FTI CONSULTING

Critical thinking at the critical time™

CONSTRUCTION SOLUTIONS

Fall 2010 ■ Issue 3

PERSPECTIVES ON... MINING AND METALS

The global industry of mining and processing minerals and metals is one of the most economically significant to people worldwide. The industry's value chain, timing, cost, and risks require constant quality and quantity assessment, to accommodate a global demand that continues an upward trend overall and increases the requirement to:

- Explore, discover, and delineate resources more quickly
- Access, mine, and process resources with greater safety and productivity
- Be socially responsible and environmentally friendly
- Lower associated costs to protect profit margins
- Engage in sustainable development and continued reinvestment

Being profitable, sustainable, and responsible is the continuing challenge for today's mining and metals companies. Opportunities are present in the mining and metals centers of today, as well as in the exploration and location of undiscovered resources in new geographies.

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INTERNATIONAL MINING PROJECTS – LIGHT IN AN OTHERWISE DARK ECONOMIC PERIOD

Neil Gaudion, Senior Managing Director – Forensic Consulting

The global mining industry is a large and historically volatile business. Mining commodity prices are the benchmark by which these businesses are measured and have shown substantial fluctuations in the last five years through the global economic downturn. Gold, for example, has been on a steady rise from USD$400 to USD$1,200 an ounce over this time period. Base metals such as Iron Ore and Copper have also shown significant variability, but are currently trading at significantly higher prices than five years ago. In short, while the global mining industry has been shaken during the economic downturn, the near-term outlook for profits appears very strong and recent earnings releases affirm this trend.

Ultimately, the growth of the mining industry is constrained by the availability of natural resources. New deposits are more difficult to find and develop, and the grade and scale of these new deposits are also not as favorable as they used to be. Over the years, easy to reach resources have been developed, so the focus of the industry has shifted to the undeveloped deposits in less than desirable locations, and the mining companies are willing to go wherever is necessary. Many of the new deposits are being developed in untapped landscapes of Africa, South America, and Asia. In order to sustain mineral reserves and grow their businesses, mining companies are investing large amounts of cash into capital projects and exploration.

In 2010, the five largest global mining companies will invest over $40 billion in capital expenditures. The upcoming capital expenditure boom in the mining industry has already begun. Since the beginning of this year, numerous multi-billion dollar projects have been announced throughout the world. Many of these projects are being developed in countries with little or no established infrastructure and a limited history of foreign investment. As a result, these projects face challenges of politics, logistics, transportation, weather, labor, and corruption *(see "Anti-Bribery Compliance" article in this newsletter)* intrinsic to the challenges of complex construction projects. As an example, Rio Tinto currently is developing the USD$12 billion Simandou iron ore project in remote Guinea, a country in a period of political transition and attempting to establish an elected government. In the Democratic Republic of Congo (DRC), Canada-based First Quantum is currently embroiled in international arbitration with the government over the cancellation of their mining license on the Kolwezi copper tailings project where the company has already invested over USD$700 million.

Without a doubt, the stakes are high in developing these large international mining projects. The issue of controlling and managing the schedule becomes crucial to the success of the project as delays are common and can have significant cost impacts if not properly addressed. With the backlog of current projects underway, it is clear that resources associated with major mining projects will be constrained, from engineers to equipment suppliers. Having the information to make sound and intelligent decisions related to cost and schedule is vital.

Over the next five years, the mining industry will experience a boom in capital investment where the old saying, "Time is money," will yet again ring true. With the economic health of the mining industry being strong today, the next 5-10 years will be an exciting time of capital investment and new projects. ■

MARKETWATCH

- Platinum, Palladium to Beat Gold Soon *[http://ow.ly/2mZHw]*
- After China, will India open up gold trade? *[http://ow.ly/2mZNw]*
- Stocks, U.S. Futures Climb on Stimulus Speculation; Copper Gains *[http://ow.ly/2mZUy]*
- Namdeb to invest $1 bln to extend life of mines *[http://ow.ly/2n02w]*
- Where's the copper to come from to meet future demand? *[http://ow.ly/2n0fY]*
- Base metals can still shine in an uncertain environment *[http://ow.ly/2n0jw]*
- 2Q10 metals mega deals exceed all 2009 sector mega deals combined *[http://ow.ly/2n0up]*

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LETTER FROM PAUL FICCA

National Practice Leader

Dear Readers,

As mentioned on this newsletter's cover, the global industry of mining and processing minerals is one of the most economically significant industries worldwide. The mining and metals industries are subject to economic swings in demand and prices, which increases the risk of major mining projects and affects the pace of development and profitability of these projects. In addition, there are significant and unique environmental, technological, employment, social, cultural, and geographic characteristics associated with mining precious mineral resources, processing the raw materials, and transporting the resources throughout the world.

