



# Dispute resolution management for international construction projects in China

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## Abstract

**Purpose** – Unfamiliar with the Chinese culture and ways of doing business, foreign architects/engineers/contractors (AEC) firms will encounter differences with the local parties. With reference to the characteristics of Chinese culture on disputes, this paper studies the problem areas of dispute and of resolving disputes in international construction projects in China. The objectives are to: examine the fundamentals of Chinese culture and ways of doing business; examine the characteristics of international projects and investigate any differences in the dispute problems arising from China International Projects; identify the most popular dispute resolution mechanism(s) for international projects in China; and recommend possible ways to reduce and resolve disputes of these projects.

**Design/methodology/approach** – After literature review, a questionnaire was designed for face-to-face interviews with 40 practitioners to collect their opinions.

**Findings** – The results show that the problem areas giving rise to disputes are mainly related to contractual matters. To reflect the characteristics of international projects in China, cultural and legal matters are also found to be the sources of problem. Arbitration is the most popular method, after negotiation, for resolving disputes in international construction projects in China.

**Research limitations/implications** – The number of interviewees in this study could be improved and further study could include experts in Mainland China.

**Originality/value** – There is not much literature on dispute resolution management for international construction projects in China, with particular reference to cultural differences. This paper offers an invaluable reference for those foreign AEC firms interested in joining international projects in China.

**Keywords** China, National cultures, Construction industry, Dispute resolutions

**Paper type** Research paper

## Introduction

The business of construction has changed a great deal resulting from the effects of growing globalization and competition (Ofori, 2000). The fast-growing international trade and developments, such as the World Trade Organization agreements (WTO, 2004) and the Asia-Pacific Economic Cooperation forum (APEC, 2003) have provided new opportunities to the construction industry. Facilitated by sophisticated communication technologies, advanced project management, and by profits attraction, large-scale projects are no longer local events but international affairs involving parties of different nations (Chan, 1997; Ofori, 2000). The development of the Beijing 2008 Olympic Games Sports Venues and Related Facilities Project is an



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excellent example. Foreign architects/engineers/contractors (AEC) firms with a strong financial capability and broad experience in developing, managing and operating large-scale public infrastructure projects are eligible to participate in the tendering (Olympic Games Organizing Committee, 2004).

Since the adoption of “open-door policy” in the late 1980s, the Chinese Government have introduced a series of measures to boost the economy, including the building and construction industry, such as the Sino-foreign Joint Venture (SFJV), Foreign Direct Investment (FDI) and the Special Economic Zones (SEZs) (Cheng and Qiu, 2002). Collectively, they have made China one of the largest recipients of foreign investments in the world, with a total trade of US \$505 billion (Sekhar, 2003). Such impressive economic growth in China has resulted in an immense demand for housing, shopping malls, commercial buildings, factories, sports facilities, bridges, roads, etc. These provide many business opportunities for both foreign and local Chinese AEC firms. Unfamiliar with the Chinese culture, local legal system, and ways of doing business, foreign AEC firms would normally team up with local Chinese AEC firms to form Sino-Foreign Joint Ventures or other forms of collaboration. As a team, they have to learn to deal with their differences and be able to resolve disputes in an effective manner. The effects of construction disputes are detrimental. If disputes are not properly managed, they may cause project delays, undermine team spirit, increase project costs, and, above all, damage business relationships (Cheung and Suen, 2002). With the increase in the number of participants in a construction project, more business interactions and arguments end up with an increase in the number of construction disputes (Kumaraswamy and Yogeswaran, 1998). Research in preventing and resolving disputes supports the effort for better understanding and harmonization of the different cultures (Loosemore, 1999). It was rightly stated “without understanding there can be no friendship. If one wishes to understand a people one must identify oneself with them. One must study their language, customs and culture. . . and they will be one’s friend” (Broster, 1976, p.6)

Therefore, understanding the Chinese culture, the nature of international construction disputes, and the effective management of disputes are of great importance in the study of international construction projects in China which are undertaken by foreign AEC firms solely or jointly with local partners (hereafter known as “International Projects”).

### **Aim and objectives of this study**

In light of the above, together with the increasing number of International Projects resulting from the China’s entry to the WTO and the Beijing 2008 Olympic Games, this paper aims to examine the problem areas of disputes and the resolution of disputes in International Projects. In so doing, the following objectives are included:

- to examine the fundamentals of Chinese culture and ways of doing business;
- to examine the characteristics of international projects and investigate any differences in the dispute problems arising from China International Projects;
- to identify the most popular dispute resolution mechanism(s) for international projects in China; and
- to recommend possible ways to reduce and resolve disputes of these projects.

