that reflected best practice*

The *UNCITRAL Model Law on Procurement of Goods, Construction and Services*, a template for national procurement legislation, has been under revision since 2004. By providing real-world examples and detailed explanations on how Quality-Based Selection (QBS) worked in practice, Robert Smith, *Wickwire Gavin, USA*, FIDIC's representative to the *UNCITRAL Working Group on Procurement*, has helped ensure that QBS will be accommodated under the revised Model Law. The remaining challenge was to ensure that a revised Guide to Enactment that accompanied the Model Law became more relevant by having separate sections for enactment, use and application of the Model Law at the national working level, and day-to-day issues. This structure would help users in not only applying the Model Law but also prepare them to manage contracts formed pursuant to its requirements, thus providing an opportunity to reference FIDIC contracts for contracts formed under the various methods of procurement allowed by the Model Law. As a result, procurement procedures and structures that were not widely used may be deleted or at least relegated to options, with proven contract structures and methodologies compatible with the FIDIC contracts and procurement procedures taking the forefront, including QBS principles and procedures.

## *Qualifications-based selection study reports reduced costs*

An *Analysis of Issues Pertaining to Qualifications-Based Selection*, a university study in the USA published in late-2009 by ACEC-USA, has demonstrated that Qualifications-Based Selection (QBS) achieved lower construction costs and better project results. Key findings showed that while the industry average for construction cost growth (total cost of change orders as a percentage of the

## **FIDIC Assessment Panel for Adjudicators**

The Assessment Panel for Adjudicators (APA) comprised: Peter Chapman, *Arbitrator and Adjudicator, UK* (chair). Cyril Chern, *Crown Office Chambers, UK*, and Toshihiko Omoto, *Kyoto University, Japan*, replaced Gordon Jaynes, *Arbitrator and Adjudicator, UK*, and Igor Leto, *Arbitrator and Adjudicator, Italy*, in late-2009, who had both worked with APA since its formation.

## **FIDIC Business Practice Committee**

The Business Practice Committee comprised: Rick Prentice, *Stantec, Canada* (chair); Fatma Cölasan, *GEN-TES Engineering, Turkey*; S. Chatterjee, *India*; Kaoru Kariya, *Tokyo Engineering Consultants, Japan*; Andrew Read, *Pedersen Read, New Zealand*; Peter Rauch, *SWR, Switzerland*. It was responsible for task groups developing best practice documents covering Quality-Based Selection, design for safety and scope definition.

final construction cost) was about 10 percent, on QBS projects it was only 3 percent. The extension of construction schedules was also lower on QBS projects. Such reports have proved useful to the FIDIC Business Practice Committee's (BPC) QBS Task Group charged with upgrading the FIDIC QBS guidelines in order to provide more examples of the benefits of using QBS, as well as to offer more guidance on the fee negotiation process.

## *Scope definition and safety in design addressed*

A BPC task group began in 2009 to address a supplement to the *Definition of Services Guidelines (Building Construction)* focusing on civil infrastructure. More recently, another committee task group began work on a best-practice guide addressing the vexed issue of designing for health and safety. The health and safety of construction personnel was a topic of concern, with many countries introducing or strengthening legislation. In some cases, wide-reaching laws inappropriately made consulting engineers responsible for the construction process. For instance, accidents with a "design cause" tended to be blamed on the designer, whether or not it was reasonable to do so, thus upsetting the delicate balance between duty of care and exposure to unreasonable or inequitable legal challenges. The FIDIC guide aimed to define the appropriate roles and responsibilities in relation to safety of all the key participants involved in design and construction. Given that the primary responsibility for construction safety should lie with the parties who were best able to control it, usually the contractor, the guide will also define the roles and responsibilities, in relation to construction safety, that were appropriately carried by consulting engineers. Finally, it will provide guidance to FIDIC members involved in advising legislators as to the appropriateness of construction safety legislation.

