

## A Word from the CEO

As I welcome you to our June AIDC Bulletin, the Centre has just held another successful mediation training week with the latest round of accreditation of participants from various parts of Australia engaged in many different activities, from lawyers, to court officers, government agencies, not for profit organisations to private enterprise.

It was very stimulating to witness the discussion among the participants throughout the week. On the last day of the training we welcomed some special guests to the Centre including Mr Leng Haidong, the Deputy Secretary-General of CIETAC from the People's Republic of China, Ms Chiann Bao, the Secretary-General of the Hong Kong International Arbitration Centre, Mr Sundra Rajoo, Director of the Kuala Lumpur Regional Centre for International Arbitration and Dr Colin Ong from Brunei. We were able to exchange views about the various dispute resolution centres in the region and our visitors and colleagues were able to see first-hand the operation of AIDC and the facilities and training services we offer and the dispute resolution support services we provide.

Sydney has just hosted its first major regional international dispute resolution conference organised by the Chartered Institute of Arbitrators (CIArb), one of AIDC's partner organisations. AIDC co-sponsored the event which assembled over 180 dispute resolution practitioners from Australia and the Asia-Pacific region and wider afield to Europe. This dynamic two day forum considered challenges and opportunities for international dispute resolution practices driven by recent reform and increasing regional investment. Delegates heard from leading members of the judiciary, government, industry and business as well as mediation and arbitration specialists on topics such as the growth in mediation and arbitration, commercial client perspectives on dispute resolution, regional challenges in dispute resolution processes and the tremendous technical and other innovations available to support ADR.

One of the topics that attracted considerable discussion was the use of med-arb (or arb-med), a process that is popular in a number of civil law jurisdictions including Mainland China and Japan in the Asia-Pacific Region, and for which there is provision in the laws of Hong Kong and Singapore, among others, as well as in Australia through s27D of the model Commercial Arbitration Bill 2010, already implemented in NSW and expected to be introduced soon in most other States and Territories. In late April, the Standing Committee of Attorneys-General sought further comment from stakeholders on s27D. On 12 April 2011 Justice Reyes of the Hong Kong Court of First Instance delivered an interesting decision in *Gao Haiyan v Keeneye Holdings Ltd* [2011] HKEC 514 refusing on public policy grounds to enforce an arbitral award from Mainland China where one of the

arbitrators had acted as both arbitrator and mediator. While the Court confirmed that there is nothing wrong in principle with an arbitrator also acting as a mediator in the same proceedings, the Court held that the conduct of the arbitrator-mediator in that particular case would cause a fair-minded observer to apprehend a real risk of bias. While the circumstances that arose were rather unusual, the Gao case is interesting for mediation and arbitration practitioners in Australia as elsewhere and highlights the importance of ensuring that any mediation conducted by arbitrators is conducted in an appropriate manner.

The topic of med-arb also produced a lively discussion at the International Mediation seminar at which I spoke organised by CI Arb Australia just before the conference on 26 May supported by Blake Dawson. It is clear that a range of mediation cultures is alive and well in our region. How they can be most effectively internationalised so as to be really productive and efficient to resolve disputes is one of the challenges we all face. Mediation training and professional development for practitioners and users alike is one of the important factors. AIDC hopes to rerun that seminar or an updated version for CI Arb Australia later in the year.

If you are interested in attending future events on international mediation or med-arb please let us know ([info@disputescentre.com.au](mailto:info@disputescentre.com.au)).

These recent events highlighted just how mediation can offer disputing parties so much more than just settlement of their cases. At a time when issues of efficiency (time) and cost effectiveness in dispute resolution are at the forefront of discussions on best practice, and good conflict management is becoming an integral part of good corporate governance with a focus on resolving underlying business issues which can easily be lost in a legal battle, mediation obviously has an increasingly important role to play.

In this Bulletin you will find an update of our current public training and professional development courses. Don't forget to check our website ([www.disputescentre.com.au](http://www.disputescentre.com.au)) regularly for updates and new offerings. [In the Q & A in this edition Julie Claridge and Kaaren Champion](#) discuss their experiences at recent ACDC training. AIDC and ACDC are also endorsing the [7th Annual Public Sector In-House Counsel Conference 2011](#) to be held in Canberra 28 – 29 July

In our legal update, Andrea Sturini from Italy, currently an intern here at AIDC and ACICA, [updates us on the New Mediation Law in Italy](#) which came into effect in late March 2011 implementing the European Mediation Directive of 2008 which we discussed at our International Mediation and ADR seminar in early March. The new legislation seems to have stirred up considerable emotion. Even more recently, in England, the Cross-Border Mediation (EU Directive) Regulations came into force on 20 May 2011. Although they cover cross-border disputes, the new regulations will also encourage the growth of

mediation in domestic disputes.

As always, I encourage you to register for our mediation professional development sessions and events or to [book our rooms as the venue for your proceedings](#). Bookings are now open also for our August, September, October and November [Mediation Training](#) which will be held at the AIDC. I look forward to welcoming you here at AIDC.