

PADSK & SCLI 2024

INTERNATIONAL CONFERENCE

“Synchronizing the application of FIDIC Contracts with specific related project country’s regulation to avoid disputes”

The Conference will be held at



MANHATTAN HOTEL JAKARTA

Jl. Prof. Dr. Satrio No. Kav. 19 – 24,
Kuningan, Jakarta Selatan, 12940



18 – 19 JULY 2024

09.00 – 17.00

COMPLETION REPORT

Speech, Session and
Networking Dineer

Welcoming Speech



Dr. H. Arsul Sani, S.H., M.Si., Pr. M
Judge of Constitutional Court Indonesia



Dr. Ir. M. Basuki Hadimuljono, M.Sc.
Minister of Public Works and Housing Indonesia



Jeremy Glover
Partner Fenwick Elliott, United Kingdom
President of DRBF

Registration :

<https://bit.ly/PADSKSCLI>



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MESSAGE FROM CHAIRMAN



Large construction projects financed by loans from the International Financing Institution (IFI) typically require the use of FIDIC Conditions of Contract, the standard form of contract which is acknowledged as the fair and balance conditions of contract.

Recently most large-scale projects are physically completed successfully, but administrative issues, particularly unresolved construction claims from contractors, remain a persistent challenge. Construction disputes inevitably involve large costs for both the claimant and the defendant, resulting in greater expenses than if the claim could be resolved before escalation to dispute. This shift from Dispute Adjudication Board to Dispute Avoidance and Adjudication Board emphasizes preventative measures.

Given the challenges mentioned above, continuous learning on alternative dispute resolution (ADR) is essential. One key effort involves sharing information from global experiences, international conferences can facilitate this by fostering knowledge exchange. This knowledge can then be used to develop better practices, such as the growing focus on dispute avoidance. In response to this concern, FIDIC introduced the Dispute Avoidance and Adjudication Board in the FIDIC Conditions of Contract, 2nd Edition 2017 (amended 2022).

Additionally, synchronizing the FIDIC Conditions of Contract with national regulations is crucial for preventing disputes altogether. Sharing and discussing these approaches can significantly improve dispute resolution processes. An International Conference on Dispute Resolution in Asia is crucial for facilitating knowledge sharing among all stakeholders in Asian construction. This includes employers, contractors, consultants, government officials, government auditors, and all other relevant parties. By focusing on both the broader Asian region and the specific ASEAN countries, the conference can ensure its impact comprehensively.

The late Gordon L. Jaynes, a world-renowned figure who significantly impacted construction dispute resolution, offered a valuable recommendation before his passing at 93 last year: *“Embrace Eastern philosophies that emphasize dispute avoidance”*, this inspiring us to start with the Law of Indonesia 2/2017 re: Construction Services and fortunately in the same year FIDIC also issue the new *“Dispute Avoidance and Adjudication Board”* in the Rainbow Series 2nd Edition which prioritize the avoidance function.

Thank you for your attention and heartily support on this PADSK-SCL Indonesia 2024: International Conference ***“Synchronizing the application of FIDIC Contracts with specific project’s country regulation to avoid disputes”*** at the Manhattan Hotel, Jakarta, Indonesia. The event was successfully conducted by attending 256 delegates from 20 countries, speakers from 18 countries, 9 sponsors and 2 supporting organizations. The successful of the event is not only in the organizing the physical event but we can find that the problems faced by Asian countries is different from one another, and we do hope that we can find the best solution by collaboration among parties related in Indonesia and Asia in general.

Till we meet again in the next conference in 2025.

Prof. Sarwono Hardjomuljadi

Chairman, Institute of Dispute Board for Construction (PADSK)

President, Society of Construction Law Indonesia (SCLI)

DRBF Region 2 Board of Director for Asia

FIDIC Ambassador, Former FIDIC Member of Board of Director (2019-2023)

THE OPENING REMARKS



Opening Remarks by HE Minister of Public Works and Housing Dr. Basuki Hadimuljono, MSc, delivered by Director General of Construction Development Ministry of Public Works and Housing Ir. Abdul Muis, MT.



H.E. Basuki Hadimuljono, Minister of Public Works and Housing:

Congratulate to PADSK and SCLIndonesia for conducting the PADSK-SCLI International Conference 18-19 July 2024.

In Indonesia, the reference in contract implementation for work packages conducted under loan from International Financing Institution's funding scheme the use FIDIC standard form of contract is mandatory.

This is the challenge that I hope can be answered in this PADSK-SCLI International Conference, on how to synchronise the FIDIC Standard form of contract with the national strategic interests in the implementation of such construction projects. This is very important, marry the opinion of the parties involved and the stakeholders for having the same perception in carrying out such construction activities which in the end can minimize the occurrence of disputes.



Opening Speech by Dr. Jeremy Glover, President of Dispute Resolution Board Foundation (DRBF).



Jeremy Glover (President of Dispute Resolution Board Foundation), Sarwono Hardjomuljadi (PADSK-SCLI President), Ir. Abdul Muis, MT (Director General of Construction Development , Ministry of Public Works and Housing of Indonesia)

THE CLOSING REMARKS



Closing Remarks by H.E. Dr. Arsul Sani, Judge of Constitutional Court of Indonesia



Handing over of plaque of PDSK-SCLI International Conference 18 – 19 July 2024 from Sarwono Hardjomuljadi to HE Dr. Arsul Sani

H.E. Arsul Sani, Judge of Constitutional Court of Indonesia:

Congratulate the committee on its efforts to gather up to 256 participants from 20 countries who shared the problems faced in the ASEAN Region and hoped, especially for Indonesia, that parties related to dispute resolution in construction activities can submit proposal to the Government for a new law that synchronizes the International standard form of contracts for construction projects with Law 2/2017 on Construction Services as well as Law 30/1999 specifically relates to Arbitration and Alternative Dispute Resolution.

THE ORGANIZING COMMITTEE



The Committee: Reynaldo Albertiny, Abdul Fatah, Rosi, Nabilla, Hambali Syafrie, Erfianto Nursamsi, Endah, Franz Widjojo, Enni Moeliati Soetanto, Dimas Adiputranto, Adi Saputro, Niniek Lannyati (Chair of Organizing Committee), Iskandar, Mesra Eza, Hari Purwanto, Efendy Aprianto, Ediyanto Arief, Immanuel Bonardo; Sitting: Nguyen Nam Trung (special guest) , Sarwono Hardjomuljadi.

THE SPONSORS



Left to right: Niniek Lannyati (Chair of Organizing Committee, Indonesia), Andi Koeshermanto (Rector of Universitas Pekalongan, Indonesia), Koong Len Sheng (David Lim & Partners LLP, Singapore), Leong Hong Kit (MAC Consultant, Malaysia), Sarwono Hardjomuljadi (Chair of PADSK and President of SCLI, Indonesia), Yuwono Imanto (PT Propan Raya, Indonesia), Kelvin Aw (CMS, Singapore), Augustinus Setijanto (PT Pulau Intan, Indonesia), Takeji Aruga (Penta Ocean, Japan), Sean Gibbs (Hanscomb Intercontinental, U.K.), Tay Peng Cheng (Wong Partnership, Singapore), Adnaan Noor (Wong Partnership, Singapore).

THE SPEAKERS



Day 1

Session 1: Country Regulation in Asia Related to Dispute Resolution

Dr. Agustina Arumsari (Indonesia), Salvador Castro (Philippines), Dr. Nguyen Thi Hoa (Vietnam), Dr. Malai Chompuka (Thailand). Moderator: Franz Widjojo (Indonesia).

Session 2: Success Story of Dispute Avoidance and Adjudication Board (DAAB)

Kunihisa Oba (Japan), Jeremy Glover (UK), Toshihiko Omoto (Japan), Kelvin Aw (Singapore), Murray Armes (UK). Moderator: Enni Moeliati Soetanto (Indonesia).

Session 3: The use of DAAB as in Subclause 21 (FIDIC 2017) v DAB/DB Subclause 20 (FIDIC 1999/MDB 2010)

Nicholas Gould (UK), Aisha Nadar (Sweden), Le Te Hung (Vietnam), Anil Changaroth (Singapore). Moderator: Immanuel Bonardo (Indonesia).

Session 4: Panel Discussion FIDIC 2017 amended 2022 Force Majeure to Exceptional Events.

Sean Gibbs (UK), Koong Len Sheng (Singapore), Leong Hong Kit (Malaysia). Moderator: Peter Scott Caldwell (Hong Kong).

Session 5: The importance of Particular Conditions to avoid disputes.

Iwan Supriyanto (Indonesia), Prof. Zhang Shuibo (China), Weddy B. Sudirman (Indonesia), Tay Peng Cheng (Singapore), Weni Maulina (Indonesia). Moderator: Hari Purwanto (Indonesia).