## *Reinforcing risk management practice*

The Risk and Liability Committee, having produced *Risk Management - A Short Guide* in 2009, turned its attention to the global issue of unlimited liability. In revising the existing FIDIC policy, the committee spelt out the potential risks of agreeing to unlimited liability in consulting engagements, thus reinforcing principles adopted in the *FIDIC Client/Consultant Model Services Agreement* that defined ways to limit liability in providing professional services. Reviews of liability and insurance issues in FIDIC guides were planned.

## Business Development

### *Record participation in management training programme*

The *FIDIC 2010 Young Professionals Management Training* (YPMTP) started in early-February 2010 with a record number of participants (52 from 14 countries). It comprised the usual online sessions, feedback and discussion on the eFIDIC training platform for six months followed by working sessions immediately before the *FIDIC 2010 New Delhi Conference*, with a final report presented at the conference's *Future Leaders Workshop*. To provide future managers with a better understanding of how consulting engineering firms operate, the 2010 programme was restructured so that *FIDIC Guide to Practice* training modules formed the core of the training upon which case studies were built.

In addition, the *Young Professionals Programme* at the FIDIC 2009 London Conference was well subscribed, with some 80 young professionals from 35 countries participating in workshops, social events and a technical tour of London's Olympic site. In distributing certificates to the 2009 YPMTP trainees among the young professionals, John Boyd, FIDIC President, noted that despite the economic challenges, the world faced a shortage of good engineers, with today's future leaders needing to take on the challenges of tomorrow.

### *Pilot certification scheme to be launched*

FIDIC signed an agreement in 2006 to extend the FIDIC/CNAEC-China training programme to include a pilot programme to assess a "FIDIC Engineer" based on the completion of a formal curriculum, the recording of course attendance and assessment by examination. Training would be based on modules of the FIDIC contracts and business practice training manuals with the aim to strengthen best practice. Shortly after, the Chinese government indicated that it would first review the various certification schemes being offered. CNEAC reported in early-2010 that the State Council had approved the FIDIC programme as the only certification system to be built upon the existing state certification of consulting engineers. FIDIC has been working with CNAEC to update documents that cover the scheme's regulation and operation, and the FIDIC President and General Manager have reached agreement with CNAEC on the terms of the FIDIC Engineer Certification which will be submitted to the Executive Committee for review and approval. A key component is the accreditation of trainers. For this, events such as the *FIDIC Asia-Pacific Contracts Users Conference* which was held in Beijing in June 2010 will be invaluable as they help expose potential trainers and applicants to FIDIC contracts and procurement best practice.

### *FIDIC Guide to Practice*

The *FIDIC Guide to Practice Training Manual* and its companion for FIDIC contracts lie at the core of the training modules delivered by the *FIDIC International Training Programme* as courses, workshops and seminars. There is also increased interest in these modules as the basis for national training and certification programmes in countries such as China, India, Jordan, and Korea as consulting engineers seek to broaden their understanding of the fundamentals of how to run a good business practice. The FIDIC Capacity Building Committee has, as one of its responsibilities, the review and updating of the various modules. FIDIC aimed to

### **FIDIC Risk and Liability Committee**

The Risk and Liability Committee comprised: Kevin Corbett, *AECOM, UK* (chair); Stephen Bamforth, *Griffiths & Armour, UK*; Nicola Grayson, *Consult Australia*; Toshio Kurashige, *Nihon Suido, Japan*; Martin Hohberg, *IUB, Switzerland*; Steve Jenkins, *Connell Wagner, New Zealand*; Quinten Koen, *CESA, South Africa*; Udesch Kohli, *Engineering Council of India*; Adam Thornton, *Dunning Thornton, New Zealand*.

### **FIDIC Capacity Development Committee**

The Capacity Development Committee comprised: Henning Therkelson, *COWI, Denmark* (chair); Javad Haddad, *FDA Consultants, Iran*; Richard Kell, *Cardno, Australia*; Graham Pirie, *CESA, South Africa*; Andreas Rév, *Eurout, Hungary*; John Ritchie, *Kellogg, Australia*; Hajime Sakurai, *Nihon Suido, Japan*.

provide base training modules comprising presentation slides, notes and case studies to accredited training suppliers for use under licence in FIDIC accredited training events.