Companies actively involved in the mining and metals industries seek not only to maintain high levels of operation and production efficiencies, but they also strive to achieve desirable returns for their shareholders. FTI Construction Solutions provides advisory services for mining and metals exploration, investment, and development. We work with companies to meet the challenges and opportunities of natural resources mining in the 21st century. Our advisory services, global capabilities, and specific industry expertise are described in this newsletter.

In this issue of *Construction Solutions*, we share some perspectives on the mining and metals industries that we hope will be informative to you, as well as provide insight for your own projects. We invite the opportunity to speak with you directly about how we can specifically save you time and money on your mining projects. Please feel free to share your perspectives with us at: constructionsolutions@fticonsulting.com.

Our very best regards,

FTI GLOBAL MINING AND METALS TEAM

FTI Construction Solutions has fostered an expert team of professionals with some of the highest levels of mining and metals experience in the industry. Our construction professionals provide consulting advisory for all aspects of mining and metals ventures, from precious and base metals and semi-precious stones, to industrial minerals and coal. These services are complemented by our Corporate Finance division which can assist our clients in raising equity for exploration, resulting in the discovery of new deposits.

Our timely and effective advice and solutions help clients face the complexities of modern mining and mineral processing with confidence. FTI Construction Solutions advisory services for Mining and Metals projects include:

- Evaluating Contractual Implications
- Anti-Fraud Consulting
- Establishing or Evaluating Exploration Agreements
- Compliance and Due Diligence
- Electrical Power Supply Planning and Analysis
- Infrastructure Planning and Analysis

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Neil Gaudion is a senior managing director in the FTI Construction Solutions segment of the Forensic and Litigation Consulting practice and is based in Atlanta. His practice is concentrated on assisting owners, contractors, and other construction professionals in the management of project controls and the development, analysis, and resolution of major construction disputes. Mr. Gaudion has consulted with clients on virtually every type of major construction project. He provides advice to both owners and contractors on several large "mega-projects" on how to effectively manage project cost, schedule controls, and dispute avoidance. On large disputes, Mr. Gaudion is experienced in performing delay analysis and quantifying the effects of delay, disruption, and interference on construction projects. Mr. Gaudion has consulted on a diverse range of major capital construction projects, including several power generation projects that have amounted to over 2,000 MW of generating capacity and 22 miles of hard-rock tunnel with a combined construction value of over $500 million. His project experience extends throughout the United States, Africa, South America, and the Middle East. Mr. Gaudion is a Certified Cost Engineer, Planning and Scheduling Professional and was elected as a Member of the Royal Institute of Chartered Surveyors. ■

FTI PROJECT PROFILE

COPPER AND COBALT MINE SUB-SAHARAN AFRICA

Client: Large Copper and Gold Mining Company

Cost: USD$1.8 billion

Scope: Greenfield construction of copper and cobalt processing plant in sub-Saharan Africa capable of producing 115,000 tons of copper and 8,000 tons of cobalt annually.

FTI Services:

- ***Advisory and Oversight Services:*** Provided full scale construction advisory and project oversight services.

- ***Project Controls:*** Responsible for all project controls management and oversight during construction of the copper and cobalt processing plant including cost forecasting, financial reporting, project scheduling and performance measurement.

- ***Schedule Maintenance:*** Created and maintained project schedules for various areas of the project. Coordinated with EPCM and project contractors in order to update master project schedule and produce progress metrics on a regular basis during construction.