Day 2

Session 1: Alternative Dispute Resolution by Mediation, Arbitration and dispute Avoidance & Adjudication Board (DAAB)

Fahmi Shahab (Mediation, Indonesia), Prof. Tjip Ismail (Arbitration, Indonesia), Dona Siregar (DAAB, Indonesia), Adnaan Noor (Singapore). Moderator: Hambali Syafrie (Indonesia)

Session 2 Overview and Obstacle in the use of Dispute Avoidance and Adjudication Board (DAAB) in Asian Countries

Peter Scott Caldwell (Hong Kong), Bui Thai Binh (Vietnam), Salvador Castro (Philippines), Anil Changaroth (Singapore), Prof. Sarwono Hardjomuljadi (Indonesia). Moderator: Dr. Iskandar Purba (Indonesia)

Session 3: The "Avoidance Function" of Dispute Avoidance and Adjudication Board (DAAB)

Murray Armes (UK), James Booker (Canada) - presented by Prof. Toshihiko Omoto, Prof Sarwono Hardjomuljadi (Indonesia), Barry Tozer (Australia). Moderator: Jeremy Glover (UK)

Session 4: Additional Cost and Extension of Time, the Most frequent Claims and disputes in Construction.

Sean Gibbs (UK), Asya Jamaludin (Singapore), Nicholas Gould (UK), Kim Rosenberg (Dubai). Moderator: Mesra Eza (Indonesia)

Session 5: Young Professional View in the use of Dispute Avoidance and Adjudication Board (DAAB)

Immanuel Bonardo (Contractor), Yohanes Aris Widiyanto (Employer), Dimas Adiputranto (Engineer), Heber Pandapotan (Auditor). Moderator: Prof. Sarwono Hardjomuljadi (Indonesia)

THE MODERATORS



Left to right: Sarwono Hardjomuljadi, Franz Kurniadhy Widjojo, Enni Moeliati Soetanto, Peter Scott Caldwell, Hari Purwanto, Hambali Syafrie, Iskandar Purba, Jeremy Glover, Mesra Eza, Immanuel Bonardo.

THE PARTICIPANTS

Opening Ceremony 18th July 2024



Networking Dinner 18th July 2024



The Conference 18th and 19th July 2024





Closing Ceremony 19th July 2024



THANK YOU FOR SUPPORTING OUR EVENT
PADSK - SCLIndonesia International Conference
Jakarta, 18 – 19 July 2024

TILL WE MEET AGAIN
PADSK - SCLIndonesia International Conference
2025

PADSK-SCLIndonesia International Conference 18th – 19th July 2024, Manhattan Hotel Jakarta, Indonesia.

TESTIMONIES

From The Organizing Committee



I, as Chair of the organizing committee, feel very happy and proud that we can organize the event with very successful result from the programme, including substance, the event organisation, the presentation, discussion and the conclusion.

Opening Remarks from the Minister of Public Works and Housing and President are encouraging to find the problems as well as the solution.

The activity was attended by 256 registered participants consisting of construction activity stakeholders consisting employers, engineers, contractors, lawyers and government officials, government auditors and other related institutions.

The event supported by 9 sponsors, 42 speakers from 18 countries, the active delegates from 20 countries in Asia, Europe and Australia. The organizing committee also supported by Dispute Resolution Board Foundation (DRBF) and Universitas Pekalongan.

(Niniekk Lannyati, Chair of Organizing Committee, PADSK – SCLIndonesia International Conference 18 – 19 July 2024).

I feel very honored to be assigned as Chair of the Registration Sub-Committee of the event. The number of registrants was beyond expectations, one week before the event we were forced to close registration, we regretfully rejected registrants, because the event space was limited.

Registered delegates are not only from Indonesia, but also from other countries, such as Timor Leste as the largest delegates with 12 participants, Vietnam 9 participants, and the rest are 20 delegates from Singapore, Japan, Thailand, India, Philippines, Malaysia and Germany.

(Ediyanto Arief, Chair of the Registration Sub-Committee, PADSK-SCLIndonesia International Conference 18 – 19 July 2024, Chair of Indonesia Institute of Engineers (Persatuan Insinyur Indonesia) for Banten Province, Indonesia).

From The Sponsors



We would like to congratulate you and your team for putting together a wonderful conference. Each session was very engaging and illuminating, and it was a great pleasure for us to be there for the two days.

We look forward to staying in touch with everyone and also hopefully seeing each other again at future conferences and events.

(Adnaan Noor, Partner, WongPartnership LLP, Singapore)

The excellent team at PADSK and SCLI, Congratulations once again on another successful event, which has now become an important one in our annual calendar.

CMS look forward to supporting you and your endeavors in the upcoming events, and hope to receive updates on them, as we move along.

As always, both Asya and I are excited to support the development of construction law and dispute resolution methods in Indonesia. So thank you for having us this year. We look forward to future collaborations.

(Kelvin Aw, Partner, CMS, Singapore)

I want to say a big thank you and congratulations for the amazing PADSK & SCLI International Conference 2024. I had high expectations going into the event, knowing it would be an amazing conference, but I must say, it has exceeded all of my expectations.

Everything was so well organized.

From start to finish, everything went smoothly, thanks to the organizing team's hard work.

The quality of the speakers was exceptional. They shared so much valuable information and made the sessions really interesting.

I would also like to commend you on the thoughtful gifts provided for sponsors and speakers, They were not only generous but also a delightful touch that demonstrated the high regard in which you hold your contributors and participants.

The networking opportunities were excellent. The environment was conducive to professional growth and the establishment of lasting relationships.

Once again, I want to express my gratitude for an outstanding experience. I am grateful to have been part of the event and look forward to attending future events organized by PADSK-SCLI.

We hope to collaborate to host events in Indonesia next year and look forward to discussing this with you soon.

(Leong, Hongkit, MAC CONSULTANT, Malaysia)

I learnt very important views about potential dispute in construction works from prominent speakers. Construction works involve multi actors (employer, architect, engineer, contractor etc), which need strong commitment from every party to avoid or minimize dispute. So, it is very important to have standard regulation to prevent dispute in order to avoid different perception and uncertainty of law to avoid or minimize potential extra cost, delay time and conflict among stake holders. I really appreciate the initiation of Prof. Sarwono in particular to conduct conference regularly about dispute avoidance and resolution in construction work to achieve efficient and effective construction works and infrastructure development in Indonesia, the Asian Region and also International.

(Dr. Yuwono Imanto, Director PT. Propan Raya, Indonesia)

At the PADSK & SCLI 2024 international conference "Synchronizing the application of FIDIC Contracts with specific related project country's" which we attended last July 2024. We at Pulauintan General Contractor, as a well-known private construction services company in Indonesia, feel that it is very benefits in the sense that the contractual relationship between the owner or developer and the contractor to implement FIDIC appropriately to avoid disputes in the future. It is hoped that the knowledge we have gained can also be used fairly by quantity surveyor/owner or developer companies so that the working relationship on a private project specially B2B project can be balanced between all parties. So we hope that FIDIC's understanding can be understood by all parties, even the regulator or government can include this in amendments to the construction services law. Proficiat and fully appreciated. Thank you.

(Augustinus Setijanto, Vice President Director, PT Pulauintan Bajaperkasa Konstruksi, Indonesia)

From The Moderators



As one of the moderators, I was pleased and honoured that the distinguished speakers were very enthusiastic to meet with the moderators to discuss the topics that could be used as valuable presentation materials, and have put their opinions together, to produce focused conclusions. The theme of this conference was also very appropriate for our problems in Asia, especially in Southeast Asia where the disputes occurred due to misinterpretation of FIDIC conditions of contract that need to be synchronised with country regulations to achieve a dispute resolution.

(Enni Moeliati Soetanto, Vice President of Society of Construction Law , Indonesia)

As a moderator at an PADSK-SCLI International Conference attended by over 250 participants from diverse industrial and professional backgrounds, I am privileged to provide a formal testimonial for this singularly significant event in Indonesia. This conference focused on a rarely discussed topic within our country: the resolution of construction contract disputes from both international and local perspectives. The uniqueness and relevance of this topic cannot be overstated, and the success of this event marks a milestone in our collective professional discourse.

The international perspectives provided by our esteemed speakers underscored the universal nature of construction disputes, while the regional and local viewpoints highlighted the specific challenges and solutions pertinent to the Indonesian context. This blend of global and local insights proved to be particularly valuable, offering a holistic understanding of the issue.

A special note of appreciation is due to the extraordinary organizing committee. Their meticulous planning and flawless execution ensured the seamless flow of the conference. The selection of such a pertinent topic, along with the curation of a diverse and highly knowledgeable panel of speakers, was commendable. Their efforts culminated in a conference that not only met but exceeded our expectations, providing a rich, informative experience for all attendees.

In conclusion, this conference stands as a landmark event in Indonesia, shining a spotlight on the crucial issue of construction contract dispute resolution. The knowledge shared and the connections made during this event are invaluable, and I am confident that the impact of this conference will be felt long into the future.

(Hari Purwanto, Vice Chairman of Perkumpulan Ahli Dewan Sengketa Konstruksi (PADSK), Indonesia).

The sessions underscored the importance of DAABs, effective claim management, and the proactive role of engineers and dispute avoidance and adjudication board in fostering a cooperative environment. Real-world examples and case studies demonstrated the effectiveness of these approaches in various Asian countries.

Eastern Perspective:

- *Greater focus on practical challenges, local regulations, and governmental support in implementing and managing FIDIC contracts and dispute resolution mechanisms.*
- *Emphasis on real-world applications and the integration of traditional practices with modern ADR methods.*

Western Perspective:

- *Emphasis on procedural and theoretical aspects of dispute resolution and the benefits of international standards and practices.*
- *Focus on best practices, efficiency, and the proactive role of DAABs in preventing disputes.*

By understanding these differences, stakeholders can better navigate the complexities of international construction projects and tailor their approaches to align with both local and international best practices.