## Quality and Sustainability

### *Quality-Based Selection revisited*

The FIDIC Quality Committee, chaired by Walter Painsi, *Painsi and Partner, Austria*, and currently under formation, was charged not only with coordinating FIDIC's interaction with the International Standards Organization (ISO) committees responsible for updating quality management standards but also with monitoring the new *ISO 26000 Social Responsibility* standard. ISO released in September 2009 a draft ISO 26000 guidance on social responsibility which will be moved forward as a Final Draft International Standard (FDIS), the final stage prior to its publication as an international standard. Some 2650 comments to the guide were incorporated into a revised document to be circulated as the FDIS for balloting. If approved, the ISO 26000 standard could be published in late-2010. ISO 26000, by drawing on "best practice developed by existing public and private sector initiatives", will provide "harmonised, globally relevant guidance based on international consensus" that aimed to "encourage the implementation of social responsibility". The draft guide included a useful table of examples of cross-sectoral initiatives but was not a conventional standard that articulated a management system. Instead, approaches such as at the *FIDIC Integrity Management System* provided implementation standards.

### *Climate Change Task Force to map out industry strategies*

Following the limited success of the *UN Framework Convention on Climate Change* COP15 summit in December 2009, the consensus was that the best choice for industry sectors would be to continue with the bottom-up approach. They should act independently to cut emissions and to adapt to the impact of climate change while the UN negotiations process was reformed in order to avoid deadlocks yet allowing democratic decisions to

# Ethics and Integrity

be reached in a transparent and inclusive way. The FIDIC Executive Committee agreed to a proposal by the Sustainable Development Committee to establish a Climate Change Task Force chaired by John Boyd, the immediate FIDIC Past-President, to help provide FIDIC Member Associations with guidance and information on how to assist governments develop and implement strategies aimed at reducing carbon emissions. A *FIDIC 2010 New Delhi Conference* session has been planned to discuss an overall strategy for the consulting industry

When considering the deadlines of the *Kyoto Protocol* for meeting target reductions, even basic facts on major projects seemed unknown to political decision-makers, such as the fact that a ten-year span from project concept to completion was common. Strong arguments needed to be developed for governments to act in areas where delays to implementation were least likely. More robust data was also required in discussions on initial project costs versus longer-term benefits, particularly given the negative scenarios which were presented to COP15. For instance, the European Union has estimated that the cost of climate change adaptation and mitigation in developing countries was Euro 100 billion whereas UN and World Bank studies estimated that Euro 45 billion was needed each year.

## Ethics and Integrity

### *Integrity management highlights the business case*

The Integrity Management Committee has been developing a revised version of the *FIDIC Integrity Management System* (FIMS) formerly the *Business Integrity Management System* (BIMS). It included the all-important business case for implementing an integrity management system in a firm by reflecting the experience gained over the last eight years since BIMS was launched as well as input from various anti-corruption initiatives that have been promoted by several organisations, including the OECD, Transparency International, the UN Global Compact, and the World Economic Forum. FIDIC has been involved in all these initiatives, providing valuable feedback on the experience and viewpoint of the consulting engineering industry.

In late-2009, FIDIC entered into cooperation agreements with the contracting industry, led by the Confederation of International Contractors' Associations, and with the engineering profession, led by the World Federation of Engineering Organizations, to promote integrity at all levels, in order to address proper investment decision making, the transparent funding of infrastructure, and enhanced quality of outcomes for those in urgent need of good infrastructure.

