

How to manage the dispute in clothing industry^{1, 2}

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ABSTRACT

The clothing industry is expanding to every corner of the world. The trend of outsourcing is still on its way. However, the dispute between owner and oversea outsourcing contractor is becoming a tough problem. Problems like environment pollution, labor environment and intelligence protection are three main issues causing dispute between owner and contractor. When the dispute happens, the production process is heavily affected and delayed. So it is urgent to solve them in an appropriate way. Here, by referring to different documents, we choose six feasible alternatives. Combing with certain criteria, we select the best alternative, which is prevention in advance by using Compensatory model of Additive Weighting Technique. We believe it would be the most efficient way to solve the dispute from the root.

Keywords: dispute resolution, clothing industry, contract, international, outsourcing, environment

INTRODUCTION

The consumption of garment is a rigid demand. However, the most influential brands do not equal to the biggest clothes producers. The typical way is that the brand owners they just designed and marketed them but outsources production factories overseas where the work was done at a tiny fraction of the cost. In 2015, China was the top ranked global textile exporter with a value of approximately 106 billion U.S. dollars.³ However, oversea outsourcing contractors not always make their job flawless. Different disputes may happen between the owner and contractor.

1. Problem definition:

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³ Top 10 textile exporting countries | Statista. (n.d.). Retrieved from <https://www.statista.com/statistics/236397/value-of-the-leading-global-textile-exporters-by-country/>

Here, I found three typical problems:

1) Problem ONE: About the local environmental pollution

The materials that are involved in the clothing industry have an influence on the environment. Many synthetic materials are derived from petroleum. For example, jeans are way much dirtier behind the shiniest appearance. That denim wash appearance is the result of a several chemical-intensive combinations. The process of printing and dyeing involves such heavy metals as cadmium, lead and mercury.

2) Problem TWO: About the local labor human right

The lack of protection for workers in the labor-intensive clothing producing industry lead to many problems. Many workers in Indian factories earn so little that an entire month's wages would not buy a single item they produce. Except the low salary, physical and verbal abuse is usual, not mention other welfare. Such behavior will bring in the invention from government, leading to complicated political cost and brand reputation cost.

3) Problem THREE: About the Intelligence Property

Product life-circle in clothing industry is really short, together with increased competition, producers are forced to be even more initiative in terms of innovation. Usually the owner makes new fashion with the help of powerful creative designers and modern technology, as well as marketing campaigns. When it is outsourced to factory, imitators get used of the owner's original idea, and they do not often have a quality product. And the consumer they are not aware the reality, so they will leave a bad impression on the owner. Such behavior has a very bad influence brand image and customer loyalty.

All in all, the management of the dispute above is non-excusable and should be regulated appropriately and efficiently in the level of contract. So to summarize, the purpose of this research is to answer the following questions:

- 1) What are the different alternatives to resolve disputes in clothing industry in the level of contract?
- 2) What is the most suitable dispute process in this particular industry? And why?

METHODOLOGY

The objective is to solve and mitigate the disputes between owners and contractors. Referring to different disputes resolution according to the references: EJCDC, CSI Manual Practice, Fidic, Consensus Docs and AIA, I will argument the development of each alternative and compare

them under certain criteria. Finally, I will select the best alternative to resolve disputes in clothing industry.

2. Development of the feasible alternatives

Here I found six alternatives:

- 1) Prevention
- 2) Negotiation
- 3) Dispute Review board
- 4) Meditation
- 5) Arbitration
- 6) Litigation



Increase in Hostility, Adversity,
Cost, Time and Aggravation

3. Development of the outcomes for each alternative

1) Prevention

It talks about “How to avoid dispute before it happens? “Generally speaking, the management of dispute is included in most contract, usually in the supplementary conditions. The aim of prevention is not only to let both owner and contractor have awareness of the risk of dispute, but also to offer a reasonable way to control those dispute before it goes worse. Now, we are going to see how to avoid the dispute by taking preventative measures.

2) Negotiation

It is about the communication participated by both owner and contractor in order to solve the dispute. Without the invention of the third party, negotiation is better to the dispute to be resolved may be highly sensitive in nature.