(Iskandar Purba, Senior Lecturer, Technological Institute of State Electricity Corporation, Indonesia)

From The Speakers



I just wanted to say thank you again for inviting me to be a part of your conference. I very much enjoyed both taking part and listening to and learning from the other speakers. You were able to invite an impressively wide range of speakers, from a number of backgrounds, which I think added to the sense of occasion.

(Jeremy Glover, President, Dispute Resolution Board Foundation, Partner Fenwick Elliot LLP, U.K.)

It is a pleasure for me to join my fellow speakers in congratulating you and your team for putting together a truly world class and thought-provoking conference. Thank you!

(Aisha Nadar, President DRBF Region2, Sweden)

Thank you very much for all of your endeavor!

We could feel significant improvement in recent years regarding the general consciousness of DB in Indonesia and other South East Asian countries. We recognize you have well contributed to this.

(Kunihisa Oba, Senior Adviser, Japan International Cooperation Agency-JICA, Japan).

Thanks for all of your hard work putting this excellent event together.

(Nicholas Gould, Partner, Fenwick Elliot, UK)

I echo the comments from the other speakers. It was a great conference (in terms of organisation, logistics and content) – and very well received by the audience.

I have also not seen as much great food at a conference before!

Thanks so much for inviting me to join this eminent group of speakers. It was thoroughly enjoyable.

(Kim Rosenberg, Partner, Freshfields Bruckhaus Deringer LLP, Dubai)

Thank you, for all your hard work in organising another very successful event!

(Murray Armes, Armes-ADR, U.K.)

I was so pleased to attend the PADSK & SCLI International Conference entitled "Synchronising the application of FIDIC Contracts with the specific related project country's regulation to avoid disputes". And it was such an honour to be invited to speak at the conference.

Disputes happen frequently and are extremely costly for both Employers and Contractors. Good contract design can help to mitigate such disputes such that the precious project budget can be used for enhancing the quality of the project per se, instead of being wasted as unnecessary transaction cost. This conference was a timely and great event for discussing this issue among the international construction community, both academia and professionals. At the conference, I not only shared my

thoughts on how to mitigate such disputes with all the participants, but also learnt a lot from other honourable and esteemed speakers who are government officials in charge of construction and professionals in this field. Their perspectives and experiences with illustrated cases from their countries are particularly enlightening for me. Speakers and participants came from such many countries and the enriching sessions made it a real international and fruitful conference.

I am also impressed with the outstanding organization of the conference, and I owe my sincere gratitude to Professor Sarwono and other organizers, who exerted considerable efforts for the success of the event. Thank you to everyone who made this possible!

It was an honour to speak at the conference, which was such a great success!

(Prof Zhang Shuibo, Head of School of International Project Management College of Management and Economics, Tianjin University, China)

Congratulations for a very successful conference.

The number of attendees during this conference reflect their acceptance on your efforts on the effective use of dispute board.

The number of foreign speakers equally reflects the support to your advocacy in Indonesia.

Thank you for inviting and made me part of your advocacy team in Indonesia.

(Salvador P. Castro Jr., DRBF Board Member of Director Region 2, Founding Chair of SPCastro, Inc., Philippines)

Thank you for inviting me to speak at the International Conference PADSK-SCLI 2024. It was an honour to be part of this highly successful event promoting "dispute avoidance". It gave me many insights into the difficulties in the various countries in SE Asia in implementing DAABs. Indonesia is the successful model to be emulated elsewhere. I will be passing on what I have learned to the members of DRBF Region 3.

(Barry Tozer, Treasurer DRBF Region 3, Tozer & Associates Pty Limited, Australia)

Thank you for your kind invitation to the PADSK-SCLI International Conference 198 19 July 2024. It was honour to be part of such a significant event.

I had the opportunity to learn a lot of insights and knowledge from the esteemed speakers. The diverse audience, including parties of the contract, lenders, government officials, auditors, and lawyers, made the conference truly enriching. Uniting opinions to address challenges in implementing FIDIC Standard forms of contract is commendable, and I believe it will lead to positive actions.

What is fascinating to me is the stressing on conflict prevention of the Dispute Board which mediation techniques and mediator skills could be put into action.

I look forward to future collaborations and hope we can continue to contribute to meaningful discussions.

(Fahmi Shahab, PMN Executive Director, APCAM Secretary General, Indonesia)

I'm truly honored to have been part of the international seminar you organized. It was a fantastic experience.

The atmosphere was friendly, the presenters were professional, and the evening event was engaging and enjoyable. The closing was a wonderful touch.

(Prof. Tjip Ismail, Arbitrator at BANI Arbitration Centre, Lecturer at University of Indonesia)

Thank you for inviting me. I enjoyed the conference and meeting so many old friends. I was sorry James Booker could not make it. Give him my regards. We sat on two boards together in Indonesia

some years ago. I hope you also enjoyed the conference despite having to do so much work. Your song to Enni was a special moment. Best wishes.

(Peter Scott Caldwell, Director, Caldwell Ltd., Hong Kong)

Thanks so much for arranging the conference. I'm sorry that I wasn't able to attend but I'm sure that Omoto san gave my presentation with his usual panache.

(James Booker, Director JBCS International Ltd. ,Canada)

Thank you to you and your team for hosting such a great event.

Thank you so much for organizing a wonderful event and also for your warming welcome.

Looking forward to collaborating with you in the future.

(Nguyen Thi Hoa, SCL Vietnam, Lecturer Ho Chi Minh City University of Law (Ulaw), Vietnam)

Not only I had already stated in my speech, but also by this letter, I would like to express my sincere gratitude toward your good-self, PADSK, SCLI, and your colleagues for a valuable opportunity to be part of your international conference in Jakarta. I believe this conference shall mark an important milestone for the fruitful cooperation of the involved parties to facilitate the implementation of DAAB in Indonesia and also other contract management-related issues in the time to come.

(Bui Thai Binh, Officer of State Authority of Construction Economics, Ministry of Construction (MOC), Vietnam)

Special thanks to you, your wife and the organizer for the truly insightful conference. Our team enjoyed it very much and learned great insight. Thank Immanuel for great coordination and look forward to seeing your next conference.

(Hung Le, SCL Vietnam, Managing Partner CNC, Vietnam)

Thank you for inviting me as a speaker. I am very delighted and honoured to participate. This is my first time speaking as Young Professional at an international conference, and it has provided a very valuable experience.

It is a very good conference that has invited many experienced speakers from around the world and has provided very valuable speech and presentation.

We hope that we can take advantage on sharing knowledge and implement in our country to improve project's delivery, especially on handling contractual matters.

(Yohanes Aris Widiyanto, Young Professional, Project Manager Patimban Port Project, Package 5, Indonesia)

The event has provided a platform for the next generation of professionals to voice their perspectives on the future of dispute resolution. Sharing my views and experiences as a Contractor, while also learning from my peers, was incredibly rewarding.

The PADSK & SCLI International Conference was more than just an event, it was a celebration of knowledge, collaboration, and professional growth. Being part of this esteemed community has inspired me to continue striving for excellence in my field and to contribute meaningfully to the discourse on dispute resolution.

I am profoundly grateful to the organizers Prof. Sarwono Hardjomuljadi, for the opportunity to be part of this remarkable conference as Young Professional. The experiences and connections forged during these two days will undoubtedly have a lasting impact on my professional journey. As I look forward to future conferences, I am excited about the continued exchange of knowledge and the collective pursuit of advancing our field.

(Immanuel Bonardo, Young Professional, Vice President Contract Management, PT Hutama Karya (Persero), Indonesia).

I am grateful for the opportunity to speak as Young Professional in this conference. Prof. Sarwono, padsk, and scli members have been nothing but supportive and resourceful the whole time. May this be another step in furthering the region's expertise in dispute avoidance and resolution.

(Dimas Adiputranto, Young Professional, Secretary General Society of construction Law Indonesia (SCLI), Construction Project Engineer, Indonesia)

Thank you for involving me as Young Professional in this wonderful international conference. It is a great event for the experts in Indonesia construction services. I hope this forum can help the dispute resolution process on Indonesian construction projects.

(Heber Anggara Pandapotan, Young Professional, Investigative Auditor, Finance and Development Supervisory Agency (BPKP), Indonesia)

From the Participants



The conference was a huge success. I am glad I was there.

Would love to be there next year as a speaker, put me on the list.

My thanks to you for allowing me to interview you. Very much appreciated.

(Leo Grutters, C2S Global GmbH, Germany)

I am very grateful to have been given the opportunity to attend this conference. As someone currently studying Construction Law, this conference provided invaluable insight.

The invited speakers are experts in their fields, and the material presented is very relevant to current issues in the world of construction.

The biggest benefit I felt was a deeper understanding of regulations and best practices in Construction Law.

Panel discussions and question and answer sessions were also very interactive, providing opportunities to deepen knowledge and share experiences with fellow participants from various backgrounds.

Overall, the conference was very successful in meeting my expectations. I feel more prepared and confident in applying the knowledge gained in my workplace. I highly recommend this event to professionals looking to strengthen their understanding of Construction Law."

(Dr. Putut Maharyudi, Senior Expert For Construction Services Development Sector, Ministry of Public Works and Housing, Indonesia)

This conference is very helpful for all circles in construction services. In addition to increasing knowledge in terms of dispute resolution, this conference is also very useful to find out more details related to FIDIC application in international projects as well as national projects.