- ***Claims Negotiation and Close–Out:*** Led owner team in analysis of claims from EPCM and project contractors to ensure a successful contract close-out. ■

LAWYER PERSPECTIVE

UK BRIBERY ACT RAISES THE BAR ON FCPA STANDARDS FOR ANTI-BRIBERY COMPLIANCE

Wynn Segall and Justin Williams of Akin Gump Strauss Hauer & Feld

Bribery and foreign corruption represent a serious exposure to the construction and natural resources sectors. Recent high profile examples from these sectors include the settlement reached with the U.S. authorities by Innospec Inc. in March 2010, in which they agreed to pay over USD$40 million in relation to allegations involving state-owned oil companies in Iraq and Indonesia. Underlining the potential severity of the sanctions available under the U.S. anti-bribery regime, in January 2010, two years after Willbros Group Inc. had reached a settlement with the U.S. authorities for USD$32 million, two of the group's former managers were given custodial sentences by the Texan courts.

On July 20, 2010, the UK government announced that the new UK Bribery Act (the "Act") would come into force in April 2011. In important respects, the new UK law establishes a stricter anti-corruption regime than its older and better known transatlantic cousin, the U.S. Foreign Corrupt Practices Act ("FCPA"). Like the FCPA, the Act provides a very broad basis for international enforcement by UK authorities. The UK law will apply on a strict liability basis to all businesses that are either incorporated or "carrying on business" in the UK, regardless of the country in which corrupt conduct occurs. Consequently, companies with international interests that touch on the United Kingdom can no longer assume that the internal controls they have previously developed in reference to the FCPA are sufficient to conform to global anti-bribery compliance standards.

Indeed, key differences from the FCPA, including absence in the new UK law of the kinds of express limited exceptions and affirmative defenses specified under the U.S. law, present potential challenges that affected companies should carefully consider. As this suggests, the UK Bribery Act provides a basis to significantly change the landscape of international anti-bribery enforcement as it comes into effect and is enforced next year. In the interim, companies that engage in business in the UK have the opportunity to review their anti-corruption policies and procedures and ensure that these measures conform to the evolving landscape of international enforcement that the new UK law will help to shape in years to come.

Overview of the Act

The UK Bribery Act replaces and consolidates the previous mix of UK anti-bribery statutes and common law, some of which dated back to the 19th century. The Act's provisions generally follow the mandates of international conventions to which the UK is party, including the Organization for Economic Cooperation and Development ("OECD") Convention on Combating Bribery of Foreign Public Officials in International Business. The new law, which was enacted April 8, 2010, is now slated to become effective in April of 2011 and will be enforced by the UK's Serious Fraud Office ("SFO").

UK Justice Secretary, Ken Clarke, has been made the UK's new international anti-corruption champion and "sends out a clear message that the UK Coalition Government will not tolerate bribery or corruption and that we will work together to stamp out these practices across the board."

UK Jurisdiction Under the New Law

The Act applies to: (1) persons "ordinarily resident" in the UK, and (2) "Relevant Commercial Organizations," namely:

- UK partnerships;
- UK-incorporated companies; and
- Entities that "carry on business or part of a business" in the UK regardless of where they are registered or incorporated. It is still unclear how aggressively this provision may be interpreted and applied by SFO officials and by the Courts.
- In addition, non-UK entities can be liable under the Act if an act or omission forming part of the relevant offense takes place in the UK.

The Four Offenses Under the Act

General Bribery Offenses – Giving and Receiving Bribes

The Act restates two existing general UK offenses: Offenses of Bribing Another Person and Offenses Relating to Being Bribed, which cover, respectively, the offering, promising or giving of a financial or other advantage, and the requesting, agreeing to receive, or accepting of a financial or other advantage. In simple terms, the Act prohibits giving and receiving a bribe, as well as offering or promising a bribe, or requesting or agreeing to receive a bribe.

Bribery of Foreign Public Officials

Section 6 of the Act contains a discrete offense of bribery or attempted bribery of a foreign public official in his or her official capacity in order to obtain or retain business or an advantage in the conduct of business. In substance, this restates the offense under the previous regime. Where a corporate entity commits an offense under either the general bribery provisions or those specific to foreign public officials, any "senior officers" with a close connection to the UK are culpable for commission of the same offense if they consented to or "connived" in the conduct.