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The works of Chan (2002) in the international construction projects in China, Howlett (2003) in the Chinese arbitration and law, Lau (1979) in the teachings of Confucius, Liu and Fellow (1999) in the Chinese organizational culture, Kumaraswamy and Yogeswaran (1998) in the sources of construction disputes, Uff (1998) in addressing multi-tiered dispute resolution methods in large infrastructure projects, and Mitropoulos and Howell (2001) in the prevention and resolution of construction disputes, provide the excellent background and references for this study.

### **Chinese culture relating to disputes**

For various reasons, the Chinese Government has been slow to accept the developments in the world. For the new China, it was not until its open-door policy in the late 1980s that brought force to break such barrier. International trades, including international construction activities, have helped to mould the new Chinese economy and ways of doing business. Despite the large amount of international economic activities and the more open-minded new generation, the Chinese people are still deeply influenced by the teachings of Confucianism and Taoism, which have been promulgated in the Chinese society for over 2,500 years and the teachings are meant to lead to moral acts.

#### *Confucianism*

Confucianism is developed from the teachings of Confucians who was born in ancient China in 551 BC. Confucianism is not in any way a religion but a way of life that emphasizes “self-cultivation” (修身) of individuals. The self-cultivation of an individual that leads to a “gentlemen” (君子), is the ideal moral charter in Confucianism terms. Professor Lau (1979, p.12) succinctly summed up: “behind Confucius’ pursuit of the ideal moral character lies the unspoken, and therefore, unquestioned, assumption that the only purpose a man can have and also the only worthwhile thing a man can do is to become as good a man as possible. This is something that has to be pursued for its own sake and with complete indifference to success or failure. Unlike religious teachers, Confucius could hold out no hope of rewards either in this world or in the next. As far as survival after death is concerned, Confucius’ attitudes can, at best, be described as agnostics”.

For the Chinese people, it is a great pride at least to be able to quote, if not to practice, the Confucians’ teachings. Indeed, the essences of Confucian philosophy can be found in many official documents and teachings. Some of the more salient principles are (Chan, 2002):

- submitting to authority;
- respecting the concept of “big family”;
- “middle way” (中庸) and amicable to preserve harmony in one community; and
- maintaining harmonious relationships with neighbours.

#### *Taoism*

Exerting equal influence on the Chinese culture is the “Taoism”. Same as Confucianism, Taoism is not a religion. The founder is Lao Zi, a contemporary of Confucius, born in 571 BC. The bible of Taoism, “Tao Te Ching” is full of cryptic language that lends itself to many different interpretations. Yet, the central theme is

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surrounding the “tao” (道) meaning “the way of life” which carries very similar meaning to the “Way” in the Confucianism. While Confucianism sees “tao” in a more down-to-earth and humanistic sense, Taoism often uses “tao” to indicate the order of Nature. Taoism stresses that by following Nature, one will acquire contentment, enlightenment and peace. The human life is part of Nature and therefore, humans should accept change as being the way of everything in the universe. The two great philosophies, Confucianism and Taoism, are both based on the same essential words, “tao” (道) meaning the correct way of life and “te” (德) meaning virtue. Confucianism represents the classical approach and requires a very positive attitude to live up to the “Way” and to achieve virtue. Taoist represents the romantic approach and adopts an effortless and natural approach (無為而治). The Taoist philosophy, similar to Confucianism, emphasizes on harmony and is very much adopting an amicable attitude in living (Chan, 2002).

How far are the Confucian and Taoist teachings embedded in or practiced by the Chinese people in a modern business environment? It is a question that requires intensive public debate. However, it is fair to say that these teachings, to some extent, affect the way the Chinese people dealing with disputes. With reference to the influence of Confucianism and Taoism on the Chinese people, it is understandable that many Chinese claim that it is the Chinese nature of avoiding open disputes, respecting social hierarchy, and of emphasizing on maintaining harmony, order and loyalty (Chan, 2002).

