

## **Fidic Red Book 2017 Clydeco**

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## **FIDIC - A Guide for Practitioners**

Dispute boards were first introduced almost 20 years ago. Since then close to \$100 billion US dollars worldwide has been spent on construction projects that have used dispute boards. Of these, 98% were constructed without any court battles and of the remaining 2%, the dispute board decisions were upheld by either arbitration and/or the court: a truly impressive record. Yet very little is known about what dispute boards are and how they operate. This book provides the knowledge necessary for those actively involved in dispute board work as well as for those who need to learn the process. Important features of the book include: analysis of the differences between dispute adjudication boards, dispute resolution boards and combined dispute boards in-depth discussion of both the existing and historical international case law on dispute boards, including its history under the British common law, European civil law and Muslim Shari'ah law analysis of the differences between the various major standard forms of dispute board rules - FIDIC, International Chamber of Commerce and DBFederation - along with sample wording to add to or modify these forms as needed. analysis of how referrals are made to dispute boards and sample forms. an in-depth discussion of the ethical requirements relating to dispute board members comparison of board selection techniques with guidelines for implementation and recommendations for the

parties sample forms for use in establishing a dispute board discussion of site visits, how they should be conducted and sample forms general forms for use in operating a dispute board, form agendas, form reports and their use how to use a dispute board as a sounding board for grievances in depth discussion of how to write a decision or recommendation with examples of actual dispute board decisions and recommendations disclosure forms, questionnaires for potential board members, and comparison of board member agreements and sample forms a discussion of how to effectively use witnesses and the preparation and presentation of witness statements in dispute board hearings forms of notice and procedural rules governing the operation of dispute boards international case studies with claims, responses and decisions analysis of situations requiring the removal of dispute board members and form agreements for their removal discussion of the use of dispute boards in areas other than construction.

### **The Creeping Codification of the New Lex Mercatoria**

This important casebook is based upon one of the leading books in the field Born's treatise, International Commercial Arbitration. It offers a comprehensive approach to international commercial arbitration (focused on the New York Convention and UNCITRAL Model Law), while providing comparative examples drawn from state-to-state and investment arbitration. An easy-to-use chronological structure follows the course of an international arbitration. Features: Thoroughly revised to reflect

amendments to UNCITRAL Rules, ICC Rules and other institutional arbitration rules  
New sections addressing IBA Guidelines on Party Representation in International Arbitration Revised to reflect amendments to representative national arbitration legislation in France, Singapore and elsewhere Streamlined excerpts of cases and awards; added excerpts of new arbitral awards on selected topics.

### **FIDIC Users' Guide**

Delay and disruption in the course of construction impacts upon building projects of any scale. Now in its 5th edition Delay and Disruption in Construction Contracts continues to be the pre-eminent guide to these often complex and potentially costly issues and has been cited by the judiciary as a leading textbook in court decisions worldwide, see, for example, *Mirant v Ove Arup* [2007] EWHC 918 (TCC) at [122] to [135] per the late His Honour Judge Toulmin CMG QC. Whilst covering the manner in which delay and disruption should be considered at each stage of a construction project, from inception to completion and beyond, this book includes: An international team of specialist advisory editors, namely Francis Barber (insurance), Steve Briggs (time), Wolfgang Breyer (civil law), Joe Castellano (North America), David-John Gibbs (BIM), Wendy MacLaughlin (Pacific Rim), Chris Miers (dispute boards), Rob Palles-Clark (money), and Keith Pickavance Comparative analysis of the law in this field in Australia, Canada, England and Wales, Hong Kong, Ireland, New Zealand, the United States and in civil law jurisdictions

Commentary upon, and comparison of, standard forms from Australia, Ireland, New Zealand, the United Kingdom, USA and elsewhere, including two major new forms  
New chapters on adjudication, dispute boards and the civil law dynamic  
Extensive coverage of Building Information Modelling  
New appendices on the SCL Protocol (Julian Bailey) and the choice of delay analysis methodologies (Nuhu Braimah)  
Updated case law (to December 2014), linked directly to the principles explained in the text, with over 100 helpful "Illustrations" Bespoke diagrams, which are available for digital download and aid explanation of multi-faceted issues  
This book addresses delay and disruption in a manner which is practical, useful and academically rigorous. As such, it remains an essential reference for any lawyer, dispute resolver, project manager, architect, engineer, contractor, or academic involved in the construction industry.