3) Dispute Review Board (DRB)

Dispute Review Boards consist of typically one or three people who can assist in the management of conflicts and disputes. The DRB has two main responsibilities: first, to be familiar with the project, which provides the DRB with sufficient background information when do the hearing process; second, to conduct hearings. However, the decision or resolution offered by the DRB is not mandatory, which means two parties have the right to refuse it.

4) Meditation

Mediation is generally operated by a single mediator who do not judge the case but just helps to facilitate the problems and eventual resolution of the dispute. Mediation is

becoming increasing popularity in some place. For example, most of the lawsuits are required to be mediated before it comes to court in Florida. According to its senate, mediation has been proven effective in reducing court dockets and trials, and offers a more efficient, cost-effective option to litigation.⁴

5) Arbitration

It is generally operated with a cell of multiple arbitrators working as the role of a judge, making decisions. Though arbitration is sometimes conducted with one arbitrator, most common situation is that each party chooses an arbitrator. After that, the two arbitrators choose a third arbitrator, in a certain way, the dispute is manifested to the three chosen arbitrators.

6) Litigation

Litigation is ultimate legal method for resolving the disputes between owner and contractor.

4. Selection of Criteria

Here, we basically select four criteria for comparing those alternatives, they are:

Time: How much time does this alternative need to resolve the dispute?

Cost: How much does this alternative cost to resolve the dispute?

Binding: How much empowerment does this alternative have?

Flexibility: How flexible this alternative would be if there is some accident?

As each criterion is not weighed the same level. An Ordinal scale that will respectively amount from 0 to 1 to each criterion. It is the most appropriate Ratio Scale because this paper will analyze the rank of the criteria.

	Cost	Time	Flexibility	Binding	Total	Rank
Time	1		1	1	3	4
Cost		0	1	1	2	3
Binding	0	0	1		1	2
Flexibility	0	0		0	0	1

So as we can see, the criterion “Time” takes the most proportion. Because in the clothing industry, production is a key step. Under the competitive market circumstance, any delay

⁴ (2017, 01). Mediation vs. Arbitration vs. Litigation: What's the Difference?. *Findlaw*. Retrieved 01, 2017, from <http://adr.findlaw.com/mediation/mediation-vs-arbitration-vs-litigation-whats-the-difference.html>

caused by the dispute could influence the outcome of selling or promotion. And also, cost is important, because if spent too much on the dispute resolution, then it will influence to the whole business plan.

FINDINGS

5. Analyze and compare the criteria

Thanks to these attributes, we can compare different criteria through a multi attribute decision making (MADM) analysis by using Compensatory model of Additive Weighting Technique.

The comparison is as follow: Here we quantify each criterion with the score from 1 to 4

Time		Cost		Binding		Flexibility	
very fast	4	very low	4	very strong	4	very high	4
fast	3	low	3	strong	3	high	3
long	2	high	2	weak	2	low	2
very long	1	very high	1	very weak	1	very low	1

	Prevention	Negotiation	DRB	Meditation	Arbitration	Litigation
Time	4	3	3	2	2	1
Cost	4	4	2	2	2	1
Binding	4	2	2	3	3	4
Flexibility	2	4	3	2	2	1
Total	14	13	10	9	9	7

So up to now, we calculate the score of each alternative. Then we need to use the additive weighing for each alternative:

Additive Weighting Technique								
attribute	Relative Rank	Normalized Weight	Prevention	Negotiation	DRB	Meditation	Arbitration	Litigation
Time	4	4/10 = 0.4	1.6	1.2	1.2	0.8	0.8	0.4
Cost	3	3/10 = 0.3	1.2	1.2	0.6	0.6	0.6	0.3
Binding	2	2/10 = 0.2	0.4	0.4	0.4	0.6	0.6	0.8
Flexibility	1	1/10 = 0.1	0.2	0.4	0.3	0.2	0.2	0.1
sum	10	1	3.4	3.2	2.5	2.2	2.2	1.6

6. Selection of the preferred alternative

According to the weighed score, litigation is obviously the least method we consider. Because in the most attributes except the binding, it ranks the lowest, however, binding in our case is not the most important criterion.