I hope this conference can be conducted continuously every year and become one of the platforms for sharing experiences.

Finally, I would like to thank the organizing committee for making this event very successful. We all hope that synchronizing the application of FIDIC Conditions of Contracts with specific country's regulation to avoid disputes can be implemented well.

(Jumhar Febriko, Manager, Head of Contract Administration and Ris, Infrastructure 2 Division, PT PP (Persero) Tbk., Indonesia)

SCLVN is honored to attend and contribute to the PADSK & The Society of Construction Law - Indonesia International Conference 2024 on "Synchronizing the Application of FIDIC Contracts with Specific Related Project Country's Regulations to Avoid Disputes," held on July 18-19, 2024, at the Manhattan Hotel in Jakarta.

The two-day conference covered a range of topics, including country regulations in Asia related to dispute resolution, success stories of the Dispute Avoidance and Adjudication Board (DAAB), and the importance of specific conditions to prevent disputes.

The conference included sessions on the amendments to FIDIC 2017, along with discussions on additional costs, time extensions, and common claims and disputes in construction. The conference also covered alternative dispute resolution methods like mediation, arbitration, and dispute boards.

We are glad to attend and contribute to the Conference with five delegates from SCLVN and two delegates from the Ministry of Construction and the Ministry of Planning and Investment of Vietnam. Three presentations from SCLVN representatives were delivered at the Conference: "DAAB Application in Vietnam," "Regulation on Dispute Resolution in Vietnam," and "The Case of Vietnam from a State Management Perspective."

Having participated in the PDSK International Conference in 2020, 2022, and 2023, I must say that the 2024 Conference marks a new milestone, with more international speakers and participants. With the success of this conference, we expect more participants from Vietnam in next year's conference.
(Nguyen Nam Trung, President, Society of Construction Law Vietnam, Vietnam)

NETWORKING DINNER



PADSK & SCLI 2024
INTERNATIONAL CONFERENCE
"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes"

The Conference will be held at
MANHATTAN HOTEL JAKARTA
Jl. Prof. Dr. Satrio No. Kav. 19 - 24,
Kuningan, Jakarta Selatan, 12940

18 - 19 JULY 2024
08.00 - 17.00

COMPLETION REPORT
Speech, Session and
Networking Dinner

Registration :
<https://bit.ly/PADSKSCLI>

Contact
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Supporting Organization
DBSP

Welcoming Speech

Dr. H. Arnel Kasi, S.H., M.Sc., Ph.D.
Judge of Constitutional Court Indonesia

Dr. Ir. M. Basuki Hadimuljono, M.Sc.
Minister of Public Works and Housing Indonesia

Jeremy Glover
Partner Forewick Elliot, United Kingdom
President of DBSP

NATIONAL MONUMENTS
JAKARTA - INDONESIA

Networking Dinner Agenda:

Opening Speech by Catherine Karakatsanis, President of Fédération internationale des ingénieurs-conseils (FIDIC)

Launching of FIDIC Red, Yellow, Silver (2017 updated 2022) and White Book 2017)

Signing MOU between Universitas Pekalongan and School of International Project Management Tianjin University.

Signing Agreement of Guest Lecturer at Universitas Pekalongan with Zhang Shuibao, Jeremy Glover and Peter Scott Caldwell.

Dinner with Special Performance of National Saxophonist of Indonesia Prof. Tjip Ismail, who is also one of the Panelist Speaker Day 2 Session 1.





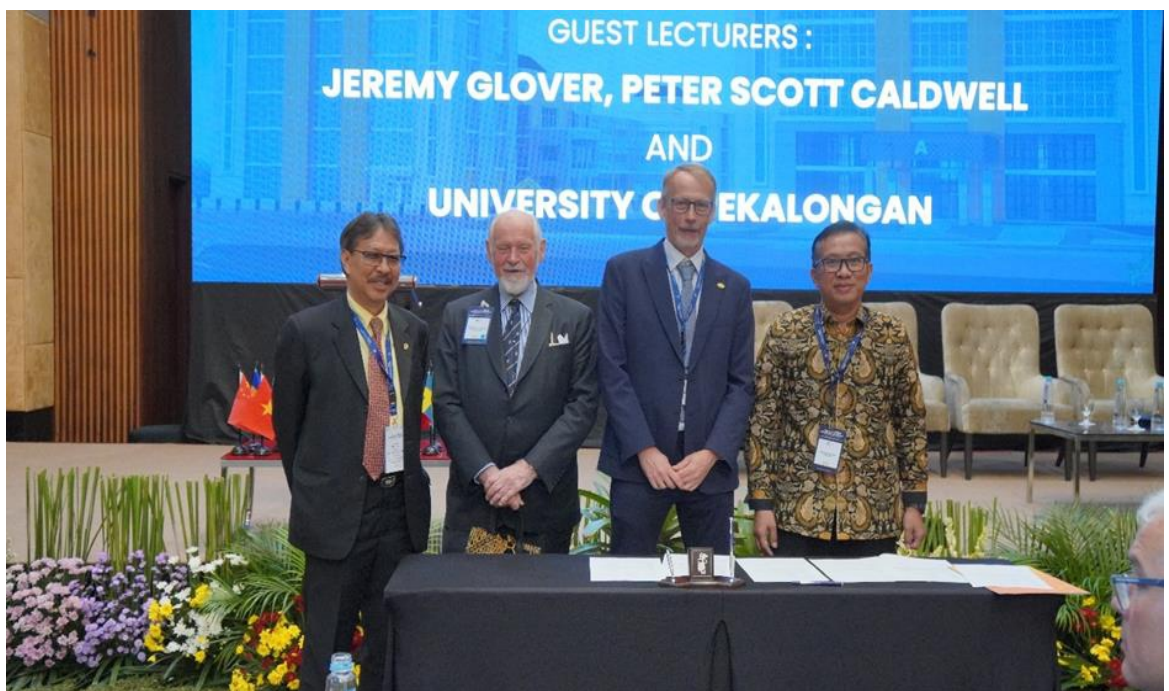
Launching of Standard Forms of Contract,
Second Edition 2017 reprinted 2022 with amendment,
Bahasa Indonesia Edition of Red, Yellow, Silver, White and Green (under FIDIC Licence).

**Speech by Catherine Karakatsanis, The President of Fédération Internationale des
Ingénieurs-Consheils (FIDIC)**





**Signing of Minutes of Understanding and Minutes of Implementation
Tianjin University, China and Universitas Pekalongan, Indonesia.
By Prof.Zhang Shuibo with Dr. Andi Kushermanto**



**Signing of Minutes of Understanding and Minutes of Implementation as Guest Lecturers
By Peter Scott Caldwell and Jeremy Glover with Dr.Andi Kushermanto (Rector, Universitas
Pekalongan, Indonesia)**



Saxophone Performance by Prof. Tjip Ismail, one of the Speaker (from Indonesian Institute of Arbitrator)



Prof. Toshihiko Omoto (Kyoto University, Japan) and Prof. Zhang Shuibao (Tianjin University, China) with Prof. Sarwono Hardjomuljadi (Indonesia)



DAY 1
SESSION 1
18th July 2024

<p>Session 1</p> <p>Country Regulation in Asia Related to Dispute Resolution</p>	<p>09.30 – 11.00</p>	<p>Rachman Arief Dienaputra (Indonesia) Danis H. Sumadilaga (Indonesia) Agustina Arumsari (Indonesia) Salvador Castro, (Philippines) Dr. Nguyen Thi Hoa (Vietnam) Dr. Malai Chompuka (Thailand)</p>	<p>Franz Widjojo (PADSK, Indonesia)</p>
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Left to Right: Kurniadhy Widjojo (Indonesia), Dr. Nguyen Thi Hoa (Vietnam), Dr. Malai Chompuka (Thailand), Dr. Agustina Arumsari (Indonesia), Salvador Castro (Philippines)



**DAY 1
SESSION 1**
18th July 2024

BPKP/Auditor's Role:

Emphasizes the auditor's responsibility in ensuring accountability, transparency, and prudence in public finance management



PADSK – SCLI International Conference Jakarta, 18 – 19 July, 2024

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DAY 1 SESSION 1

Auditor Role in Government Large Infrastructure Project Success

Agustina Arumsari, Ak., M.H., CFE., CFA., CA., QIA., CGCAE., CIAE., CRP

PADSK-SCLI International Conference 2024
Synchronizing the application of FIDIC contracts with specific related project country's regulation to avoid dispute

“Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes”.