### **Characteristics of international construction projects**

#### *Nature of international projects*

International construction projects are those projects in which the contractor, the lead consultant, or the employer is not of the same domicile, and at least one of them is working outside his or her country of origin. Previous research studies have attempted to examine the different aspects of international construction projects, which are normally large and complex, and should be undertaken only by experienced foreign AEC firms (Mawhinney, 2001). Bon and Crosthwaite (2001) reported that the greatest opportunity for international construction projects would be in the developing countries, especially in Asia. At the national and metropolitan level, their findings in the year 2001 suggested that China and cities within China are considered noteworthy. Ofori (2000) suggested that the construction industry should make good use of international construction opportunities in order to embrace the development of: materials; project documentation and procedures; human resources; technology; and institutions. Clark and Ip (1999) came to the view that international construction projects provide an opportunity to develop products using the most up-to-date expertise and knowledge in a cost effective manner. Raftery *et al.* (1998) regarded international projects as opportunities for the industry of developing countries to leap forward, through joint ventures with construction companies of foreign countries. These characteristics, however, could never be materialized unless contracting parties are prepared to work together in a co-operative manner (Chan and Chan, 2001).

#### *Disputes arising from international projects*

Numerous reports on sources of disputes have been documented (Chan, 2002; Diekmann and Nelson, 1985; Kumaraswamy and Yogeswaran, 1998). The sources of

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disputes in international construction projects are largely two folds. First, the parties' knowledge and experience in construction law and in management are not homogeneous. Foreign AEC firms have problems understanding the local construction practices, law and politics (Chan, 2002; Shilston and Hughes, 1997; White 1999). Secondly, lacking solidarity in the project team, contracting parties have conflicting goals and objectives. It is the project manager's responsibility to align and harmonize their differences and to ensure that they work together as a team (Walker, 1989). If differences between the parties are not managed properly or speedily removed, they could develop into disputes, which in turn may lead to programme delay, increase tension, and breakdown of business relationships (Chan, 1997; Cheung and Suen, 2002; Vorster, 1993).

### **Research methodology**

To identify the problem areas with disputes and dispute resolution practice in international projects, a questionnaire survey in the form of face-to-face interview was conducted with 40 practitioners, who are experts in the field. The selection of the experts was based on the following criteria:

- (1) practitioners who have more than ten-year experience of construction contracts management in international projects;
- (2) practitioners who have more than five-year experience of dispute resolution mechanisms in international projects; and
- (3) practitioners who have more than five-year experience of international construction projects policies in China

With the help of the Hong Kong International Arbitration Centre, a list was developed containing over 70 practitioners who were interested in the topic and could be approached. The practitioners were contacted, and, in the end, a total of 40 were interviewed. The experts included 14 lawyers, 8 quantity surveyors, 8 arbitrators, 8 project managers, and 2 academics. They all hold senior positions with working experience related to the construction industry (some are senior officers of the Chinese construction authorities). It is without doubt that, with their experience and knowledge, their views would be reflective of the current situations.

### **Problem areas of international project disputes in China**

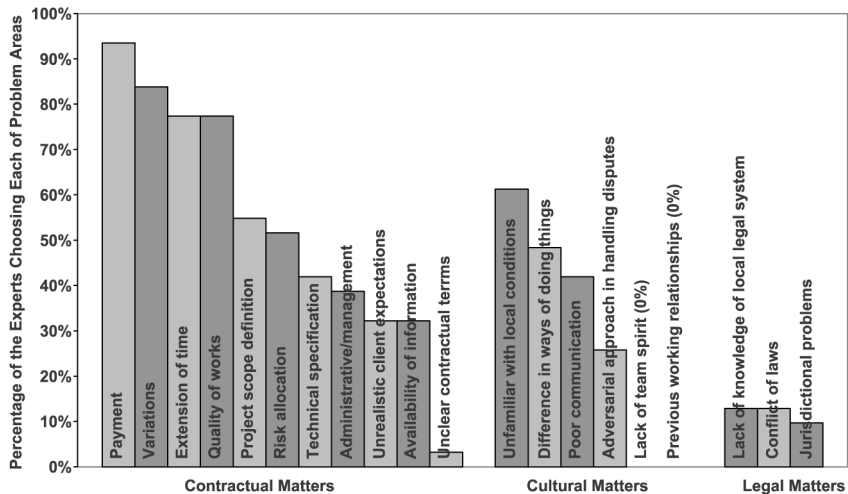
#### *Literature review*

The study of Kumaraswamy and Yogeswaran (1998) provided a good reference of the common sources of construction disputes. The sources of construction disputes are largely related to contractual matters, including variation, extension of time, payment, quality of technical specification, availability of information, administration and management, unrealistic client expectations and determination. On the other hand, the works of Diekmann *et al.* (1994) and Centre for Public Resources (1994) suggested that disputes could be caused by cultural and contractual matters, and Howlett (2003) believed that conflict of laws and jurisdictional problems could also lead to disputes, and therefore, these sources should not be overlooked. Taking into account the literature, a consolidated list of sources of disputes was developed by Chan (2002), in his study of dispute management of international construction projects. Based on the consolidated list, brainstorming among the research team members and preliminary