### **A Practical Guide to Construction Adjudication**

In 1999, a suite of three new conditions of contract was published by FIDIC, following the basic structure and wording harmonised and updated around the previous FIDIC Design-Build and Turnkey Contract (the 1992 "Orange Book"). These conditions, known as the "FIDIC rainbow, were the Conditions of Contract for: Plant and Design-Build, the so-called Red Book, for works designed by the Employer | Construction, the so-called Yellow Book, for works designed by the Contractor | EPC/Turnkey Projects, the so-called Silver Book, for works designed by the

Contractor The first is intended for construction works where the Employer is responsible for the design, as for per the previous so-called Red Book 4th Edition (1987), with an important role for the Engineer. The other two conditions of contract are intended for situations when the Contractor is responsible for the design. The Plant and Design-Build Contract has the traditional Engineer while the EPC/Turnkey Contract has a two-party arrangement, generally with an Employer's Representative as one of the parties.

### **Compendium of International Commercial Arbitration Forms**

The Dictionary of Construction Terms offers clear and concise explanations of the most commonly encountered legal and technical terms, phrases and abbreviations used throughout the construction industry. It will save valuable time when searching for an authoritative explanation of a frequently used term and will become a practical reference for construction lawyers, practitioners and students, as well as those in related industries including planning, property and insurance. Why you should buy this book: There is no other all-inclusive collection of legal and technical terms available at present Convenient source of information for lawyers, practitioners and students Includes a list of common technical acronyms (ie. DPC, DPM, FFL) Lists acronyms of common institutions such as the ICE, JCT and ACE Examples of definitions: Modular construction A modern construction method whereby the building is constructed using prefabricated or pre-assembled building

sections or modules. The three-dimensional building sections are typically fabricated and assembled in an enclosed factory environment and then delivered to site, ready for installation. Modular construction is aimed at minimising construction time by standardising design components, providing consistent quality and allowing site preparation and building activities to commence concurrently with the construction of the factory-made modules. Snagging The process of formally inspecting the construction works to identify any incomplete works or defects in completed works. A snagging list (or 'punch list') is a schedule of defects resulting from this inspection. These items typically need to be rectified prior to the issuing of a completion certificate or handing-over of the works although in some cases a completion certificate will be issued with a snagging list attached.

### **International Arbitration**

There are three specific purposes of Construction Dispute Research. First, this volume aims to summarise studies on construction dispute. Second, apart from the theoretical constructs, where appropriate empirical tests are also included. This approach serves to go beyond the commonly used anecdotal approach for the subject matters. Third, it is the sincere hope of the authors that this book will help shaping research agenda of construction dispute. The studies are mostly framed from a management perspective drawing on methods and concepts in contract

law, economics, psychology and management science. The book has twenty chapters that are arranged in four parts covering conceptualisation, avoidance, negotiation and mediation. Part 1 is devoted for dispute conceptualisation. A building is only as strong as its foundation. Thus it is no better start to study construction dispute by conceptualisation. The theme of Part 2 is dispute avoidance. The conventional wisdom of 'prevention is better than cure' seems can be applied to all problems. As far as construction dispute is concerned, equitable risk allocation and trust are the two most commonly accepted avoidance strategies. Part 3 focuses on negotiation that is the gateway to resolution as almost all disputes are negotiated first before the service of other mechanisms. Negotiation is sometimes described as an art because settlement may not be obtained solely from legal and rational approaches. Part 3 discusses the behavioral dimensions of construction dispute negotiation. Part 4 deals with Mediation- a form of assisted negotiation. Specially, the skill of the mediators in facilitating settlement, the interrelationships among dispute sources, mediator tactics and mediation outcomes are explored. The studies presented in Construction Dispute Research collectively demonstrate holistic approach in dispute management. Each chapter can be read as a study on its own. Practitioners will find the book a handy reference in dispute management and resolution. Students would find the book useful in explaining in details the causes of dispute, the processes to resolve them. The research design and empirical approaches are particularly useful to students in construction management, architectural, surveying and civil engineering programs.

## Construction Contracts

International arbitration of business disputes continues to rise dramatically. New people entering the international arbitration community on all continents require a systematic guide to avoid a mere trial-and-error approach. This book, first of its kind, with numerous practical examples of the drafting of documents for each step of an international arbitration proceeding, under different arbitration rules and in different countries, allows actual ready-to-adapt forms to be located quickly for any issue likely to arise and clearly illustrates the different drafting styles used in practice. In one volume, in a single place, scores of documents are provided, all originating from real cases. A brief sample includes inter alia the following: • request for arbitration; • answer/counterclaim; • claimant's reply to counterclaim; • terms of reference; • rules of procedure; • timetable for submissions; • procedural orders; • written pleadings/statement of claim/defence; • witness statements/depositions/affidavits; • requests/orders for the production of documents/discovery; • requests/orders on interim measures/security for costs; • hearings; • opening statement/closing statement; • submissions on costs; • awards/interim/partial/final/by consent; and • requests/decisions on correction and interpretation of awards. Explanatory comments on more complex forms help to raise the readers' awareness on a specific issue or discussion. Emphasis throughout is on procedural aspects. No other book makes it so easy to find all the information necessary to prepare a case or take a decision in the context of

international commercial arbitration. These forms will be of immeasurable value to corporate counsel, management in instructing outside counsel, practitioners dealing with international arbitration, lawyers, arbitrators, members' organizations in industry and commerce, arbitration centres (especially newer ones in emerging markets), academic libraries and bar associations.