The rest method of dispute solution ranks as follow:

Prevention > Negotiation > DRB > Meditation / Arbitration

Obviously, our first choice here is Prevention, for prevention, we can do:

#1 Well listed and fully understood of the contract

These includes two parts. First, dispute resolution need attaching attention in the contract level, which means the responsibility of possible issues should be written clearly when making the contract. For example, in environment condition, what should contractor do to limit the pollution to the minimum? If there is an accident and cause damage to local environment, how much the owner should do to correct the mistake of the contractor... in short, before the problems happen, owners and contractors should anticipate possible outcome and call on the explicit responsibility. So during the negotiation of the contract, executives from both sides must be at the present and the terms of contract should be made clear to each one of them responsible for taking the dispute decision.

Only listed in the contract is not enough, we need to make sure both parties fully understand the meaning and the effect of those issues. Lack of understanding of the contract lead to that owners and contractors cannot work efficiently after the contract is signed. The results are that problems simply are not well solved, and moved into a dispute. In this case both parties are not happy, and the entire plan for expected dispute resolution is delayed.

#2 Deal appropriately with the cultural difference

In oversea outsourcing collaboration, most owners are coming from developed country while contractors are usually local company from developing country. The complexities of the process you are trying to outsource, and the impact of outsourcing to people of a different cultural background should be studied in advance. There are two kind of culture conflict we need take into consideration: corporate differences, and national differences.

In terms of corporate culture, owners and contractor may have different habits in terms of organizational structure, authority and style. For example, in a high-hierarchy company, it is wrong behavior if an employee bypasses the immediate manager and report directly to high levels, even if he or she is maltreated. In terms of national culture, there may be differences of language, religion, values, etc. For example, in Asian cultures, people respect the politeness more than clarity, and will weak confrontation in order “not to lose face”. In this case, people is more willing to hide a problem instead of admitting it was their fault and solve it immediately.

As a result, culture concern should be taken into care of. Training concerning diversity or multicultural will assist employees from owner to understand the culture of the contractor’s norms and customs. Since we aware, we can avoid many issues rooted from the wrong way of communication.

Although, we agree the prevention in previous stage is the most efficient way, and we do our best to deploy preliminary work to avoid the issues which could lead to dispute, sometimes accident does happen. Instead of complaining about the loss, both owner and contractor need take action, and take the responsibility together.

In case the dispute really happens, we should still find a method to resolve it. Thanks to our quantity comparison above, we can see the best way is Negotiation. After some more calculation, we can get Negotiation is $3.2 / 2.5 = 1.28 \times 100 = 128\%$ much better than DRB, and 145% much better than meditation and arbitration, and about 200% way much better than litigation.

One possible outcome of negotiation in the clothing industry is to work with NGO to improve the environment and labor’s living condition. For example, Gap has strengthened their CSR (corporate social responsibility) commitment by developing a partnership with the International Labor Organization Better Work Program, in order to improve labor standards and laws. The project which was launched in Cambodia in 2004 and specifically targeted the

retail industry, has now expanded to Haiti, Indonesia, Jordan, Lesotho, Nicaragua and Vietnam.⁵

Since we talk about the CSR, owner company could take more responsibility in the society-level. For example, take the ethical fashion. Ethical fashion is that do the designing, sourcing and manufacturing in a way that benefits people and communities while minimizing impact on the environment. In ethical fashion, we call for defending fair wages, working conditions and workers' rights; using eco-friendly content, instead the use of toxic; pesticide and chemical use; recycling and addressing energy efficiency and waste.⁶ And in 2003, H&M launched garment collecting initiative worldwide. People can drop off their unwanted clothes - no matter what brand and what condition - in all H&M stores all over the world. Because as much as 95% of clothes thrown away could have been re-worn or recycled. H&M has gathered more than 40,000 tons of garments to give them a new life.

Furthermore, this kind of green campaign could change consumers' shopping mind. If a lot of consumers choose to change their buying habits, company owners will keep giving pressure to contractor to value more on humanitarian, taking advantages of investing in human capital. And the workers can make a living and provide food. Because workers are happy and satisfied, higher efficiency is created. To environment also, if the consumer value more on the eco-friendly brand, owners would take more effort on the environment protection, by choosing the qualified contractor, not just the cheapest one. Such action could change directly the local environmental condition.