### *Cross-debarment reinforces an earlier agreement*

Sanctions by multilateral development banks (MDB's) typically include reprimand, conditions on future contracting, or public debarment. Senior MDB representatives signed an agreement in

### **FIDIC Sustainable Development Committee**

The Sustainable Development comprised: William Wallace, *Wallace Futures, USA* (chair); Maisa Al Bataineh, *Jordan*; Jeremy Boswell, *Thurber, Canada*; Dr John Boyd, *Golder Associates, Canada*; Maxime Mazloun, *SYNTEC-Ingénierie, France*; Ernst Schlaeppli, *CSD, Switzerland*; Arthur Taute, *Vela VKE, South Africa*; Jacob Lipa, *PSOMAS, USA*; Dr Iksan van der Putte, *RPS, Netherlands*; Sangeeta Wij, *ICT-SD, India*.

### **FIDIC Integrity Management Committee**

The Integrity Management Committee comprised: Dr Jorge Díaz Padilla, *SYSTEC, Mexico* (chair); Liu Luobing, *Halcrow, China*; Khelane Ndwandwe, *Asakheni, South Africa*; Richard Stump, *Stanley Consultants, USA*; John Ritchie, *Kellogg, Australia*.

early-2010 to cross-debar firms and individuals found to have engaged in wrongdoing in MDB-financed projects. The agreement will allow joint investigations, where relevant, and entities debarred for more than one year by a MDB to be sanctioned for the same misconduct by other participating MDB's, closing off what was considered to be a loophole. The agreement effectively formalised what was already implied under a 2006 agreement that harmonised definitions of sanctionable practices and enhanced the sharing of investigative information. The hope was that the mutual recognition of anticorruption efforts among the banks would lead to greater recognition by the banks of more positive approaches to stamp out corruption, such as the *FIDIC Integrity Management System*.

### *OECD toolbox to enhance integrity in public procurement*

Procurement has received renewed attention in the global economic crisis since larger financial flows and the use of accelerated procedures for government procurement in stimulus programmes have given rise to additional risks. In 2009, the OECD agreed that practical tools were needed to safeguard integrity in public procurement. It subsequently developed a toolbox to provide practical guidance on how to apply the 2008 *OECD Recommendation of the Council on Enhancing Integrity in Public Procurement* that was made up of short descriptions of public procurement tools grouped into five categories. In invited comments, FIDIC recommended recognition of the fact that the procurement of intellectual services should be based on different rules and procedures from those for price-sensitive commodities. FIDIC also stressed the need to address both the demand and supply side of corruption, through complementary tools such as the *FIDIC Government Procurement Integrity Management System*.

### *Transparency International*

While promoting its *FIDIC Integrity Management System* (FIMS), FIDIC has been able to participate in and contribute to the development of other tools for fighting corruption, thereby enhancing the role of the consulting engineering sector, and ensuring that FIDIC best practice was disseminated widely. For instance, FIDIC was a supporting organisation for the revised *Transparency International Business Principles for Countering Bribery* published in late-2009 which adopted key aspects of FIMS, namely placing greater emphasis on the public reporting of anti-bribery systems and the recommendation that firms commission external verification or assurance of their anti-bribery programme.

# Managing Director's Report

## Strategies reviewed

### A focus on regional and organisational issues

Yes, FIDIC's business activities also were impacted by the global economic downturn. However, in spite of difficult economic conditions, FIDIC achieved a substantial financial surplus in 2009 largely due to internal restructuring and a continuing strong demand for FIDIC's documents and training events.

There were no staff replacements or additions during the year, given the uncertainty of the FIDIC Secretariat's future location pending a decision on how best to integrate activities in Europe with the European federation EFCA. After due diligence was undertaken, the Executive Committee meeting in February 2010 decided that the FIDIC Secretariat should remain in Geneva in the short- to medium term, thereby clearing the way to review staff resources resulting from increased demands for services, and the General Manager's retirement early in 2011. As a result, the FIDIC Secretariat resources remained relatively stable during the year at 4.5 full-time equivalents.