- FIDIC Contracts and Indonesian Regulations: Highlights the challenges of aligning international contract standards with local laws and regulations.
 - Dispute Avoidance: Proposes strategies to prevent disputes, including involving internal auditors early in the project and appointing local dispute boards.
- Additional Points:**
- Clear focus on the importance of the auditor's role in large infrastructure projects.
 - Highlights the complexities of managing projects under FIDIC contracts and local regulations.
 - Provides practical recommendations for dispute avoidance



Dr. Malai Chompuka

DAY 1
SESSION 1
18th July 2024



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DAY 1 SESSION 1

Thailand – Laws, Regulations, and Acts Related to Alternative Dispute Resolution

Malai Chompuka, DPA., MBA., B.Eng. (EE.),
CEAT-FIDIC Trainer, THAC Mediator/Arbitrator,
ACT-IP Cost IO,
Executive Director, Quality Advantage Co., Ltd.
E.: malai@qathais.com
M.: +66 81 846 4138

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes"

1

- Legal Framework: Overview of Thai law, regulations, Acts for construction projects.
- Dispute Resolution: Focus on ADR mechanisms, court procedures, and enforcement of judgments.
- Relevant Organizations – Resources: Dispute Mediation Centers, Council on Dispute Mediation, The Thai Arbitration Institute (TAI), The Thailand Arbitration Center (THAC)
- Systemic Challenges: Legal Complexity, Power Imbalances, Enforcing Agreements



Dr. Nguyen Thi Hoa

DAY 1
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DAY 1 SESSION 1



REGULATION ON DISPUTE RESOLUTION IN VIETNAM

Supported by:



Dr. Nguyen Thi Hoa

Lecturer at Ho Chi Minh city University of Law, Vietnam
Member of the executive committee of SCLVN

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Legal Framework: Overview of Vietnamese law, including relevant statutes and regulations for construction projects.

Dispute Resolution: Focus on Alternative Dispute Resolution and the Application of the Multi-tiered Dispute Resolution Clause in the International Construction Sector",

Dispute to which one party is a state-owned entity : "The State of the Socialist Republic of Vietnam, governmental agencies and local state authorities do not take responsibility for civil obligations of their legal entities including state-owned enterprises, except in case that governmental agencies and local state authorities guarantee the civil obligations of this legal entities according to the provisions of law."



Salvador Castro

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Country Regulation in Asia Related to Dispute Resolution: PHILIPPINES

18 July 2024, 09:45AM-11:00AM

Supported by:



SALVADOR P. CASTRO, JR., MCI Arb

DRBF Country Representative (Philippines)
DRBF Board Member, Region 2 (Africa, Asia, Europe)
FIDIC Credentialing Ltd (FCL) Vice-Chairman FCT Programme Committee
FIDIC Affiliate Member
Member, Society of Construction Law (UK)
Chairman, SPCastro, Inc.
spcjr@spcastro.com

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

1

Jurisdiction

Overview of Philippine law, including relevant statutes and regulations for construction projects.

Multi-tiered Dispute Resolution

One of the Key features of the FIDIC Contracts is the Multi-tiered Resolution of Disputes: 1st Engineer's Determination; 2nd Dispute Board Decision; 3rd Amicable Settlement; 4th Arbitration

SUMMARY:

It is important for the DBs to know the relevant country laws and regulations that may have impacts to the FIDIC Contracts specifically in dispute resolution.

DAY 1
SESSION 2
18th July 2024



Enni Moeliati Soetanto



Session 2

**Success Story of Dispute
Avoidance and Adjudication
Board (DAAB)**

11.00 – 12.15

Kunihisa Oba (JICA)
Toshihiko Omoto (Japan)
Jeremy Glover (UK)
Kelvin Aw (Singapore)
Murray Armes (UK)

Enni Moeliati Soetanto
(SCL, Indonesia)



Left to Right: Kunihisa Oba (Japan), Kelvin Aw (Singapore), Murray Armes (UK), Toshihiko Omoto (Japan), Jeremy Gover (UK), Enni Moeliati Soetanto (Indonesia)



Kunihisa Oba

DAY 1
SESSION 2
18th July 2024



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DAY 1 SESSION 2

JICA's Policy and Practice on Dispute Boards for ODA Loan Projects

KUNIHISA OBA
 SENIOR ADVISOR, Loan Procurement Policy and Supervision Division
 Infrastructure Engineering Department
 Japan International Cooperation Agency (JICA)

Session 2
Success Story of Dispute Avoidance and Adjudication Board (DAAB)

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Oba explained JICA Policy's recommendation is using Standing DB with one or 3 DB members with certain criteria of contract amount. DB cost sharing consists of Monthly retainer fee, Costs for regular site visits, and Cost for Additional Site Visits. JICA is currently doing survey of Dispute Board especially in Asia how the Dispute Board has an important role for avoiding the disputes to achieve the project successful by using the Dispute Board.



DAY 1
SESSION 2
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DAY 1 SESSION 2

Dispute avoidance, conflict avoidance & Dispute Boards

Supported by:



Jeremy Glover,
President of the Executive Board of the DRBF
Partner, Fenwick Elliott LLP

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Jeremy explained that UK Government released Government guidance with title "The Construction Playbook which consists of a) demonstrates commitment to conflict avoidance and the use of amicable resolution procedures to deal with emerging disputes **at an early stage**; b) dispute avoidance boards are a potential way to avoid and manage disputes more effectively; c) early identification of potential disputes; d) promote the value of collaborative working to prevent issues developing into disputes; e) to identify, promote and utilise conflict avoidance mechanisms."

Also talking about "Conflict Avoidance Toolkit" avoiding conflicts and resolving emerging disputes starting from pre-contract, dispute avoidance by utilising early warning systems, early intervention, amicable settlement, dispute resolution with optimising for a final determination of their dispute that is quicker and cheaper than the courts and arbitration, and doing a collaborative efforts to reduce dispute.



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DAY 1 SESSION 2

**THE USE OF DAABs:
SUCCESS STORIES OF DISPUTE AVOIDANCE**

Murray Armes
18 July 2024

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Murray talked about the detail what is dispute avoidance? And WHAT IS INFORMAL ASSISTANCE? Give the 3 examples of dispute avoidance that finally Contractor accepts the non-binding opinion and there is no formal referral

IS DISPUTE AVOIDANCE WORTHWHILE? Disputes are costly : Money, Time, Reputation. He provided the statistic of DB costs 0.05%-0.26% of the construction costs, DBs are resolved in less than 90 days , 98% of referred disputes end with the DB,



DAY 1
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DAY 1 SESSION 2

Success Story of Dispute Avoidance and Adjudication Board (DAAB)

Supported by:



Kelvin Aw

**Partner CMS Singapore
Senior Accredited Specialist (Building & Construction)
Singapore Academy of Law**

“Synchronizing the application of FIDIC Contracts with specific related project country’s regulation to avoid disputes”.

Kelvin explained the comparison of survey 2018 and 2022 which is shown that the use of Mediation and Dispute Board are increasing even though is not too significant; however the litigation is reducing with example case study in China and Hong Kong.

Some factors affecting successful adopting DAB are 1) limitation of period based on law in each country such as: Indonesia is more suitable for implementing the Dispute Board which shorter than other Asian countries because breach of contract and unlawful act claims still live within 30 years compare to Malaysia, Singapore, Thailand, China and India between 2 years until 6 years; 2) Emergence of Statutory Adjudication in the Asia: Statutory adjudication is a mandatory regime in several Asia countries, “Pay when paid” contract provisions are unenforceable; 3) Funding of Project : Multilateral Development Banks or funders require the application of adjudication or dispute board as the baseline to the dispute resolution in the first instance of the projects that being funded.



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DAY1 – SESSION 2

Success Story of DAAB

Dr. Toshihiko Omoto
FIDIC Certified Adjudicator

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

1

Prof. Toshihiko gave examples of successful Project with DB such as **Kunming Zhangjiuhe River Diversion and Water Supply, Kunming, China** by using Contract: FIDIC 4th edition, 1987 reprinted 1992 with further amendments, 3 DB members, "Validity of DAB Agreement extended beyond DLP" finally amicable settlement; **Patimban Port Development Project, Package 1, Patimban, Indonesia** with Contract: FIDIC MDB Harmonised Edition 2010, period: July 2018 – July 2023(including Defect Liability Period). 3 DB members; Pares evaluation: we would also like to thank the Dispute Board for always conducting itself in an independent, impartial and unbiased manner."

Due to the successful of Patimban project by using Dispute Board, therefore, the parties appointed the same Dispute Board members for Package 2 and other packages.



Immanuel Bonardo



DAY 1
SESSION 3
18th July 2024

The Use of DAAB as in Clause 21 (FIDIC 2017 v DAB/DB Clause 20 (FIDIC 1999, 2010) in practice.

Moderator: Immanuel Bonardo (PADSK, Indonesia)
Nicholas Gould (DRBF, U.K.)
Aisha Nadar (Sweden)
Le Te Hung (Vietnam)
Anil Changaroath (Singapore)



Left to Right: Aisha Nadar (Sweden), Anil Changaroath (Singapore), Le The Hung (Viet Nam), Nicholas Gould (UK), Immanuel Bonardo (Indonesia)



Aisha Nadar

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The Use in Practice of FIDIC 2017 DAABs v DAB/DB 1999

Aisha Nadar

Member, International Centre for Settlement of
Investment Dispute (ICSID)
Panel of Conciliators
FIDIC Ambassador, Sweden

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Aisha stated that FIDIC 2017 introduces standing Dispute Board and encourage Dispute Avoidance. Dispute Board decision is enforced by Arbitration whether binding or final and binding in the event of party failure to comply. Lesson learned to successful dispute resolutions are Constitution of DB in a timely manner, the selection of member by the required skill set, define and document the process early, and lastly create an environment of mutual respect and trust.

