ICC Institute Advanced Training on Dispute Boards

1 February 2024 | Johannesburg, South Africa

Programme originally developed by: David Brown and Cecilia Misu

A Dispute Board (DB) is a method commonly used in complex engineering and construction projects. It involves an independent committee established by the parties to the construction contract and are, usually, in place from the commencement of the project.

Our one-day DB training is an intensive program designed to equip participants with the skills and expertise they need to enhance dispute avoidance and become familiar with the Dispute Adjudication Board (DAB) process, so that they can confidently act as a dispute board member and advise or represent their clients establishing the DB and manage ongoing operations for maximum effectiveness.

The training will start with an introductory overview of the origins of the DB process. It will include interactive exercises and business case for their use on projects centered around construction issues.

The training will also address topics such as decision writing and challenges of organizing virtual site visits and hearings.

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ICC Institute of World Business Law

PROGRAMME

Chair of the training: Des Williams

1 February 2024

08.30 – 09.00 Welcome coffee

09.00 – 09.15 Introduction: Learning objectives

- Des Williams
- Diamana Diawara

09.15 – 09.45 General presentation on Dispute Boards and Q&A

- Present the key steps for third party dispute resolution
- Dispute Resolution policies and procedures before the appointment of a DB. Dispute Resolution strategies, assessment of past experiences with ADR, incorporation of DB provisions, type of DB (recommendation/ resolution; ad hoc/permanent)
- Presenting key aspects of ICC DB Rules and the role of the ICC ADR Centre: appointing DB members, deciding on challenges of DB members, fixing the DB members' fees, acting as depositary of the funds, and reviewing the decisions of DAB and CDB
- DAB agreement and DAB activities: Data availability, transfer and security, virtual site visits, platform (for data transfer)

- Des Williams
- Chloe De Jager
- Diamana Diawara

09.45 – 10.05 Dispute Avoidance

- From disagreement to dispute
- How to prevent disputes
- Practical examples

- Duncan Turner

1 February 2024 (cont'd)

10.05 – 10.15 Q&A

10.15 – 10.25 Presentation of the Mock Case on Dispute Avoidance

- Diamana Diawara

10.25 – 10.40 Coffee break

10.40 – 11.20 Working Groups on Dispute Avoidance

11.20 – 11.55 Plenary session: debate and simulation

12.00 – 13.00 Lunch

13.05 – 13.35 Formal Dispute Boards procedure in case of disputes

- Key steps for third party dispute resolution
- Virtual hearings, platform (for data transfer as well as for the hearings)
- Differences in cases of ad-hoc/permanent DB (f.i. claims prepared by project members vs. claims prepared by lawyers and Experts)
- Witness of fact (written statements?)
- Evidence of damages incurred
- Post hearings statements

- Thomas King
- Chloe De Jager

13.35 – 13.40 Q&A

13.45 – 14.00 Presentation of the Mock Case on Dispute Boards procedure

- Chloe De Jager

14.00 – 14.50 Working Groups on Dispute Boards procedure

1 February 2024 (cont'd)

14.50 – 15.20 Plenary session: debate and simulation

15.20 – 15.35 Enforcement of Dispute Boards conclusions – Presentation

- Des Williams

15.35 – 15.45 Q&A

15.50 – 16.00 Concluding remarks

Speakers

Diamana Diawara

Regional Director for Africa, ICC Dispute Resolution Services, Paris

Chloe De Jager

ICC YAAF Representative for AFRICA, Senior Associate, Pinsent Masons, Johannesburg

Thomas King

Partner, Pinsent Masons, Johannesburg

Duncan Turner

Advocate, Advocates Group 621, Johannesburg

Des Williams

Member, ICC South Africa and Director, Werksmans Attorneys, Johannesburg