Corporate Offense for Failure of Commercial Organizations to Prevent Bribery

Section 7 of the Act creates a new bribery offense under UK law for failure to prevent bribery. The Act provides that a commercial organization will be guilty of an offense if an "associated person" bribes another person intending to: (a) obtain or retain business for the organization, or (b) obtain or retain an advantage in the conduct of business for the organization. An "associated person" means someone who performs services for or on behalf of the organization, and includes employees, agents, and subsidiaries. Consequently, if a U.S. or other non-UK company carries on business in the UK, and separately has an agent in another country who pays a bribe, the company can be strictly liable for an offense under the UK Bribery Act.

Inability to Establish and Maintain Effective Controls to Prevent Bribery

The UK Bribery Act includes a potent mandate for companies to establish and maintain effective internal controls to prevent acts of bribery. The offense of failure to prevent bribery applies on a strict liability basis, and a company will be liable unless it can demonstrate that it had in place "adequate procedures" designed to prevent bribery. In order to prove that a company has adequate procedures, it has to show not only that it has adopted appropriate policies, but also that it has taken appropriate steps to apply and enforce them. The Act does not define what "adequate procedures" mean. However, the UK Government has announced that early in 2011 it will publish guidance about procedures which commercial organizations can put in place to prevent bribery on their behalf.

More Severe Penalties

The Bribery Act provides for more severe penalties than have previously been applied to bribery offenses in the UK under English law. These include:

- Unlimited fines
- Up to 10 years in prison per offense for responsible persons
- Debarment from public contracts in the European Union

Enforcement

Although many jurisdictions around the globe already have anti-bribery laws in force, what sets countries apart is principally their appetite for enforcement. Until recently, the U.S. has been widely perceived to be the only country that sought vigorously to enforce its laws in this area. However, that is changing.

The context of the enactment of the UK Bribery Act is a renewed political and regulatory determination in the UK to bear down on corruption. Prior to passage of the Act, there was already a greater degree of SFO enforcement activity and an increased willingness not only to investigate but also to prosecute bribery and corruption offenses. The SFO recently introduced self-reporting procedures and in a number of cases has sought to plea bargain. However, in the recent Innospec case, the UK criminal court criticized that approach on the basis that sentencing should be a matter for the court alone. This retreat from plea bargaining in the UK means that the mechanism by which companies can seek to mitigate their exposure in dealing with bribery allegations through cooperation will be different in the U.S. and in the UK. That alone may add to the complexity of resolving international bribery cases with a transatlantic dimension.

Key Differences from FCPA

In a number of respects, the UK Bribery Act is broader than the FCPA. Consequently, it creates some new compliance challenges even for companies that have well established internal controls and safeguards for FCPA compliance. Key differences between the UK and U.S. statutes include:

Strict liability for failure to prevent bribery: The UK Bribery Act provides that a company is guilty of an offense if any person "associated" with it commits bribery for purposes of obtaining business or a business advantage for that company. This offense applies on a strict liability basis with the only defense being proof that the company has in place "adequate procedures" to prevent bribery.

No public/private sector distinction: The UK Bribery Act does not distinguish between public and private sector bribery as a basis for prosecution; commercial or business-to-business bribery is covered.

No "corrupt" element required for liability: Unlike the FCPA, the UK Bribery Act does not require that payments to a foreign public official be made "corruptly" to establish liability. An intention to influence the official for the purpose of obtaining or retaining business or business advantage is sufficient to trigger liability.

Bribe recipient is liable: The UK Bribery Act holds the bribe-taker, as well as the party making a bribe, liable for violations of the law, whereas the FCPA does not target actual or would-be recipients of a bribe.

No exception for "facilitation payments": The Act does not contain any express exception for facilitation payments, which are explicitly excluded from FCPA's anti-bribery provisions.

No express affirmative defense for reasonable and bona fide business expenses or lawful payments: Under the UK Bribery Act, any financial or other advantage given or promised to another could amount to a bribe if a reasonable person in the UK would regard that action as improper or if it is an inducement or reward for something that a reasonable person in the UK would regard as improper. Modest corporate entertainment or gifts may fall on the right side of the line and lavish ones may not, but it will not necessarily be straightforward to decide where the line should be drawn. This contrasts with the affirmative defenses which are permitted under the FCPA.

Practical Implications

In consideration of the new UK law, companies that have business interests in the UK should be mindful of their potential exposure to UK Bribery Act violations and take steps to review their established internal controls to ensure that they have adequate anti-bribery compliance policies and procedures in place, that are well understood by company personnel and effectively implemented.