DAY 1
SESSION 3
18th July 2024



Anil Changaroath



PADSK – SCLI International Conference Jakarta, 18 – 19 July, 2024

Day 1 Session 3 (13:15 to 14:30 pm)

USE OF DAAB (CLAUSE 21 - FIDIC 2017) vs
DAB/DB (CLAUSE 20 - FIDIC 1999, 2010)

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RHTLaw Asia

Anil Changaroath, FCIArb FSIArb FPIArb FAIADR

Co-Heads [ESG Practice](#), [Building, Construction & Projects](#)
and [Logistics](#) Industry Group and Practices
Partner [Appropriate Dispute Resolution Practice](#)



"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Anil said that Contractors and employers should carefully review contract provisions to understand which mechanism is in place for their project. The DAAB adopts a more proactive stance by actively engaging in dispute avoidance measures throughout the project lifecycle and fostering a more cooperative environment between the parties involved. Contractors and employers should be vigilant in understanding the nuances of their contractual arrangements to navigate potential disputes effectively

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Sub-Clause 20.4 [Obtaining Dispute Adjudication]

Delete Sub-Clause 20.2 and Substitute with the following text:

"The Engineer shall assume the roles of DAB in accordance with the Employer's Instruction. If the Employer shall give notice as required by Sub-Clause 20.4, the Engineer shall address and relevant experience of the intended resolution."

"Synchronizing the application of FIDIC Contracts with specific related projects"

Le The Hung



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DAY 1 SESSION 3

DAAB Application in Vietnam

Le The Hung

Managing Partner | CNC

“Synchronizing the application of FIDIC Contracts with specific related project country’s regulation to avoid disputes”.

Key Take Aways



"Synchronizing the application of FIDIC Contract

Nicholas Gould

DAY 1
SESSION 3
18th July 2024



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DAY 1 SESSION 3

PASK SCLI INTERNATIONAL CONFERENCE

Session 3: The Use in Practice of FIDIC 2017 DAABs v DAB/DB 1999

Manhattan Hotel Jakarta Selatan

Day 1: 18 July 2024

CERN and Project Level DAABs

Nicholas Gould
Partner, Fenwick Elliott LLP
Visiting Professor, King's College London



"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Nicholas stated that application of The CERN Panel of Adjudicators (POA) as an adaptation of DAB in FIDIC based Contracts. POA consist of 5 Adjudicators including 1 Chairperson with adaptable range of skill sets.

Success factors from POA are Initial project meeting at the very outset, Regular site visits, Presentations covering project progress, anticipated completion, variation status, notices and claim status. The POA are helping the Parties focus on understanding the issues, the contract, its application, facts, uncertainties, possible outcomes. Discussion and Informal opinions are applied and if required a Decisions are being made.

DAY 1
SESSION 4
18th July 2024

Panel Discussion:
FIDIC 2017 amended 2022
Force Majeure to Exceptional
Events



Peter Scott Caldwell

Moderator: Peter Scott Caldwell (DRBF, Hong Kong)
Speaker:
Sean Gibbs (UK)
Koong Len Sheng (Singapore)
Leong Hong Kit (Malaysia)



**Left to right: Leong Hong Kit (Malaysia), Sean Gibbs (U.K.), Koong Len Sheng (Singapore),
Peter Scott Caldwell (Hongkong).**





DAY 1
SESSION 4
18th July 2024





DAY 1
SESSION 5
19th July 2024

The importance of Particular Conditions to avoid disputes

Moderator: Hari Purwanto (PADSK, Indonesia)
Speaker: Iwan Supriyanto (Indonesia)
Weni Maulina (Indonesia)
Weddy B. Sudirman (Indonesia)
Tay Peng Cheng (Malaysia)



Left to right: Hari Purwanto with Prof. Zhang Shuibo (China), with Weni Maulina (Indonesia), with Tay Peng Cheng (Malaysia), with Weddy B. Sudirman (Indonesia)



DAY 1
SESSION 5
19th July 2024



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DAY 1 SESSION 5

MEMBANGUN AUDIBILITAS DALAM TATA KELOLA KONTRAK D&B SEBAGAI PENCEGAHAN DISPUTE DAN PEMENUHAN AKUNTABILITAS

Oleh:

Ir. Iwan Suprijanto, ST., MT., FIDSK., IPU., CRGP., QRG.
(Direktur Jenderal Perumahan)

Juli 2024

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Iwan explained that Design and Build (D&B), recently become popular in the Government project as defined by the LKPP Regulation 12 of 2021, refers to the construction of a building where the service provider holds a single unit of responsibility for both the planning and implementation of the construction process. This unified responsibility facilitates a seamless workflow, reducing potential delays and promoting a cohesive vision from the project's inception to its completion.

However, currently several potential risks and concerns are associated with this type of contract nowadays, such as: risk in public financial accountability, price reasonableness, regulatory ambiguity.

Therefore, to ensure the successful implementation and management of D&B contract, it is very urgent to highlight the importance of thorough planning, clear contractual terms, and stringent regulatory guidelines, on preparing the Particular Condition should always follow the FIDIC Golden Principle to seek the better regulatory of Indonesian type D&B Contract Standard.



DAY 1
SESSION 5
19th July 2024

Weni Maulina



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DAY 1 SESSION 5



The Importance of Particular Conditions to Avoid Disputes

Supported by:



Weni Maulina
Construction Director
PT. MRT Jakarta



"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Weni stated:

However, currently several potential risks and concerns are associated with this type of contract nowadays, such as : risk in public financial accountability, price reasonableness, regulatory ambiguity.

When discrepancies arise in the contract, the Indonesian Civil Code Clauses 1342-1350 provide general interpretation rules. However, these may not reflect the parties' specific intentions. The contract should explicitly state which document prevails to prevent misinterpretation.

Therefore, to ensure the successful implementation and management of D&B contract, it is very urgent to highlight the importance of thorough planning, clear contractual terms, and stringent regulatory guidelines, follows the FIDIC guide on preparing particular conditions.



Weddy B. Sudirman

DAY 1
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DAY 1 SESSION 5

THE IMPORTANCE OF PARTICULAR CONDITIONS TO AVOID DISPUTES - SYNCHRONIZING FIDIC CONTRACTS WITH SPECIFIC COUNTRY REGULATIONS

Ir. Weddy B. Sudirman, ST, MEM, CA, FIDSK

Executive Vice President for Construction of Power Plant,
Transmission and Substation Projects
for Sumatera, Kalimantan and Sulawesi Island
Indonesian State Electricity Company

Weddy stated that FIDIC contracts are widely used in international construction projects due to their standardization and recognition across borders. However, their application often faces challenges when synchronizing with specific country regulations, potentially leading to disputes. Particular Conditions (PCs) offer the necessary flexibility to adapt contracts to local contexts, ensuring compliance with local laws, effective risk allocation, and appropriate dispute resolution mechanisms.

Synchronizing FIDIC contracts with local regulations requires a detailed review and modification process. This includes legal reviews, drafting of PCs, and stakeholder consultations to align contract terms with local legal requirements. Such steps are essential to maintain the contract's integrity and enforceability within different legal frameworks.

Dispute resolution is a critical contract component, with PCs specifying preferred mechanisms like Dispute Adjudication Boards (DAB). Third-party audits, increasingly recognized for their value in complex projects, can be mandated in PCs, detailing the selection process and auditors' authority. These audits should ensure contract conditions align with local laws to prevent conflicts and disputes, and BPPK is playing a key role in governance in government projects.



Tay Peng Cheng

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TAY Peng Cheng
Head, Energy, Projects & Construction
Partner, International Arbitration



The Importance of Particular Conditions to Avoid Disputes

“Synchronizing the application of FIDIC Contracts with specific related project country’s regulation to avoid disputes”.

Tay explained that Infrastructure and construction projects are unique, often featuring distinct characteristics based on the specific type, region, and involved parties. As a result, standard form contracts with General Contract Conditions (GCC) may not be suitable off the shelf. Adjustments are necessary to align the contracts with parties’ expectations and desires, particularly in areas such as risk allocation, dispute resolution mechanisms, variations, damages, losses, engineer’s authority. Unfortunately, when standard terms are not properly negotiated and translated into Particular Contract Condition (PCC), it often leads to arguments, quarrels, and disputes.

The key considerations for PCC should be addressed meticulously before issuing the tender of Letter of Award (LOA). The FIDIC Guidance for the preparation of particular conditions provides essential insights into which provisions of the general conditions may need further amendments for specific projects. Properly drafted particular conditions are crucial because, in themselves, they do not cause disputes. Instead, they are to tailor the standard contract to the unique needs of the project, preventing misunderstandings, quarrels and conflicts



Zhang Shuibo

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DAY 1 SESSION 5

Preparing Particular Conditions to avoid Disputes

—Understanding FIDIC Golden Principles

Supported by:



Prof. Shuibo ZHANG

Tianjin University, P.R. China

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Shuibo explained that each project is unique, with employers often having specific priorities that necessitate tailored contractual condition. To address these needs, Particular Contract Conditions (PCC) are prepared on an ad hoc basis to supplement, particularize, and if necessary, modify the General Contract Condition (GCC) to align with the specific requirements of individual projects, while also ensuring compliance with local institutional rules and laws.

However, in practice, employers sometimes modify the FIDIC Standard Contract's (GCC) in ways that undermine the intended fair and balanced allocation of risk and reward. Such modifications can diminish the real commercial values for both employers and contractors, leading to increased potential for disputes. FIDIC emphasizes the importance of its golden principles, to prepare PCCs in a manner that avoids disputes and maintains the integrity of the contractual framework.

