Corporate External Conflict Management Tools

“Man is a tool-using animal. Without tools he is nothing, with tools he is all.”

Thomas Carlyle (1795-1881), Scottish essayist
Agenda

• Basic knowledge and terminology
• Conflict Management Systems
• Conflict tools
• Case study
Definition of a conflict

“A clash of interests, which cannot tolerate or handle differences”

Therefore you can either chose to remove the clash of interest or contain the clash of interest
The nine levels of escalation

- based on the Friedrich Glasl model

Before conflict

Conflict about the conflict

Limit of self-help - no dialogue

Conflict about solving the conflict

1. Disagreement
   The problem
   Support from a third party

2. Debate and Polemics/ The man
   Actions, not words

3. Images and coalitions
   Mediation

4. Loss of face
   Strategies of threat

5. Limited Destructive blows
   Arbitration/Courts

6. Fragmentation of the enemy
   Mediation

7. Together into the abyss
   Arbitration/Courts

8. Even the biggest problems in the world could have been solved while they were still small.“ Witter Bynner

9. Self-help
   The parties can solve the conflict
What is a Conflict Management System?

• A concept for systematic prevention of escalation of conflicts and a systematic way of handling and resolving conflicts internally and externally
A model for a Conflict Management System - CMS

Source: Based on “Getting Disputes Resolved”
Where to use a Conflict Management System

Prevention of escalation of conflict
Before conflict and on level 1

Handling conflict
Level 2 and level 3

Conflict resolution
Level 4 and up

Escalation of conflict in time
Procedures

Prevention of escalation of conflicts
Before conflict and on level 1

- Partnering agreement based on a win-win mindset
- Open-book policy
- Incentive schemes
- Agreements where the parties interest, concerns and needs are described and dealt with
- Identification of risk areas/“gambling area” and agreement on who shall deal with them
- Facilities to build up trust e.g. teambuilding

“Remember one of the biggest causes to conflicts are disappointed expectations due to unclear agreements”
Mistrust gives conflicts even though there is no dispute!

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Mistrust

Hidden conflicts

Open conflicts

No development

Innovation

Trust

Agreement

Dispute

© mediationcenter
Procedures
Handling conflicts
Level 2 and level 3

• Third party – colleague or manager
• Multiple-step negotiation – managers higher in the organisation
• Deal mediation facilitated by management
• Dispute Review Board
Procedures
Conflict resolution
Level 4 and up

- Mediation
- Med-Arb
- Arb-Med
- Final-offer arbitration
- Advisory arbitration
- Mini-trial
A Conflict Management System

Conflict

Phase 1
Win-win negotiation
Level 1 and 2

Phase 2
Members of steering group
Level 2 and 3

Phase 3
Negotiation with help from third party
Level 4 to 6

Phase 4
Traditional system

The management of part 1 ↔ The management of part 2

Dispute Review Board

Mediation

Arbitration
Storebaelt – 14th June 1998
The contract had the following model:

- **Dispute Review Board (DRB)**
  - The Employer’s signal to the Contractor about wish for Cooperation
- **DRB’s established at the start of the contract**
  - not after the conflict has arisen
- **Fall-back position was arbitration**
  - but first after end of the contract
Oresund –
The principal had the responsibility for the collaboration

• The Employer took responsibility for the interfaces in the contracts
  – Mentioned in the contracts
  – Used during the building process
  – Musketeer bonus
Oresund –
Dispute Review Board

• **Advantages**
  – The conflicts were solved as they arose
  – Cheap

• **Disadvantages**
  – No lawyers were present
  – No one to blame for result of conflicts
Oresund –
The result of a Conflict Management System

• Opening of the bridge 9 month before time
• According to the budget
• No constructors lost money
• No negative press or political complications
• Everyone enjoyed being a part of the project
• Less accidents and none with deadly outcome
Oresund – Opening the 1st July 2000
Case study
Questions for you

• What is the worst case outcome of this conflict?
• What kind of CMS do you think the parties should have established in their agreement?
• What would have been the result if they had a CMS?
A Conflict Management System

Phase 1
Deal mediation
Level 1 and 2
The management of the French, Russian and English companies

Phase 2
Members of steering Group
Level 2 and 3
Dispute Review Board

Phase 3
Negotiation with help from third party
Level 4 to 6
Mediation

Phase 4
Traditional system
Arbitration – English Law
5 stages in the mediation process

• The parties inform about the problem – free storytelling
• Find unfulfilled needs, concerns and interests – formulating the problem
• Options and possibilities are developed - brainstorming
• The agreement is built up – negotiation
• The agreement and implementation plan are made – action plan