

Party Appointed Experts in International Arbitration – Cost v Benefit

AMINZ Breakfast Webinar

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Presented by

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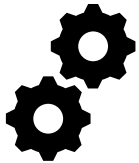


**ARBITRATORS' AND MEDIATORS'
INSTITUTE OF NEW ZEALAND INC**

Te Mana Kaiwhakatau, Takawaenga o Aotearoa



What is the role of experts in international arbitration?



What are the challenges involved?



What are the solutions?



The role of the expert witness



Provide opinions based on witness evidence and documents



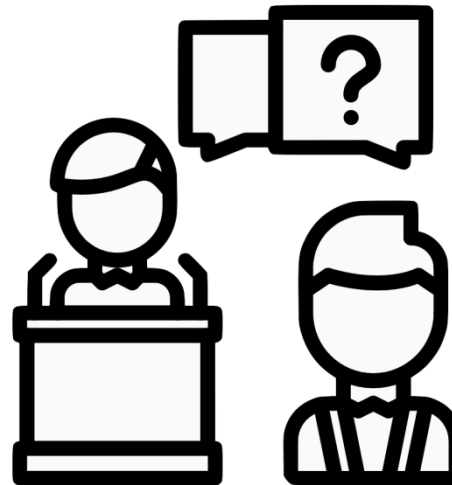
Assist Tribunals in a field of unique complexity



The role of the expert witness



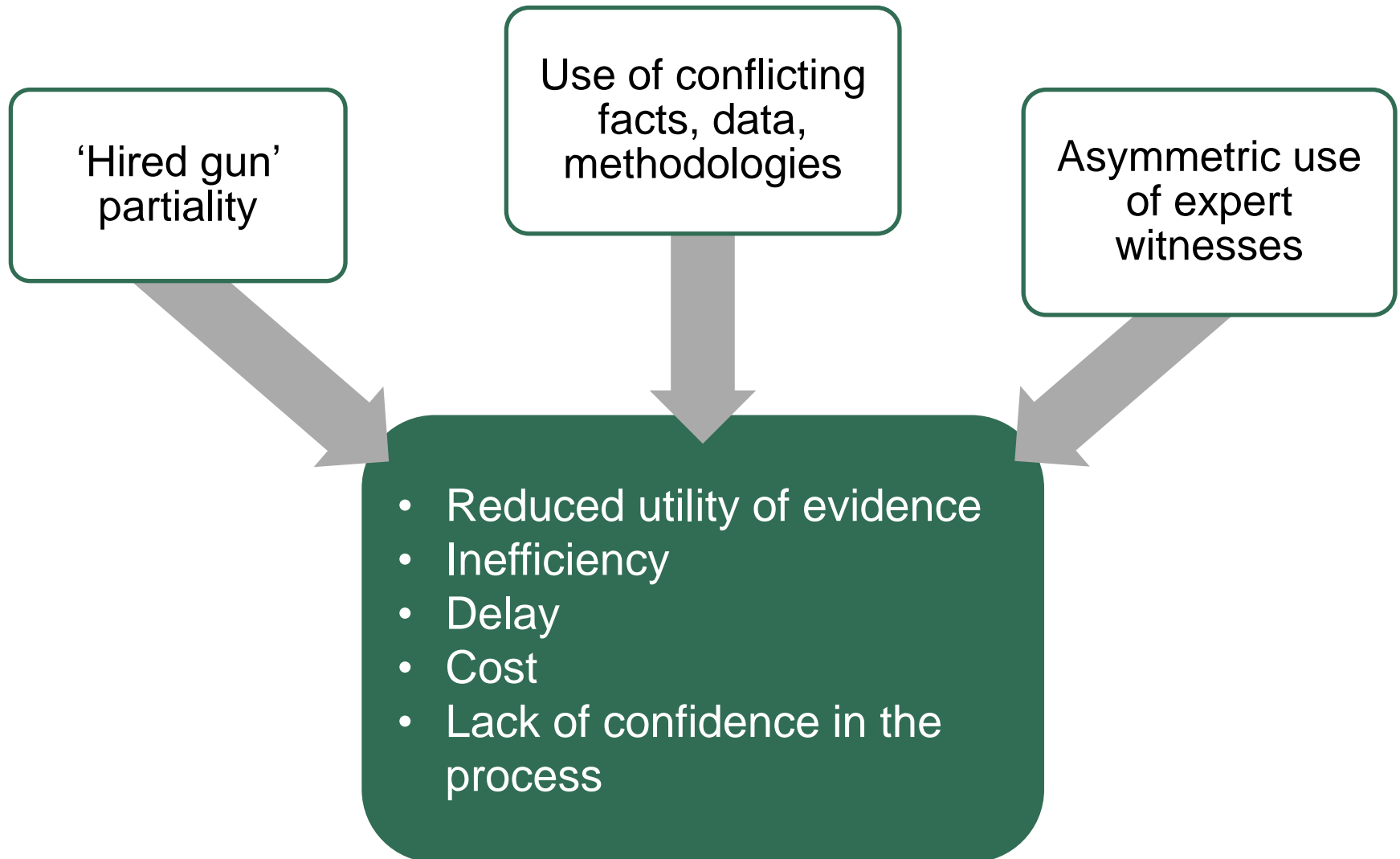
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Assist Tribunals in a field of unique complexity



What are the challenges?





Existing solutions in IA

1

Institutional Guidelines

- IBA Rules on Taking of Evidence 2010
- CIArb Protocol 2007
- Expert Codes of Conduct

2

Expert Witness Conferencing

- Also known as 'hot-tubbing'
- Experts engage in a simultaneous forum-like discussion about differences in their conclusions

3

Tribunal Appointed Experts

- Prague Rules
- Less perceived bias from parties
- Nevertheless disadvantages

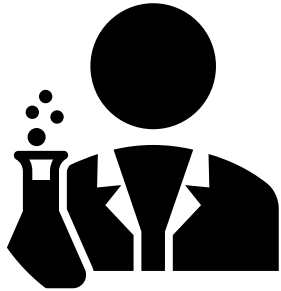


What can be done better?

1. Early identification of disciplines and experts
2. Common list of questions
3. Deferral of expert reports until factual evidence is available
4. Common data set
5. First - joint expert reports identifying areas of agreement and disagreement
6. Then - individual expert reports on areas on disagreement only
7. Experts providing alternative views on the other's assumptions and methodologies



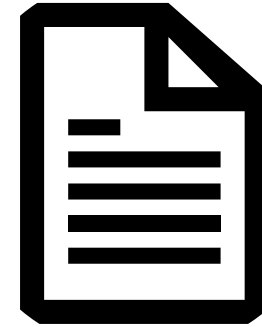
Proactive case management



Experts



Issues



Reports





Use of experts for calculations



Delivering the experts to the Tribunal *after* the hearing





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