DAY 2
SESSION 1
19th July 2024



Hambali Syafrie

Session 1

**Alternative Dispute Resolution by
Mediation, Arbitration and Dispute
Avoidance & Adjudication Board
(DAAB)**

08.30 - 09.45

Fahmi Shahab, (Mediation)
Prof. Tjip Ismail (Arbitration)
Dona Siregar (Contract Specialist)
Adnaan Noor (Singapore)

Hambali Syafrie
(PADSK, Indonesia)



Left to right: Dona Alisyah Siregar (Indonesia), Prof Tjip Ismail (Indonesia)
Hambali Syafrie (Indonesia), Fahmi Shahab (Indonesia), Adnaan Noor (Singapore).



Fahmi Shahab

DAY 2
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Fahmi explained about the Challenges:

- *Misconception on mediation.*
- *Lack experience of a proper mediation.*
- *The conflicting concepts of best value for money vs state budget losses.*



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DAY 2 SESSION 1

Alternative Dispute Resolution by **Mediation**,
Arbitration and Dispute Avoidance & Adjudication
Board (DAAB)

Supported by:



Presented by Fahmi Shahab, PMN

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Take Aways

- *Use multi tiered dispute resolution clauses.*
- *Maintain a credible list of neutrals.*
- *Construct (and push) a system for an open and quick dialogue.*
- *Questioning should follow perceived differences.*
- *Transparent process will win the trust.*



Prof. Tjip Ismail

DAY 2
SESSION 1
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DAY 2 SESSION 1



Arbitration Civil Dispute Resolution in Indonesia

Supported by:



TJIP ISMAIL

Prof, Dr, SH, MH, MBA, MM, FCBArb, FIARb

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Tjip explained the arbitration process in Indonesia:

- Confidentiality
- Flexible procedures and administrative requirements
- Parties can choose their own arbitrator
- Parties can choose the governing law, forum, and settlement procedure
- Arbitration awards are final and binding
- Relatively quick resolution (within 180 days)
- Awards can be enforced through the District Court



DAY 2
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- ❑ Dispute settlement during implementation of the construction works → all cost incurred recorded as *“project costs”*
- ❑ Dispute settlement after the project finished will very difficult to reserve all expenses incurred, with understanding about the difference between costs and expenses → become *“legal costs”*



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DAY 2 SESSION 1

“Synchronizing the application of FIDIC contracts with specific related project country's regulation to avoid disputes”

**Ir. Dona Alisyah Siregar, ST. MSc. MH.
IPM. AE. ACPE. CRMP. CCCS. CCD. FIDSK**

National Certified Construction Contract Specialist (CCCS)
National Certified Contract Drafter (CCD)
Certified Risk Management Professional (CRMP)
Insinyur Profesional Madya (IPM)
ASEAN Engineer (AE)
ASEAN Chartered Professional Engineer (ACPE)
Indonesian Government Procurement Expert
Certified National Mediator (PMN)
Fellow Institute Dewan Sengketa Konstruksi (FIDSK)

Manhattan Hotel – Jakarta, Indonesia, 18 - 19 July 2024

Dona stated that in Indonesia:

*Not only as a contract creature, also **already has statutory regulation for DB application**, specifically for construction services contract.*

In Indonesia PADSK has established DB Manual that already which has synchronized international applications, especially DAAB regulations on FIDIC Contracts with Indonesian Laws and Regulations.



Adnaan Noor

DAY 2
SESSION 1

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DAY 2 SESSION 1

WongPartnership

- Headquartered in Singapore; Market leader and one of the largest law firms in the country.
- Our expertise spans the full suite of legal services to include both advisory and transactional work where we have been involved in landmark corporate transactions, as well as complex and high-profile litigation and arbitration matters.
- Infrastructure, Construction & Engineering Practice is widely regarded as a market leader in Singapore – consistently ranked as a Tier 1 / Band 1 practice
- We provide initial procurement advice, draft and negotiate construction documents, undertake contract reviews and advise on contract administration, tender risk management and dispute avoidance as well as pre-contentious advice on all aspects of infrastructure and engineering work from inception to delivery.

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Adnaan explained the Dispute Resolution process in Singapore

- Singapore Supreme Court
- Singapore International Commercial Court
- Singapore International Arbitration Centre
- Singapore International Mediation Centre / Singapore Mediation Centre

DAY 2
SESSION 2
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Session 2

Overview and Obstacle in the use of 10.00 – 11.30
Dispute Avoidance and Adjudication
Board (DAAB) in the Asian Countries

Peter Scott Caldwell (Hong Kong)
Bui Thai Binh (Vietnam)
Salvador Castro (Philippines)
Anil Changarothe (Singapore)
Prof. Sarwono Hardjomuljadi (Indonesia)

Dr. Iskandar Purba
(SCL, Indonesia)



Left to right: Iskandar Purba (Indonesia), Peter Scott Caldwell (Hongkong), Anil Changarothe (Singapore), Salvado Castro (Philippines), Bui Thai Binh (Vietnam), Sarwono Hardjomuljadi (Indonesia)



Peter Scott Caldwell

DAY 2
SESSION 2
19th July 2024

1. Evolution of Contractual Dispute Resolution in Asia
2. Role of the Engineer
3. Transition to DABs and DAABs
4. Main Obstacles to the Use of DAABs
5. The Future of DAABs



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DAY 2 SESSION 2



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Overview and Obstacle in the use of Dispute Avoidance and Adjudication Board (DAAB) in the Asian Countries

**Some Thoughts
by
Peter Scott Caldwell**

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

The presentation provided a comprehensive overview of the evolution and current challenges in the use of DAABs in Asian countries. Key conclusions include:

1. Importance of Education and Training:
2. Alignment of Contractual Provisions with Local Regulations:
3. Selection of Qualified Board Members:
4. Commitment from Multilateral Development Banks (MDBs):

DAY 2
SESSION 2
th
19 July 2024



Anil Changaro

1. Introduction and Context
2. FIDIC Contracts and DAABs
3. Ambiguity in FIDIC's "Binding but Not Final" and "Binding but Final" Decisions
4. Case Study: CRW Joint Operation v PT Perusahaan Gas Negara (Persero) TBK
5. Efforts to Encourage the Use of DAABs
6. Challenges and Cultural Attitudes



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Day 2 Session 2 (10:00 to 11:30 am)

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OVERVIEW AND OBSTACLE IN THE USE OF DISPUTE AVOIDANCE AND ADJUDICATION BOARD (DAAB) IN THE ASIAN COUNTRIES



RHTLaw Asia

Anil Changaro, FCI Arb FSI Arb FPI Arb FAIADR

Co-Heads ESG Practice, Building, Construction & Projects and Logistics Industry Group and Practices
Partner Appropriate Dispute Resolution Practice



"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

The presentation provided a comprehensive overview of the use and obstacles of DAABs in various Asian countries. Key conclusions include:

- Legal Ambiguity and Enforceability:
- Case Study Insights:
- Promoting Awareness and Adoption:
- Country-Specific Approaches:

DAY 2
SESSION 2
19th July 2024



Salvador Castro

1. Flashback
2. Updates on the 5 Barriers (Obstacles): Philippines
3. Philippine Construction Roadmap (2017-2030)
4. Challenges to the Obstacles
5. Summary



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Overview and Obstacles in the use of Dispute Avoidance & Adjudication Board (DAAB) in the Asian Countries: PHILIPPINES

19 July 2024, 10:00AM-11:30AM

SALVADOR P. CASTRO, JR., MCI Arb

DRBF Country Representative (Philippines)
DRBF Board Member, Region 2 (Africa, Asia, Europe)
FIDIC Credentialing Ltd (FCL) Vice-Chairman FCT [Programme](#) Committee
FIDIC Affiliate Member
Member, Society of Construction Law (UK)
Chairman, SPCastro, Inc.
spcjr@spcastro.com

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

1

The presentation on the use of DAABs in the Philippines highlighted several key points:

1. Historical Progress
2. Financial Barriers
3. Legal and Institutional Barriers
4. Building Trust
5. Industry Roadmap



Bui Thai Binh

DAY 2
SESSION 2
19th July 2024

1. Contractual dispute resolution in Viet Nam vs FIDIC
2. The main causes of disputes in Viet Nam construction contracts
3. Challenges and Obstacles
4. Summary



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Overview and Obstacle in the use of Dispute Avoidance and Adjudication Board (DAAB) in the Asian Countries

**The case of Viet Nam from state management perspectives
by
Bui Thai Binh**

“Synchronizing the application of FIDIC Contracts with specific related project country’s regulation to avoid disputes”.

