THE CHANGING FACE OF DISPUTE RESOLUTION

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- Dispute Resolution Consultant
- Expert Witness – Overseas civil engineering projects
- Over 40 years experience in the construction industry
- 15 years living and working overseas
- Developer of two multilingual websites
  - go4constructionjobs.com
  - go4construction.com - Global Supply Chain Directory
Major Projects

• Yellow River Hydro Electric Scheme in China

• Hong Kong International Airport

Major Projects

• LNG Gas Plant Bonny Island Nigeria
Mission Statement

• To understand how Dispute Resolution is changing in the global market place
• Correctly establish risk management procedures to avoid disputes
• Manage the successful resolution of those disputes

Paper Summary

• Alternative Procurement Strategies
• Legal Framework
• Main types of Contract
• Traditional Types of Dispute Resolution
• Alternative Types of Dispute Resolution
Alternative Procurement Strategies

• Traditional
• Design and Build
• Turn Key EPC
• Financed
• Cost Plus (Management/CM/Target Cost)

Legal Framework

• Form of Contract
• Law of the Contract
• Contract Language
• Location for Dispute Resolution
Main Forms of Contract

- FIDIC - Federation Internationale des Ingenieurs Conseils
- EPC – Engineering Procurement Construction
- ICE – Institution of Civil Engineers
- JCT – Joint Contracts Tribunal
- PFI – Private Finance Initiative
- PPP – Public Private Partnership
- ECC – Engineering and Construction Contract
- BOT – Build Operate Transfer
- DBFO – Design Build Finance Operate

Traditional Types of Dispute Resolution

- Court of Law
- Arbitration
Alternative Types of Dispute Resolution

• Mediation

• Adjudication

• Expert Determination

• Dispute Review Boards - DRB

• Independent Dispute Avoidance Panel

Mediation

• Parties meet with Mediator – 1 or 2 days

• Both Parties put case

• Mediator meets with Parties separately

• Persuades Parties to settlement

• Mediator doesn’t divulge own position
Adjudication

- Housing Grants, Construction and Regeneration Act 1996
- Parties can request appointment of Adjudicator
- Appointment and Referral within 7 days
- Decision within 28 days of Referral

Dispute Review Board

- Yellow River Hydro Electric Scheme in China
- Panel of 3 persons
- Met bi-monthly over 2 years
- Total claims US$400 million claim
Dispute Review Panel

- Dispute Review Panel
  - 6 leading members
- Met every 3 months
- Resulted in settlement by Parties

Hong Kong

- Hong Kong Airport
  - Dispute Review Panel
- Hong Kong Infrastructure Projects
  - Mediation
  - Adjudication
  - Arbitration
Court Procedures in the UK

- Civil Procedure Rules

- Pre-Action Protocol
  - Exchange of Information
  - Attempt to Reach Settlement
  - Efficient Management of Proceedings

- Expert Determination

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London Olympics 2012

- Independent Dispute Avoidance Panel

- 10 Leading Industry Figures
Dubai – Middle East

- Dubai – Sharia Law
- New Free Zone
- Dubai International Financial Centre (DIFC)
- Own Civil and Commercial Laws
- Based on UNCITRAL Model Arbitration Law

The Full Circle
The Changing Face of Dispute Resolution

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• Copies of Presentation