

Dispute Prevention Techniques

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INTRODUCTION

- **Gwyn Owen**
 - Routine Site visits and party discussions
- **Bogdan Oprea**
 - Roles of the participants
- **Peter Elliott**
 - Contract Documentation
- **Florin Niculescu**
 - Defining the dispute
- **Murray Armes**
 - Dispute Avoidance techniques
- **Open Discussion – work scenario**

Routine Site Visits and party discussions

- What is a dispute?
 - How is it generated
- Do you want a dispute?
- Can you handle a dispute?
 - Resources / Experience / Authority
- What are the consequences of a dispute?
 - Authority
 - Control / Risk / Cost
 - Agreement?
 - Conclusion

Dispute Avoidance

- Are you as a DB contractually bound to avoid disputes?
- ICC Art 16: Informal assistance
- FIDIC '99 Procedural Rules Para 2
- FIDIC MDB Procedural Rules Para 2
- DRE Agreements under WB Rules or FIDIC 4
- Good Practice?

Routine Procedures

- Provide Additional Procedures for:
 - DB Procedures & Activities
 - Agendas
 - Procedural Advice
 - Referrals
- Receive Documents:
 - Contract Documents
 - Monthly Reports
 - Minutes of Meetings

Site Visits

- Agendas
- Schedules
- Procedure:
 - Meeting the Parties
 - Tour the Site
 - Issues or Matters of Concern
 - Claims / Variations
 - Report
 - Proactive / Inquisitorial

Proactive / Inquisitorial

- Ask Questions
- Seek Consensus
- Define Actions
- Audit:
 - Variations
 - Programme
 - IPC / Payments
 - Monitor Progress
- Seek Key Issue Advice / Response

Preparation by the Parties

- Report on Progress / Programme
- Outline issues and matters of concern
- Schedule progress with resolution of issues
- Consider solutions
 - What is necessary to facilitate solutions
 - Programme of resolution
 - Recourses necessary
- Outcome: Required / Possible / Acceptable / Risk
- Consider consequences of outcome

Opinion

- Opinion or Advice
 - Set up a Procedure: is it necessary?
 - Define at the start: break down barriers
 - Open discussion: involve the parties
 - Written opinion: more formal approach

DB Report

- Project Participants
- Outline of activities and discussions held
- Status of project
- Matters of concern
 - Analysis
 - Outline agreements on resolution programme
 - Advice or suggestion??