Mr. Binh's presentation provided a thorough analysis of the use and obstacles of DAABs in Vietnam, drawing comparisons with FIDIC contracts and highlighting specific challenges faced in different types of projects. Key conclusions include:

1. Legal and Institutional Challenges
2. Operational and Financial Hurdles:
3. Importance of Education and Advocacy:



Sarwono Hardjomuljadi

DAY 2
SESSION 2
th
19 July 2024

1. Context and Introduction
2. Dispute Resolution Mechanisms in Indonesia
3. DAAB Appointment and Activities
4. Dominant Obstacles in the Use of DAABs
5. Stakeholders' Knowledge and Understanding.
6. Psychological, Financial, and Technical Challenge



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DAY 2 SESSION 2

Overview and Obstacle in the Use of Dispute Avoidance and Adjudication Board in Indonesia

Prof. Sarwono Hardjomuljadi

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

The presentation provided an in-depth analysis of the obstacles in implementing DAABs in Indonesia, highlighting key issues from various perspectives:

1. Alignment with Country Regulations:
2. Challenges Faced by Employers and Contractors:
3. Need for Improved Knowledge and Training:





DAY 2
SESSION 3
19th July 2024

Session 3

The "Avoidance Function" of
Dispute Avoidance and Adjudication
Board (DAAB) 13.15 – 14.45

Jeremy Glover (UK)
Murray Armes (UK)
James Booker (Canada)
Toshihiko Omoto (Japan)
Prof. Sarwono Hardjomuljadi (Indonesia)
Barry Tozer (Australia)

Giorgiana Tecuci
(DRBF, Romania)

Jeremy Glover
(DRBF, UK)



Left to right: Sarwono Hardjomuljadi (Indonesia), Murray Armes (UK), Barry Tozer (Australia), Toshihiko Omoto (Japan), Jeremy Glover (UK).



DAY 2
SESSION 3
19th July 2024

Barry Tozer



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DAY 2 SESSION 3

DISPUTE AVOIDANCE TECHNIQUES FOR THE DAAB TO USE IN FIDIC CONTRACTS

Supported by:



Barry Tozer

FIDIC Certified Adjudicator, DRBF Region 3

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

How/when does the dispute board make the parties aware of its dispute avoidance role?
When should dispute avoidance ideally take place?
Where should dispute avoidance take place?
What matters most lend themselves to dispute avoidance?
What are the most effective techniques for dispute avoidance?

Each party shall advise the other Party in advance of any known or probable future events or circumstances which may:

- (a) adversely affect the work of the Contractor's personnel;
- (b) Adversely affect the performance of the Works when completed;
- (c) increase the contract price; and/or
- (d) Delay the execution of the Works or of a Section (if any)

If the DAAB becomes aware of an issue or disagreement it may invite the Parties to make a joint request.



Toshihiko Omoto

DAY 2
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DAY 2 SESSION 3



Synchronizing the application of FIDIC contracts with specific related project country's regulation to avoid disputes

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The DB's Role in Dispute Avoidance in Practice

Eur Ing James Booker

BSc, DipICarb, MBA, MSc (Const'n Law & Arb), LLM (Int. Legal Practice), LLM (Int. Corp & Comm Law), CEng, FICE, FASCE, FAusIMM, FCI Arb, FSI Arb

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

1

The 2023 FIDIC Practice Note on Dispute Avoidance states, *"One of the pre-eminent functions of a standing dispute board (which is beyond the role of an ad hoc dispute board) is to engage the parties in dispute avoidance."*

JICA Dispute Board Manual 2012 states, *"The unique feature of the DB, and a major reason for its success, is that it is a tool for prevention of disputes..."*; *"Under the standing DB, the Parties can obtain DB's informal opinion which assist them in reaching an amicable settlement."*

Case:

After receiving informal opinions from the DB, the Parties and the Engineer met and discussed the findings of the DB and worked together to arrive at a mutually satisfactory resolution on all matters. For one matter regarding payment of a claim, the Parties and the Engineer were in agreement; however, the State Auditor ("BPKP") did not agree. The DB was requested to prepare an informal opinion which the Employer used to persuade BPKP to accept the position of the Parties and the Engineer.

None of the matters referred to the DB for informal opinion escalated to disputes for referral to the DB for decision. The Parties and the Engineer must be credited for making the best use of the DB in avoiding disputes and thus saving what often turns out to be significant time and money in resolution of disputes through arbitration.



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SESSION 3
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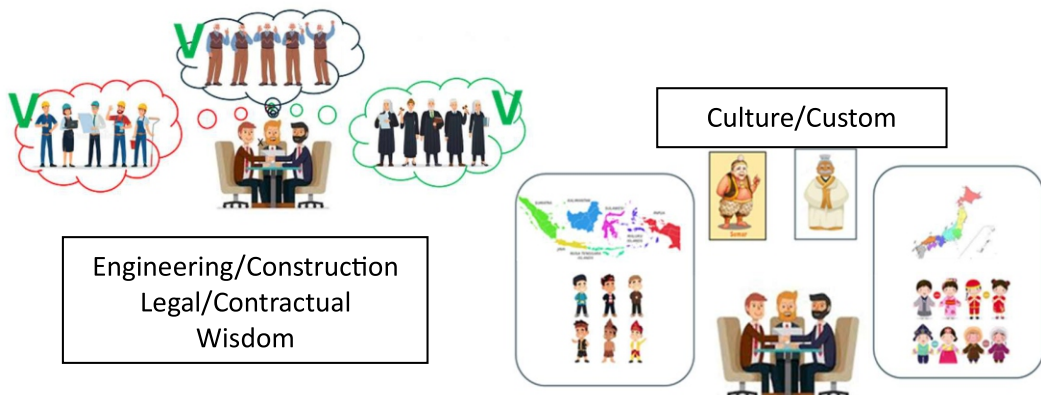
DAY 2 SESSION 3

The “Avoidance Function” of Dispute Avoidance and Adjudication Board (DAAB) In INDONESIA

Prof. Sarwono Hardjomuljadi

“Synchronizing the application of FIDIC Contracts with specific related project country’s regulation to avoid disputes”.

To complete the Works physically without any administrative problem remain:





DAY 2
SESSION 4
19th July 2024





Left to Right: Mesra Eza (Indonesia), Sean Gibbs (U.K.), Asya Jamaludin (Singapore), Nicholas Gould (U.K.), Kim Rosenberg (Dubai)



Sarwono Hardjomuljadi

DAY 2
SESSION 5
19th July 2024

Session 5

Young Professional View on the Use of Dispute Avoidance and Adjudication Board (DAAB).

16.00 – 17.15

Immanuel Bonardo (Contractor)
Heber Pandapotan (Auditor)
Yohanes Aris Widiyanto (Employer)
Dimas Adiputranto (Consultant)

Asari Taufiqurrohman
(SCL, Indonesia)
Sarwono Hardjomuljadi
(PADSK-SCL, Indonesia)



Left to Right: Immanuel Bonardo (Contractor, Indonesia), Yohanes Aris Widiyanto (Employer, Indonesia), Sarwono Hardjomuljadi (Dispute Board, Indonesia), Dimas Adiputranto (Engineer, Indonesia), Heber Anggara Pandapotan (National Auditor, Indonesia).



Immanuel Bonardoo

DAY 2
SESSION 5
19th July 2024



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DAY 2 SESSION 5

CLAIM & DISPUTE: Attrition Warfare?

Presented by:
Immanuel Bonardo H
Vice President of Contract Management
PT Hutama Karya (Persero)

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

The Wise Warrior Avoids The Battle - Sun Tzu



Prolonged disputes can significantly impact contractor's businesses and profits. Use of Standardized Contracts provide clear guidelines and reduce ambiguity, which often leads to disputes.

Implementing early dispute resolution mechanisms, such as Dispute Boards, can significantly expedite the resolution process. Timely interventions prevent disputes from escalating.



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SESSION 5
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DAY 2 SESSION 5

**Young Professional View on the Use of Dispute
Avoidance and Adjudication Board (DAAB)
From Engineer's Perspective**

**Ir. Dimas Adiputranto – Engineer,
Secretary General of Society of Construction Law Indonesia**

"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

A Standing DAAB serves as a valuable resource in the dispute avoidance process, providing neutral and expert guidance that can help the Engineer navigate the challenges of maintaining neutrality and mediating disputes between the Employer and the Contractor.

By leveraging the DAAB's capabilities, projects can benefit from a more harmonious working environment and a greater likelihood of Timely and cost-effective project completion.



Yohanes Aris Widiyanto

DAY 2
SESSION 5
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Directorate General of Sea Transportation

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DAY 2 SESSION 5

Young Professional View on the Use of Dispute Avoidance and Adjudication Board (DAAB)

Study Case Patimban Port Development Project (II)
By: Yohanes Aris Widiyanto



"Synchronizing the application of FIDIC Contracts with specific related project country's regulation to avoid disputes".

Finally, DB will issue an Informal Opinion after deliberation considering all supporting document include collection of other related law, government regulation related etc.

The Informal Opinion of DB will include comprehensive consideration based on the Conditions of Contract (include claim procedure, time constraint etc.) and give the recommendation on action should be taken by the parties to avoid the dispute.



Heber Anggara Pandapotan

DAY 2
SESSION 5
 19th July 2024



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DAY 2 SESSION 5

The Use of Dispute Avoidance and Adjudication Board (DAAB)

By:
Heber Anggara Pandapotan
SH,LL.M,CLA,CAI,CRMP,CMC



Jakarta, 19 Juli 2024

A Standing DAAB serves as a valuable resource in the dispute avoidance process, providing neutral and expert guidance that can help the Engineer navigate the challenges of maintaining neutrality and mediating disputes between the Employer and the Contractor.

By leveraging the DAAB's capabilities, projects can benefit from a more harmonious working environment and a greater likelihood of

Timely and cost-effective project completion.



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**“Synchronizing the application of FIDIC
Contracts with specific related project
country’s regulation to avoid disputes”**