discussions with a few experts were carried out and 20 possible problem areas of disputes of international construction projects in China were shortlisted. The list includes variations, extension of time, payments, quality of works, technical specification, availability of information, administration/management, unrealistic client expectations, risk allocation, project scope definition, poor communication, difference in ways of doing things, lack of team spirit, previous working relationships, adversarial approach in handling disputes, unfamiliar with local conditions, conflict of laws, jurisdictional problems, lack of local legal system, and unclear contractual terms. These were subsequently categorized under three heads: contractual matters; cultural matters; and legal matters.

*Experts' views and findings*

The list identified above formed the basis for the design of questionnaire and each expert was allowed 45 minutes to identify the major problem areas of disputes from the list, and to add any missing ones, if necessary. The findings are summarized in Figure 1. The top four places are taken by problem areas relating to contractual matters. They are, in priority order, payments (93 per cent of the 40 experts choose this item), followed by variations (83 per cent frequency), extension of time (77 per cent frequency), and quality of works (77 per cent frequency). This confirms that contractual matters remain the main source of problems in international projects, followed by cultural matters. Legal matters come last, indicating problems with lack of knowledge local legal systems (12 per cent), conflict of laws (12 per cent), and jurisdictional problems (9 per cent). However, these low figures must be understood in the context that the contractual matters, being separately considered in the study, is one major branch of legal matters. With reference to Figure 1, it is no surprise to see that the problem areas giving rise to disputes are mainly related to contractual matters, which is not much different from problems experienced in other construction projects. To reflect the characteristics of international projects in China, cultural and legal matters are also found to be the sources of problem. Although, they are not very



**Figure 1.** Summary of problem areas of dispute in international projects

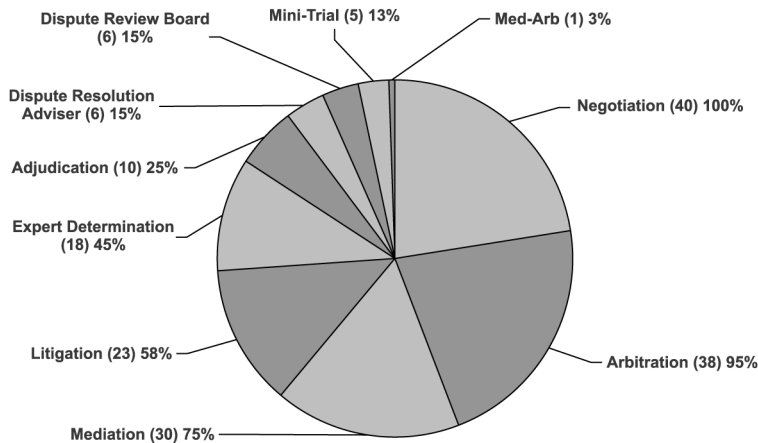
significant in comparison with contractual matters, the practical issues such as “Unfamiliar with local conditions” (with 61 per cent frequency), “Difference in ways of doing things” (48 per cent frequency), and “Poor communication” (41 per cent frequency) are the major concerns relating to cultural matters. Even for international projects, legal matters, in terms of legal procedures and systems, do not seem to be significant in causing disputes. It justifies this study to focus on the cultural matters in understanding the ways project participants manage their project disputes.

**Popular dispute resolution mechanisms**

The questionnaire also included a list of ten dispute resolution mechanisms, which was created with reference to the previous works of a number of academic and practitioners, such as Cheung and Suen (2002), Merna and Bower (1997) and Uff (1998). In considering the possible types of dispute resolution methods for this study, due consideration was also given to the Chinese culture and the dispute resolution system for foreign-related projects in China (Chan, 1997). For example, the med-arb found by Chan (2002) as a unique dispute resolution method used for resolving domestic disputes in China has been incorporated into the list. It includes negotiation, arbitration, mediation, litigation, expert determination, adjudication, dispute resolution adviser, dispute review board, mini-trial, and med-arb.

