



The 14th Plenary Meeting of W87 was held in Uppsala, Sweden from 6th to 8th June 1998 and the fact that it proved to be a highly successful meeting owed much to the outstandingly generous contributions made by AB Bostadsgaranti and AON / Bain Clarkson Sweden AB.

What's new

The customary session on What's New in Members' Countries excited great interest.

One speaker in this session was Mr. Lovegrove who having outlined the Australian Constitution with as he put it 'eight different countries' (more disparate, he thought, than in any other nation) focussed on New South Wales. Here conflicting concerns had arisen following the implementation of new post-construction liability and insurance regimes.

His presentation was complemented by Mr. C. Bovill who mentioned the National Competition Policy. A Federal Body was currently examining inter alia private certification of building work according to Victoria's Model Building Act.

For Denmark, Mr. R. Cikusa discussed the difference between privately and publicly owned or subsidised buildings.

Among the aspects contained in the Report from France, Professor G. Brochére reminded the meeting of the tradition of a decennial liability for construction projects that went even further back than the now nearly two centuries old so-called Napoleonic or Revolutionary Civil Code. He also pointed to the difficulties encountered by today's construction insurers in France, as outlined at last year's W87 meeting.

For Japan, Ms. M. Yamauchi outlined the new building law in Japan which was still under consideration. To co-ordinate its many and different aspects was a complicated endeavour which would require further time.

The Coordinator, Professor A. Lavers, described very recent and potentially significant cases which showed that English Law was moving back towards the earlier doctrine under which it was perfectly possible for a tenant or future purchaser to recover against producers in respect of repair costs and possibly even consequential economic loss.

From the point of view of the construction industry law reform movement his opinion was that only

legislation could do away with these uncertainties, (as had been done in Victoria where the legislative solution had been implemented in a common law system, as opposed to a civil law system.

Speaking for Italy, there was a new member, Professor Vittorio Manfrom who described the new system of post-construction rules there.

When asked whether the new system had led to a price increase in construction he replied that he thought not. Indeed, rather to the contrary, since the legislation was intended to moralise the building sector and had probably gone some way to achieving this goal.

Mr. H.J. Urbye looked at the remoteness of liability for environmental damage and at warranties in Norway.

Mr. K. Jutehammar looked ahead to the new legislation expected in Sweden as a result of the Building Defects Insurance Act pertaining to the construction of multi-dwelling apartment buildings where the client was not a "consumer" (i.e. an individual household having the project implemented for its own use and also to modernisation and modification of such buildings.)

The new Act would extend contractors' liability from the previous two year warranty to ten years for the sector under consideration. The contractor's liability insurer would have recourse against the contractors.

The next session was that on the Relationship Between Building Codes and Standards and Post-Construction Liability and Insurance introduced by Professor Blanchère.

He prefaced the discussions by drawing the distinction between Building Codes, respect for which was a legal obligation with penalties for failing to do so and Standards which were not in themselves mandatory documents but which could be made mandatory by the building code in which case then become part of the building regulations.

The Session on Post-Construction Liability and Insurance in International Construction Projects was chaired by Mr. A. Fryer.

This Session revolved round two topics, Cross-Border Commissioning and Procurement and International Bodies' Commissioning and Procurement.

The Coordinator led the next Session What's New Within the European Union and noted that developments within the EU or its predecessor had featured as a W87 topic for nearly ten years and that subsequently this had been complemented by briefings on NAFTA, ASEAN and last year on MERCOSUR.

The Session on the Role of Instructions for Use and Maintenance in Allocating Liabilities was introduced by Mr. D. Barclay.

The ensuing discussions served to bring out that there was general agreement for making a distinction between residential and commercial projects.

A progress report on the planned publication on Case Studies was given. News from the Publisher E and F.N. Spon appears elsewhere in this issue.

Future Work Programme

The first project put forward by Mr. Lovegrove was a follow-up to CIB Publication 192, The Model System, the overall aim being to produce the wording for a "Model Building Act."

It was felt that the time was ripe for such an initiative, and that W87 would be an appropriate forum for its implementation.

It was agreed to set up a sub-group within W87 composed of the Coordinator, Mr. Lovegrove and a lawyer from a civil code jurisdiction, to carry this forward. Individual members volunteered to join the Group.

It was seen as being in essence to create a facility for countries engaged in post-construction Liability and insurance reform.

The Coordinator put forward three propositions for future work as follows:

1. Cross-border post-construction liability and insurance. Further input seemed to be needed and a time table of three months was suggested.
2. Maintenance and post-construction liability and insurance. Mr. Barclay came forward to take on further work and M. Slama promised participation by CSTB in analysing the answers.
3. Building regulations and (performance-based) codes. Mr. Bovill suggested risk exposure and performance-based codes as a topic. There was support for making the session on "What's New in Members' Countries" include performance-based codes and risk.

Next Meeting

This will be in Sydney, Australia and the probable dates will be 26th to 29th September 1999.

Our grateful thanks are due to the W87 Secretary Mr. Jens Knocke from whose usual meticulous minutes we have compiled this report.

The Coordinator Professor Anthony Lavers announces that his Sabbatical ends on 1st September 1999, after which he will once again be contactable at the School of Estate Management at:

Oxford Brookes University,
Headington, Oxford OX3 0BP
Tel: +44 1865 483 482
Fax: +44 1865 483 927
E-mail: aplavers@brookes.ac.uk