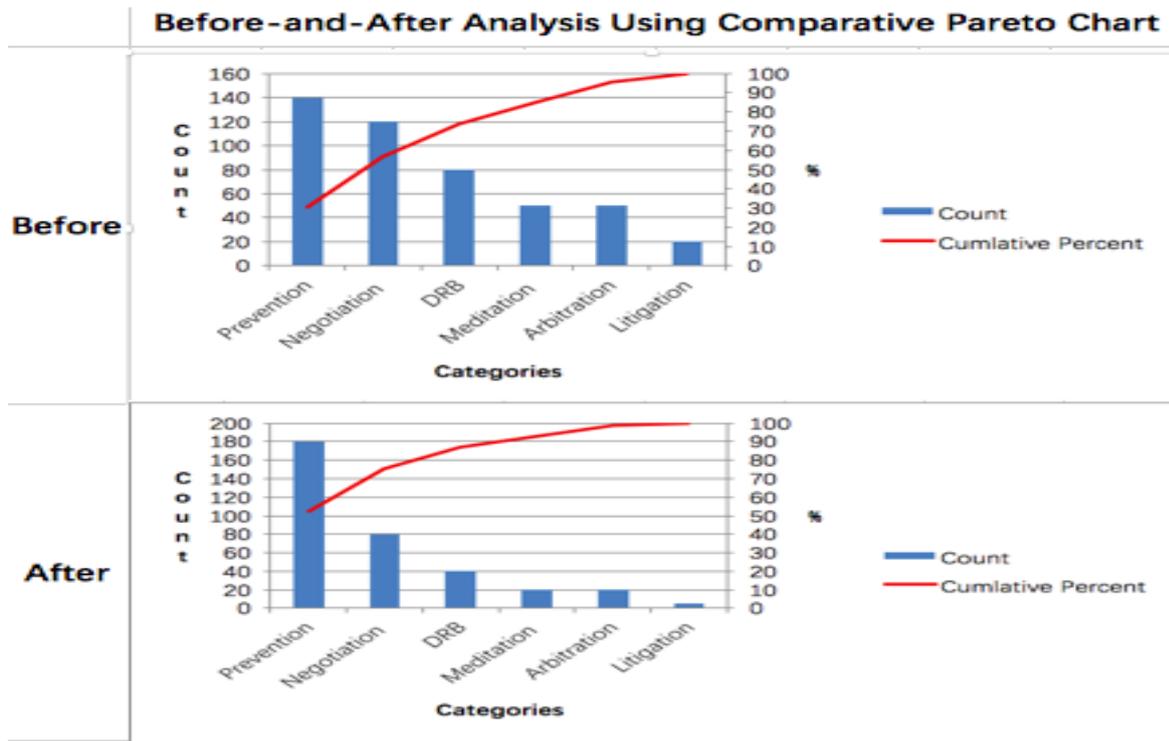
Finally, to resolve the dispute after the problems happen, owners and contractor should better conduct the negotiation way. Owner cannot leave all the responsibility to contractor, no matter what reason, and sitting there waiting the situation goes worse. And as the direct party facing the problems, contractor should also think the method to remedy.

⁵ Heale, M. (2013, 12). *Corporate social responsibility in the fashion industry. Eco-business*. Retrieved 11, 2017, from <http://www.eco-business.com/opinion/corporate-social-responsibility-fashion-industry/>

⁶ Claire, M. (2017, 11). *Ethical fashion brand you'll love to wear*. Retrieved 11, 2017, from <http://www.marieclaire.co.uk/news/fashion-news/the-best-ethical-fashion-brands-to-know-sustainable-fashion-84169>

7. Performance monitoring and post-evaluation results

As this paper shows, we can say Prevention is definitely the best way to deal with the dispute during clothing industry. The form below shows the performance of the prevention, which can solve almost 60% of the dispute.



CONCLUSIONS

In this paper, we mainly take some research into the dispute resolution in clothing industry, in terms of oversea outsourcing field. The kind of dispute mainly exists between the owner and the contractor. Bacially, we answer two principal questions: What are the different alternatives to resolve disputes in clothing industry in the level of contract? And what is the most suitable dispute process in this particular industry and why?