### **International Construction Contract Law**

The Energy Charter Treaty (ECT) is a multilateral treaty in the energy sector, entered into force in April 1998, which gained worldwide recognition mainly because of its provisions on the promotion and protection of investments. The ECT currently has over 45 contracting parties. Its popularity increased significantly in the last few years following the proliferation of disputes submitted to arbitration under Article 26 of the ECT, while investors became more familiarized with the rights granted by the ECT in respect of their investments. At present, more than 20 disputes between investors and contracting parties have been submitted to arbitration. The requirements of 'investor' and 'investment' are essential for the benefit of the protection offered by the ECT. The book suggests a comprehensive approach to the notion of 'investor'. It analyzes the notion of 'investor' in an inclusive manner, starting with the concept of Contracting Party to the ECT and its implications in respect of the notion of 'investor', going through nationality, permanent residency, dual nationality, companies and other legal entities and

shareholders, to the notion of ‘investment’ and its role in defining the concept of ‘investor’ under the ECT. The aim of the book is to shed light on the proper meaning of the notion of ‘investor’ under the ECT, considering the close relationship between the ECT and other treaties such as the ICSID Convention and arbitration rules.

### **Construction Dispute Research**

Provides a clear and comprehensive guide to the 2017 FIDIC contracts—written by a member of the FIDIC Updates Task Group FIDIC contracts are the most widely used engineering standard form contracts internationally but until 2017 the three main forms (the Red, Yellow and Silver Books) had not been amended or updated for nearly two decades, since the first editions were published in 1999. Written by a specialist lawyer who was member of the FIDIC Updates Task Group responsible for writing the new contracts, this book examines in detail the many substantial changes they have introduced. After providing an overview the contracts are examined clause by clause with the aim of showing how each compares and contrasts with the others and how the second editions compare and contrast with the first. The first chapter describes how the Red, Yellow and Silver Books evolved from earlier contract forms and the distinctive characteristics of each, before providing an overview of the updates, including new potential risks for both Employer and Contractor, and then examining, in the second chapter, key general

provisions such as the new rules on notices and limitation of liability. Chapter 3 examines the enhanced role of the Engineer in the Red and Yellow Books/Employer's Representative's function in the Silver including the new procedure for determinations as well as the Employer's obligations and contract administration. The Contractor's obligations are considered in chapter 4 while chapter 5 examines his responsibility for design in the Yellow and Silver Books. Chapters 6 to 14 deal respectively with plant, materials and workmanship and staff and labour; time-related provisions in the three contracts including extensions of time, and the Employer's right to suspend the works; testing on and after completion and the Employer's taking over of the works; defects after taking over, acceptance of the works and unfulfilled obligations; measurement (in the Red Book), the Contract Price and payment; the new variations regime and adjustments to the Price; termination and suspension; care of the works and indemnities and Exceptional Events (previously, Force Majeure). An important feature of the new contracts is their increased emphasis on clarity in the claims process and on dispute avoidance. These topics are examined in the final two chapters, 15 and 16, which deal respectively with the new claims and dispute resolution provisions of the 2017 forms. FIDIC contracts are the most widely used standard forms of contract for international engineering and construction projects Provides a clear and comprehensive guide to the 2017 FIDIC Red, Yellow and Silver Books Written by a senior specialist lawyer and member of the FIDIC 2017 Updates Task Group responsible for writing the new contracts Accessible to those with little or no

familiarity with FIDIC contracts The 2017 FIDIC Contracts is an important guide for anyone engaged in international projects, including employers, contractors, engineers, lawyers, suppliers and project financiers/sponsors.

