The UK Experience
by
Peter Collie
Historical Experience

• Started in 1980’s
• The presence of a DB clause “avoided’ disputes
• DOM/1
• The Latham Report
• Dartford River Crossing & Channel Tunnel
• Statutory Adjudication
Historical Experience

The Channel Tunnel Group v Balfour Beatty
61BLR1

• Based on equivalent to FIDIC Red Book
• Panel of Three
• CTG commenced litigation
• Stay to Panel of Three
• If a reasonably clear ADR process Court will require the Parties to use it.
Historical Experience

Parsons Plastics (R&D) Ltd v Purac 2002 BLR 334

• Parties agreed to adjudicate a dispute
• Parsons won Purac refused to pay alleging a set off relating to further dispute.
• TCC and Court of Appeal refused to enforce Adjudicator’s Award.
Current Trends

Swiss Supreme Court Case 4A_124/2014

- FIDIC
- Standing DAB not appointed
- Parties went to Arbitration
- Clause 20.8
- Court was not willing to require Parties to Adjudicate
Current Trends

Peterborough Borough Council -v- Enterprise Managed Services [2014] EWHC 3193

• FIDIC Contract
• Standing DAB not appointed
• PBC commenced legal proceedings
• Review of Clause 20.8:

“I conclude that the Council has not made out a sufficient case for resisting a stay”
Current Trends

PT Perusahaan Gas Negara (Persero) TBK v CRW Joint Operation

- DAB Decision
- Arbitrators required compliance with DAB
- Court has enforced Arbitration Award
Current Trends

• Courts seem willing to require parties to follow the agreed process.
• Not so willing to enforce DB decisions that fall outside Statutory Adjudication
Current Trends

- London 2012
- TfL CAP
- FIDIC in the UK
My Experiences

• Chartered Construction Manager & Lawyer
• Since 1984 UK & Internationally
• UK Statutory Adjudicator since 1998
• Arbitrator and Mediator
• FIDIC President’s List
• Sole DB’s
My Experiences

To DRBF:
• Education of Users
• Sharing Best Practice
• Increasing the Pool
• Sole Standing Dispute Boards
My Experiences

To DB Members:
• Lonely
• Phone a Friend
• Added Value
• Communication
• My No 1 Tip
Questions

Peter Collie
LLB (Hons) Chartered Construction Manager, Chartered Surveyor, Chartered Arbitrator