Companies that are subject to the FCPA and have anti-corruption compliance programs need to review and possibly revise established FCPA-based programs to take into account the broader application of the UK Bribery Act. Companies that do not have such compliance programs face exposure to strict liability under the Act if they do not develop and implement such measures as the new law comes into force.

The stakes associated with anti-bribery compliance have never been higher, and the legal risks associated with such concerns will now be much greater under the new UK law. Now is the time for companies with business interests in the UK to consider their potential exposure and compliance profile and assure that they adapt or develop effective compliance safeguards to address the full range of potential legal risks and challenges that the new UK legal standard presents.

Whether a company has established anti-corruption internal controls or is developing such formal measures for the first time, it is critical to train and educate personnel, provide continuing assessment of particular business sectors and activities, and identify and manage specific areas for potential risk with regard to their global footprint and implementation of an effective compliance program. ■

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Wynn H. Segall focuses on export controls, economic sanctions and other foreign policy, national security and international economic policy-based trade and investment controls. He has over 20 years of experience working with leading companies in the aerospace, agriculture, defense, energy, engineering and construction, entertainment, financial services, medical products, semiconductors, telecommunications, Internet technology and transportation industries. Mr. Segall helps companies to develop comprehensive international trade compliance programs and to address the full range of compliance, licensing and enforcement concerns arising under U.S. export controls and sanctions laws.

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Justin Williams is an English qualified solicitor with 20 years experience of handling complex international disputes, both before the English High Court and in international arbitration. He heads Akin Gump's London international disputes practice.

Mr. Williams has acted in international arbitrations all over the world, including Latin America, the Caribbean, Europe, the CIS, sub-Saharan Africa, the Middle East and Asia. He has substantial experience of both commercial and investor-state arbitrations, and has advised on proceedings under most of the major arbitral rules.

He also has represented financial institutions and multinational corporations in numerous disputes before the English High Court, the great majority being for non-UK clients. Mr. Williams has also acted in international litigation in other jurisdictions, including in Scandinavia, Eastern Europe, and the Indian sub-continent.

LAWYER PERSPECTIVE

MONGOLIAN MINING INVESTMENTS: A DEVELOPING STORY

by Christopher Tung, Partner, K&L Gates, Hong Kong

Mongolia is rapidly emerging as a significant global force in the mining of coal, copper, gold, iron, uranium, and a host of other minerals. On the one hand, during periods of high commodity prices, mining will help Mongolia attract international investors, but on the other hand, a heavy reliance on the mining of resources for economic growth exposes Mongolia and investors there to risks when commodity prices inevitably fall. The lure of high returns should be treated with some caution by local and foreign parties alike, as unrealistic expectations tend to damage if not destroy commercial relationships, and lead to legal disputes that could have been averted with proper planning and discussion.

Policy and Law

A young legal system

While Mongolian policy and law is generally favourable to foreign investment, both the regulator and the regulated are still building experience in their application, with inevitable elements of trial and error. The existing Mongolian constitution and the country's current civil code only date back to 1992 and 2002 respectively. The Foreign Investment Law of Mongolia was first passed in 1993 and amended in 2002. The Minerals Law of Mongolia was first passed in 1997 and amended most recently in 2006. The Mongolian judiciary therefore has limited experience in the handling of investment disputes. Judges are gradually gaining an understanding of international commercial practices and concepts, but the degree of understanding between judges varies.

Different to common law legal systems

Foreign investors, and indeed their advisors, commonly forget that countries such as Mongolia are civil law countries with substantially different legal traditions and principles from common law countries such as Australia, England, and the United States. Mongolia is also a monist state, which means international law that is accepted by the state does not need to be translated into domestic legislation to have effect (this contrasts with common law jurisdictions, where international law must be legislated into domestic law to have binding effect).

Avoid investment disputes but be prepared for them

Sound legal advice on the Mongolian legal system, and policies and laws relevant to mining investments, are crucial to managing investment risk and avoiding disputes. Wherever possible, a foreign investor should require contracts to be governed by the law of a mature and stable legal system such as England, Hong Kong, Singapore, or New York. Local courts should also be avoided by providing for arbitration outside Mongolia under the arbitration rules of a recognized arbitration institution such as the International Chamber of Commerce, the Hong Kong International Arbitration Centre, or the Singapore International Arbitration Centre. Further, arbitration is preferable for enhanced enforcement, as Mongolia is a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitration Awards of 1958, which facilitates the enforcement of arbitration awards in countries that are party to the convention.