The issue of representation and FIDIC membership also required considerable consultation. It has been noted for some time that there still remained some uncertainty over the true size of the consulting engineering industry, given the current definitions for the industry which may be interpreted in different ways. It has also been recognised that some members of FIDIC tended to carry a relatively high financial burden for membership because they often fully represented their national industries, and had a clearer picture of the extent of their national industries. This was not always the case elsewhere. To help start redressing the situation, and following analysis by the Subscriptions Task Force, the Executive Committee agreed that the President would write to Member Associations asking them to report member firm staff numbers (the basis for membership fees) in conformity with revised guidelines that should clarify the definitions.

The discussion of the relationship with EFCA was extended to include FIDIC's regional groups with approval of Denis Sheehan's nomination as chair of the ASPAC Asia-Pacific group of Member Associations in the expectation that a plan of action would be agreed. It was decided that the 2010 ASPAC conference would take place with the *FIDIC 2010 New Delhi Conference*.

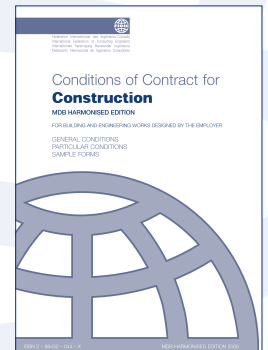
A one-time grant for two years was approved to help fund a secretariat in South Africa for the GAMA-Africa regional group. GAMA had recently reviewed its statutes and action plan and was pursuing a broad range of activities, including organisation of the *FIDIC GAMA-Africa Regional Conference* (the 2010 event was held in Mombasa in March).

Bisher Jardenah, the Executive Committee member from Jordan, outlined alternative models for a mid-east regional group that was customarily defined upon a linguistic basis.

Further coordination with the South American federation FEPAC was taken up when the Executive Committee met in May 2010 in Mexico City on the occasion of the 25th anniversary of CNEC-Mexico. Further developments between FIDIC and FEPAC were anticipated.

### FIDIC strengthened its brand

Other decisions taken by the Executive Committee included initiating legal proceedings in cases of blatant breaches of copyright by organisations that illegally prepared and used FIDIC documents, notably the FIDIC major works contracts. It was also decided that FIDIC documents would not necessarily be printed in a hard-copy form since these could not be watermarked with a user's coordinates to mitigate reproduction of unauthorised scanned copies on third-party websites.



*FIDIC published in June 2010 a new version of the Multilateral Development Bank Harmonised Edition of the FIDIC Construction Contract.*

The Finance Task Force has been reactivated and charged with examining FIDIC's fiscal status and investment strategy. There was also preliminary discussion of reorganising FIDIC's association and commercial activities in the light of the General Manager's retirement. Additional resources to boost FIDIC's services to members and to clients was envisaged. Finally, with a view to organising a large and comprehensive 100th anniversary centenary conference in 2013 in Barcelona, potential partner organisations from industry sectors connected to consulting engineering started to be approached for support. Members will also be invited to contribute to acknowledge the valuable contributions made by consulting engineers to economic development and improvements to our way of life over the previous 100 years.

As indicated by the FIDIC President in his message on page 2, commercial activities undertaken by FIDIC have enabled FIDIC to allocate more resources to adding value to services provided to members. In looking ahead, it was clear that more could be done to offer direct support to Member Associations, as well as to the products and services offered to their member firms and the federation's clients. There existed a fine balance between being proactive in establishing best practices, and in reacting to issues which confronted the industry. At a time when the industry has been down-sizing, it has been difficult to focus on the major issue which confronted the industry prior to 2008 – the global shortage of skills in the consulting engineering sector. Global organisations such as FIDIC were obliged to keep abreast not only of current issues but also of future issues. One thing had become clear in the last few years – the industry could no longer rely on variable cycles throughout the world to offset a downturn in one area. The demands for infrastructure development and maintenance world-wide (including finance) required a new approach to building business strategies and interfacing within the consulting sector. FIDIC provided such an interface, and embraced the challenges ahead. The support of all members has been welcome.

Enrico Vink, FIDIC Managing Director

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