*Experts’ views and findings*

Similarly, the experts were asked to refer to their experience and identify in ranking order the most popular dispute resolution mechanisms for resolving disputes of international projects in China. The results are shown in Figure 2. As expected, negotiation is found to be the most commonly used method (100 per cent of the 40 experts choose the method). Negotiation is not normally included in the study of formal dispute resolution methods because it can take any form, and the process and results are considered as commercial dealings that are seldom disclosed for experience sharing. After negotiation, arbitration (95 per cent frequency) is the most popular



**Note:** Numbers in brackets are the actual number of experts choosing each of the methods

**Figure 2.**  
The most popular dispute resolution methods used in international projects

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method, followed by mediation, litigation, expert determination, adjudication, dispute resolution adviser, dispute review board, mini-trial, and med-arb (with 3 per cent frequency only). It is important to note that the top ranking popular methods, such as arbitration, litigation and expert determination are traditionally established formal processes and they provide decisions by a neutral with authority. Mediation is widely acknowledged as part of the Chinese culture in resolving dispute through compromising in a private setting. This cultural preference has not been overwhelming received for dealing with disputes involving international project participants. Med-arb, though a popular method for domestic disputes, is a strange method and indeed unacceptable to many international practitioners. It is found to be the least popular for resolving international project disputes.

#### *Negotiation*

The experts suggested that negotiation should be employed as the first method to resolve disputes. Unlike mediation and arbitration, negotiation does not involve a third party in the process of resolution. Some of the identified advantages with negotiation are: speedy resolution; flexibility; quick and simple procedure; informality; and privacy. The disputing parties would get together to discuss the problem voluntarily and reach a mutual agreement. Resolving disputes through negotiation is an indispensable part of construction project management. It is an essential skill that senior management should learn and master. The other popular voluntary dispute resolution method is mediation which requires a third neutral party, known as a “mediator” to facilitate the parties reaching a settlement. The mediator helps drafting out the accord of settlement as a contract binding the parties. As to negotiation and mediation, they are popular alternatives and are particularly useful when the parties are bona fide and willing to discuss matters openly and constructively. Both negotiation and mediation require concerted efforts and trust from both sides. The two methods have thus far achieved great success in settling construction disputes in China (CIETAC, 2000).

Only when the disputants have failed to negotiate a settlement then arbitration would be employed. Arbitration remains a better choice for international construction projects in China because of the issues of uncertainty in the legal system and courts of law. As the Chinese court rulings are, like their English counterparts, subject to appeal, which means litigation could drag on for years with the local law courts system. The problem is that people, not only the foreigners but also the locals, have reservations over the competence of judges in some of the law courts in China (Feinerman 1995). On the other hand, arbitration is highly regarded by the people. Arbitration panels are made up of a panel of experts, sometimes including experienced experts from overseas, which improves the quality of hearings and awards. Furthermore, the proceedings and rules of arbitration in China closely resemble to international arbitration rules (CIETAC, 2000).

#### *Arbitration*

After negotiation, arbitration is the most preferred method because of its binding effect with the backing of legislation. Many standard construction contracts in China include an “arbitration clause” stipulating that arbitration should be pursued when the parties failed to negotiate or mediate a settlement. An arbitration clause

usually specifies a choice of arbitration body, which may be located in China or abroad, and a choice of law to govern the dispute. There are two internationally respected Chinese government-approved arbitration institutions, namely the China International Economic and Trade Arbitration Commission (CIETAC) and, for maritime disputes, China Maritime Arbitration Commission (CMAC). Though not compulsory, most of the international construction contracts provide for CIETAC administered arbitration. Where CIETAC is the selected arbitration institution, parties to the contract may specify the nationality of members of the arbitration panel in contact. CIETAC has published rules, which govern the selection of a panel if the contract does not specify the choice of arbitrators. As an alternative to CIETAC, if the parties so wish, they can specify an overseas arbitration institution for the arbitration to be carried out overseas. With respect to the enforcement of an arbitral awards, in case one party fails to execute the arbitral award, the other party may apply to the competent court for enforcement. If the losing party is located within the territory of China, the other party may apply to the Intermediate People's Court in the place where the losing party is located for enforcement of the award. If the losing party is located outside China, and the country in which the losing party is located has already acceded to the New York Convention, the other party may apply to the competent court in that country for enforcement. In 1987, China acceded to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention). Under the New York Convention, arbitral awards rendered in other signatory countries are recognized and enforceable in China. Similarly, arbitral awards by Chinese arbitration bodies are enforceable in other countries signatory to the New York Convention (CIETAC, 2000; Department of Commerce of China, 2002).