In addition, with increasing foreign investments in Mongolia, it is worth noting that Mongolia is a party to a growing number of bilateral investment treaties, or BITs, and the International Centre for the Settlement of Investment Disputes Convention, or ICSID Convention. There is generally a low awareness of BITs and ICSID which prevents investors from securing the benefit of better protection afforded by investment treaties and states of more foreign investment.

Disputes under investment treaties arise out of virtually any type of business activity carried out in the host country, and where it is alleged that state involvement (or the failure of the state to act or provide required protections) adversely affects a foreign investor. ICSID arbitration may also be provided for under contract and an ICSID arbitration clause may be inserted into agreements relating to Mongolian mining investments. This would be appropriate between a state and investor where no investment treaty covers their relationship or where there is doubt over the scope or effectiveness of the relevant investment treaty. ■

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Chris Tung is a partner in the Hong Kong office of K&L Gates. He has practised in Hong Kong since 1992 and is active in dispute resolution, construction, planning and environmental law, clean energy and carbon finance.

Chris undertakes commercial dispute resolution matters and focuses his practice in arbitration and mediation. He has acted in some of the largest building and infrastructure disputes in Hong Kong and Asia. On the non-contentious side, Chris has assisted developers and contractors with project risk assessments, due diligence, document drafting and negotiations in building, infrastructure, and clean energy and carbon finance projects. He is also one of the few internationally recognised environmental and climate change specialists based in Asia. With his experience in a wide range of industries, projects and dispute resolution, Chris has been involved in the development of cutting edge risk management tools for aviation, banking, construction, energy and transportation sector clients.

FROM THE EMEA DESK

Geoff Brewer
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Officially, the UK has emerged from the recession with the economy experiencing modest growth in the last two quarters. The state of the construction industry, however, is still very fragile as is evidenced from the relatively low level of orders for new work and the high levels of unemployment. The root causes of such low levels of activity are thought to be the combined effects of a lack of investment (by both public and private organisations) and the dearth of risk capital.

Furthermore, the new coalition government has embarked on a programme of significantly cutting back on the size and cost of the public sector. Inevitably, this will have the knock-on effect on many public funded construction projects. Even public projects which are financed by private finance are being re-evaluated. It is unlikely that this situation will improve in the next few years. The new government is pinning its hopes on the private sector filling the gap created by the shrinking public sector. It is still too early to say whether this strategy will provide relief in the short to medium term.

This is in contrast to the UAE where we are seeing, as part of its efforts to stimulate the UAE back into good economic stead, both Dubai and Abu Dhabi increasing their investment in hospitals, schools, universities, and infrastructure works. Such schemes have bolstered the construction sector in its hour of need, but are unlikely to plug the financial sinkhole caused by the vast number of real estate projects that have been cancelled or put on hold across the region, which is estimated to be worth billions of dollars. Those real estate developers that are courageous enough to venture back onto the slippery dance floor are tending to focus on completing projects and satisfy contracts with investors rather than launching new builds.

However, it appears that the grasp of the crisis is loosening slightly in the emirates as banks start lending once again, albeit at a much more cautious rate than in previous times.

It is however not all doom and gloom for the ‘dispute’ sector of the construction industry. There are encouraging signs that, despite the world-wide recession, large scale international disputes proliferate that could indeed benefit from the services of FTI Constructions Solutions. In addition, there has been a general tendency of late for contractors (and in turn subcontractors) to price tenders below cost, in order to maintain some degree of cash flow. The resultant gap in company balance sheets, caused by such underpricing, will inevitably inspire a significant volume of claims, many of which will be the subject of formal dispute resolution mechanisms. ■

FROM THE ASIA DESK

Steven A. Huyghe
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The mining industry in Asia survived considerable price volatility in 2009 after several years of booming markets. The outlook is improving. This year, the confidence of the mining industry is returning as the challenges of the past year transform into the opportunities for setting the next stage of growth. In Asia, government stimulus spending has led to a general improvement in demand, as has restocking by major economies, like China. Emerging economies are a growing feature of the global mining industry. One third of the world’s top 100 mining stocks - measured by value - come from China, India, and Indonesia.