For the first one, according to the document references: EJCDC, CSI Manual Practice, FIDIC, Consensus Docs and AIA, we can figure out six ways of dispute resolution, they are:

- 1) Prevention
- 2) Negotiation
- 3) DRB
- 4) Meditation

- 5) Arbitration
- 6) Litigation

Then we introduce different attributes of cost, time, binding and flexibility. Thanks to the non-compensatory model - Disjunctive Reasoning Technique, we select the most important criterion for in our case is – time. Later we use additive weighing method to measure different alternatives. Then we found the most efficient method for dispute resolution is the first – prevention. So surrounding this method, a further development is given. We also talk about if the prevention way does not work, then we need to take the second method which is negotiation.

In the end, we move on to the performance monitoring and evolution. Here we adopt the Before and After analysis of Pareto Chart to prove the effectiveness of these method.

BIBLIOGRAPHY

Vatz, S. (2013, 05). *Why America Stopped Making Its Own Clothes*. KQED. Retrieved 01, 2017, from <http://ww2.kqed.org/lowdown/2013/05/24/madeinamerica/>

(2016, 01). *Value of the leading 10 textile exporters worldwide in 2016*. STATISTA. Retrieved 01, 2017, from <https://www.statista.com/statistics/236397/value-of-the-leading-global-textile-exporters-by-country/>

(2012, 10). *Problems With Outsourcing And How To Overcome Them*. virtual done well. Retrieved 01, 2017, from <http://www.virtualdonewell.com/problems-with-outsourcing-and-overcome-them/>

(2011, 06). *Top 5 Outsourcing Challenges and Solutions in Present Times*. outsource2india. Retrieved 01, 2017, from https://www.outsource2india.com/why_outsource/articles/5-outsourcing-challenges-solutions.asp

McCray, . (2012, 09). *The Top 10 Problems with Outsourcing Implementation* . SSON. Retrieved 01, 2017, from <https://www.ssonetwork.com/business-process-outsourcing/articles/the-top-10-problems-with-outsourcing-implementation>

Claire, M. (2017, 11). *Ethical fashion brand you'll love to wear*. Retrieved 11, 2017, from <http://www.marieclaire.co.uk/news/fashion-news/the-best-ethical-fashion-brands-to-know-sustainable-fashion-84169>

(2013, 11). *Why I Invest in Ethical Fashion*. fashion revolution . Retrieved 11, 2017, from <http://fashionrevolution.org/why-i-invest-in-ethical-fashion/>

Heale, M. (2013, 12). *Corporate social responsibility in the fashion industry*. Eco-business. Retrieved 11, 2017, from <http://www.eco-business.com/opinion/corporate-social-responsibility-fashion-industry/>

(2017, 07). *Dispute Resolution Reference Guide*. Canada - Department of justice . Retrieved 01, 2017, from <http://www.justice.gc.ca/eng/rp-pr/csj-sjc/dprs-sprd/res/drrg-mrrc/03.html>

Golovic, C. (2014, 09). *The Garment Industry Problems*. *Journal of Textile Science & Engineering*. Retrieved 01, 2017, from <https://www.omicsonline.org/open-access/the-garment-industry-problems-2165-8064.1000168.php?aid=31230>

Quarcoo, R. (2013, 09). *Challenges Facing Garment Producing Industries under AGOA in Ghana*. Scientific & Academic Publishing. Retrieved 01, 2017, from <http://article.sapub.org/10.5923.j.clothing.20130201.02.html>

(2017, 01). *Agreement on Sustainable Garment and Textile*. SER. Retrieved 01, 2017, from <http://www.indianet.nl/pdf/AgreementOnSustainableGarmentAndTextile.pdf>

Reap, D. (2017, 01). *A PROPOSAL FOR AN ALTERNATE DISPUTE RESOLUTION PROCESS FOR THE FASHION INDUSTRY AFTER THE INNOVATIVE DESIGN PROTECTION AND PIRACY PREVENTION ACT*. CAC205. Retrieved 01, 2017, from <http://www.cardozojcr.com/wp-content/uploads/2012/06/CAC205.pdf>

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