#### *Need to harmonize arbitration*

However, using arbitration in international projects is not a panacea for all disputes; it has its drawbacks as well, for example, problems associated with the harmonization of international arbitration laws. Cremades (1998) commented: "international arbitration is presently undergoing a process of harmonization in order to achieve a pleasing effect: the adaptation of legal system throughout the world to a global economic market". Wetter (1995) suggests that, for international construction, the harmonisation of arbitration laws should concentrate on narrow, defined issues, such as:

- the concept of the seat of arbitral tribunals;
- the law governing the arbitration agreement;
- a uniform delimitation of the concepts of "decision" and "award"; and
- a uniform classification of rules of substance and rules of procedure

On the issue of arbitrators' jurisdictions, research in the UK (Black and Fenn, 1999) shows that 29.3 per cent of 140 arbitrators have had their jurisdictions challenged by the parties in dispute. Of the 43 samples from the same group of respondents, 76.7 per cent of them said that the challenge did cause extra cost. The study also indicated that arbitrators were overwhelmingly in favour of fast-track procedures, and were much more likely to initiate using the procedures than the disputants. If problems of such magnitude exist in a single country, the ideal of a "global law" for dispute resolution is a very distant goal indeed. When parties are at an advanced stage of dispute, they will

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do whatever is necessary to achieve their objectives, including challenging the legal procedures, even if it involves extra expense. Arbitrators, on the other hand, seem to be more eager than the parties to resolve the dispute as soon as possible. More universal and harmonized rules may, however, help to plug some of these loopholes. To address the problem, traditional arbitration practices have to be modified to incorporate proactive, flexible and amicable processes (Uff, 2001). Practitioners and commentators have proposed various schemes and innovative practice. A good example of these is the enactment of new arbitration legislation. Notably, the Arbitration Act in the UK and the Arbitration Ordinance in Hong Kong have been reformed and been promulgated in the years 1995-1997.

An excellent example of the harmonization of Chinese arbitration law is the “Agreement Concerning Mutual Enforcement of Arbitral Awards” between the China and the Hong Kong SAR, which was agreed on 21 June 1999. After the return of sovereignty of Hong Kong to China in 1997, the situation of enforceability of arbitration awards between Hong Kong and mainland China was in a stage of uncertainty. The “Arrangement” mirrors as close as possible the mechanism, which governed reciprocal enforcement of arbitration award prior to 1 July 1997 (the Hong Kong’s Handover). Before that day, arbitration awards were enforced as foreign awards in Hong Kong and China reciprocally under the New York Convention. However, the “Arrangement” is not perfect in that not all arbitration awards made in mainland China will be eligible for enforcement in the Hong Kong SAR. It only applies to arbitration award made in mainland China “pursuant to the PRC Arbitration Law” and “by Chinese Arbitration organizations.” Awards made by foreign arbitration bodies in mainland China such as the International Chambers of Commerce will not fall within the “Arrangement” and be enforced in Hong Kong SAR. Therefore, detail attention is required for anyone trying to make use of the new arrangement (Chan and Kwok, 1999).

### **Discussion on ways to manage disputes**

The following is a summary of practical suggestions which may help reducing and resolving disputes in international projects. They are derived from the results of the questionnaire and based on advices collected from the experts during the interviews.

#### *Disputes relating to cultural and legal matters*

The disputants should always try to recognize the expectations and behaviour of others. Social functions could be held on regular basis to allow project participants to appreciate some essential cultural traits through interactions in activities and maintaining good communication. A half-day project charter workshop involving key project participants could be organized with the intention to synchronize their thinking so that they can lay out problems and resolve conflict with mutual trust. The objectives addressed in the project charter should include effective dispute resolution, cooperative working relationships, quality service, site safety, and timely completion. Where conflicts arise, the parties involved should always go back to the project mission, and try to make agreement that is consistent with the project goals and objectives. Some of these come within the concept of “partnering”, which has been advocated by the construction industry to promote effective communication and integration between project members.