Investment and technological needs are a specific focus for mining centers throughout Asia. We at FTI Construction Solutions-Asia are committed to providing an effective advisory services platform for the mining and metals industry. As a trusted partner and solutions advisory provider, we will continue to develop and evolve our accessibility throughout Asia, creating new networks, increasing the opportunities for business optimization and risk management, and enhancing Asia’s mining reputation as one of the world’s most significant. We will continue to conduct in-depth research and work closely with industry experts to deliver effective solutions for the mining and metals industry.

China, India, Indonesia, and other states of the Commonwealth of Independent States (CIS), dominate Asian mining. These countries are also major global producers of commodities such as gold, diamonds, base metals, coal, tungsten, and tin. With the great minerals potential of these countries, there is a need to introduce greater foreign investment in concert with government review of those investments. In the Asian countries where ore reserves are nearing depletion, there is an opportunity to launch exploration that will extend strategic metal ore reserves.

To become more globally competitive, Asia mining will benefit by transforming their medium to large state owned enterprises into corporate entities through joint ventures and other strategic initiatives. The new global marketplace is an emerging environment based on globalization, open markets, and sustainability. To identify new sources of value, companies and countries must align themselves to these dynamics. Companies that meet the challenge of creating value are delivering enormous common wealth for all their stakeholders in their respective host countries—for customers, employees, investors, and communities alike. ■

EVENTS AND ACTIVITIES

Sep 9, 2010
Society of Construction Law – Introduction to the Basics 101
London UK
Liam Holder, invited speaker

Sep 17-18, 2010
4th Biennial IBA Conference on Construction Projects from Conception to Completion
Brussels, Belgium
FTI Brewer exhibiting

Oct 5, 2010
Society of Construction Law – President's Reception
London UK

Oct 7, 2010
Fourth Annual Women In Construction (WIC) Conference
Washington, DC

Oct 7-8, 2010
NAFUSA (National Association of Former US Attorneys) Annual Conference
New York, New York

Oct 12-13, 2010
MCAA BIM Conference
Chicago, Illinois

Oct 21, 2010
Kings College, University of London
London UK
Liam Holder lecture on the MSc Construction Law and Dispute Resolution

Nov 2, 2010
The Academy of Experts President's Dinner
London UK

Nov 3, 2010
Virginia Bar Association Membership Meeting
Charlottesville, Virginia

Nov 17-19, 2010
COAA Fall Owners Leadership Conference (www.COAA.org)
Tampa, Florida

Nov 22, 2010
Building Nuclear Energy Conference
London UK
Ewen Maclean attending

FTI EVENT RECAP

FTI Brewer Speaks at 4th Biennial IBA Conference on *"Construction Projects from Conception to Completion"*

FTI Brewer's Liam Holder joined a select panel of speakers at the International Bar Association Conference, which took place in Brussels on 17-18 September 2010. Liam's panel, ***"Strategies for avoiding delay on stadia projects"*** examined resolving delay claims; recent developments; contract structuring for stadia projects; and securing financing for sport facility projects. In addition, the conference focused on:

- Anti-corruption measures and procurement rules
- Financing models – successes and failures
- How the global economic downturn has impacted the construction industry
- Building stadia and sports facilities
- Developments in alternative methods of resolving construction disputes
- Arbitrating construction disputes

The conference also included speakers from Fenwick Ellliott LLP, Nabarro LLP, 4 Pump Court and Keating Chambers. FTI Brewer's Tim Haynes (London) also attended the conference. ■

FOCUS FORWARD –OIL AND GAS CONSTRUCTION - ISSUE 4

In our next issue of FTI Construction Solutions, we invite legal and professional perspectives on major construction projects for the Oil and Gas industry. In this issue, FTI will present its breadth of industry experience that covers the diverse spectrum of oil, gas and pipeline ventures, from planning through inception. Our professionals and guest authors from the legal profession will share their insight on some of the most pressing issues and requirements facing modern oil, gas, pipeline, mining and environmental construction, such as: Contractual implications; Anti-fraud concerns; Exploration agreements; Environmental permitting; Infrastructure; Raising equity for exploration and new resource discoveries; and more. ■

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