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The parties should be advised to keep afresh with the latest Chinese laws and policies. The foreign partners should be aware that they should not too eagerly enter into agreements based on promises from local officials whose approvals may be ultra vires. Intermediate People's courts may lack authority to enforce such agreements in the provinces, especially in the case where the agreement is contrary to the WTO obligations or the Central government rules. For parties coming from the Common Law system, beware of interpretation of standard international construction contract terms under the Civil Law system in China. Very often, policy may override the law in China. Advice from local lawyers specializing in construction law and local policy would be useful. To avoid the grip of the less-than-mature local law courts system, foreign parties should insist, where possible, on having an arbitration clause and adopt international institutional arbitration rules for resolving disputes.

#### *Disputes relating to contractual matters*

There are many studies with recommendations on avoiding disputes caused by contractual issues in general. The following are a few specific points relating to international projects in China. The parties should, before any agreements, assess how much risks are involved for working in China with its cultural, legal and political background. These risks should be explicitly reflected in the relevant contracts. Reliable sources with reports and statistics by the Chinese officials for risk assessments will be helpful and a contingent plan for emergencies will be advisable. As to the drafting of contract terms, parties should specify exact terms, in particular for payment and performance standards and establishing a realistic timetable. China is a Civil Law country which relies heavily what have been written down in contracts and codified in legislation. There are many specific compliance requirements by various departments for China projects and a local administrator will help better to ensure every step is complied with. The parties should also pay attention to minor details, such as checking the Chinese version of the contract is consistent with the English version. Even though an internationally acceded standard form, such as the FIDIC, is used, different interpretations by various parties from the two legal systems, Common Law and Civil Law, may cause misunderstanding. In this regard, pay special attention to any change to the standard form of contract, such as penalty clause, added responsibility of contractors, and impact from local legislation and administrative rules. Prevention is always better than cure, the parties should spend some time going through the entire contract document in order to reduce chances of discrepancies and errors. As arbitration is the preferred method for resolving any dispute arising from international projects in China, the contract clauses should facilitate such preference. There are too many local arbitration commissions and institutions of various standards in China, for international projects, it is advisable to specify the arbitration to be administered through the CIETAC or reputable international institutions.

#### **Recommended future studies**

The problems of dispute resolution management identified in this study will change with time as interaction and understanding of different practices in China and the international communities improved. Similar study could be renewed periodically with

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a larger sample size of experts for more precise prediction. In the last five years or so, partnering has received much attention. It is generally regarded as a cooperative business strategy rather than a contractual arrangement (Chan, 2002). The process may help improve understanding of cultural difference and communication. Research should explore how it can be used to reduce disputes arising from international projects. With the availability of international standards such as the UNCITRAL Model Law, the New York Conventions, ICC institutional rules, the FIDIC international standard form of contract and international conferences on experience sharing, the harmonisation of international construction law has been progressing well. However, the process is still rife with problems and much work will be required for many years to come from the participants of international projects to develop a commonality in language and law. How does the harmonisation of international construction law affect international projects in China with participation of foreign AEC firms? How far does the issue of social culture affect dispute management in international construction project? It is recommended that future research along these lines should be undertaken as an attempt to answer these questions.

### Conclusion

The main purpose of this paper is to provide foreign as well as local Chinese AEC firms a reference of dispute resolution management in international construction projects in China, in light of its cultural characteristics relating to dispute resolution. The influence of Confucianism and Taoism on the Chinese people, the nature of international construction projects, the problem areas of disputes, and the most popular dispute resolution mechanisms are discussed so as to give a realistic overview of the opportunities and challenges to international projects. This paper concludes that, while arbitration is far from perfect, it is the most popular dispute resolution mechanism, after negotiation, for resolving disputes in international construction disputes in China, notwithstanding its culture background which favours the use of mediation for local construction projects. Arbitration is formal enough to bind contracting parties under the international arbitration law, at the same time, flexible enough to respect the Chinese nature of resolving dispute in private. Based on the qualitative feedbacks from interviews with experts, possible ways are suggested to encourage contracting parties to be proactive in the management of disputes relating to contractual matters, cultural matters, and legal matters. It seems there is no universal formulae for dispute management, except that contracting parties should always respect one another. Perhaps, the contracting system in the construction industry should learn from the profound teaching of "benevolence" (仁) by Confucius: "Do not impose on others what you yourself do not desire" (The Analects, XII.2, XV.24).

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