### **The FIDIC Forms of Contract**

Although short of attaining the ideal of a 'substitute for war', arbitration has largely succeeded in peacefully resolving international disputes. Beyond that, arbitral commitments and arbitral processes have deepened civilized and cooperative international relations, promoted the development of international law and international institutions, and facilitated the well-being of mankind in multiple important ways. Particulars of that proposition are set forth in this one-of-a-kind book. Each of the fourteen chapters is devoted to one landmark international arbitration case, primarily state-to-state but also includes commercial disputes with geopolitical dimensions. Each chapter is written by a practitioner and/or academic of high international standing. The project was initiated by the Stockholm Chamber of Commerce, which celebrates its centennial in 2017. By focusing on landmark cases, the book contributes to a continued dynamic development of dispute resolution in complicated or sensitive geopolitical contexts, and demonstrates how arbitration has and can continue to play an important role for international relations. Practitioners, political decision makers, and academics in any part of the world with an interest in international arbitration and

international law or political history and policy on an international level will find it not only deeply informative but also immensely useful.

## **Regulatory Freedom and Indirect Expropriation in Investment Arbitration**

### **Construction Law in the United Arab Emirates and the Gulf**

In the United Kingdom, adjudication is available as a right for parties to a construction contract, following the enactment of the Housing Grants Construction and Regeneration Act 1996. In general, within a comparatively short period of time, parties in dispute will have a decision from an adjudicator, which, except in limited circumstances, the courts will enforce. Adjudication has become the number one method of dispute resolution in the construction industry. The short timescale means that a party needs to know what to do, when to do it and be able to check that the other party and the adjudicator are following the right steps. A Practical Guide to Construction Adjudication gives parties the necessary information to achieve this. It provides a straightforward overview of the process and procedure of adjudication by reference to legislation and case law, augmented with practical guidance including suggestions on what to do or not to do, drafting

tips and checklists. Separate chapters for Scotland and Northern Ireland identify and explain the differences in procedure and judicial interpretation between those jurisdictions and England and Wales, and further detailed explanations of the adjudication regimes in Australia, Ireland, Malaysia, New Zealand and Singapore are included. Each of the chapters on jurisdictions outside England and Wales has been written by senior experts in those jurisdictions to ensure the content is accurate and insightful. There are a range of helpful appendices including a bank of model form adjudication documents and tabulated detailed comparisons of the Scheme for Construction Contracts, the other major adjudication rules, the major adjudicator nominating bodies and the UK and international regimes. Readers will particularly appreciate the most comprehensive index of adjudication cases available, sorted into 260 subject headings providing immediate access to all the reported cases on any adjudication topic.

### **Delay and Disruption in Construction Contracts**

This new edition builds on Brian Totterdill's legacy and will ensure that all users are brought up-to-date with the most recent FIDIC developments and its expansion into a more international arena.

### **Dragonshadow**

Disputes in the energy and natural resources sector are at the heart of international arbitration. With more arbitrations arising in the international energy sector than in any other sector, it is not surprising that the highest valued awards in the history of arbitration come from energy-related arbitrations. Energy disputes often involve complex and controversial issues relating to security, sovereignty, and public welfare. *International Arbitration in the Energy Sector* puts international energy disputes into a global context, providing broad coverage of different forms and systems of dispute resolution across both renewable and non-renewable sectors. With contributions from leading practitioners, arbitrators, academics, and industry experts from across the globe, the eighteen chapters in the book enable readers to compare the approaches to, and learnings from, energy arbitrations across various legal systems and geographic regions. After outlining the international energy arbitration legal framework, the text delves into a detailed analysis of the problems which regularly arise in practice. These include, among other things, commercial disputes in Part I (e.g. over the upstream oil sector and long-term gas supply contracts), investor-state disputes in Part II (e.g. under the Energy Charter Treaty), and public international law disputes in Part III (e.g. concerning international boundaries and the distribution of natural resources). Alongside recent developments in the international energy sector, attention is given to climate and sustainable development disputes, which raise important questions about enforcing sustainability objectives on individuals, corporations, and states. Backed by analyses of arbitral awards, national court and international

tribunal decisions, treaties, and other international legal instruments, as well as current events and news in the energy industry, this text offers a unique contribution to international energy literature and provides insightful commentary on the prevalent issues in the field. It is essential reading for any practitioner or researcher in the energy and natural resources sector.

### **The Guide to Construction Arbitration**

The FIDIC Conditions of Contract for Construction and the Conditions of Contract for Plant and Design-Build (known as the 1999 Red Book and the 1999 Yellow Book) were first published in 1999 and have been used for a large number of contracts around the world. During 2005, FIDIC and the multilateral development banks cooperated to publish the MDB Harmonised Conditions of Contract for Construction. This book is a revised and extended edition of the authors earlier guides.

### **Construction Arbitration in Central and Eastern Europe**

“White’s 2017 debut, *Heartstone*, fused epic fantasy with the manners of Jane Austen so perfectly, she basically created a whole new sub-genre. The sequel picks up the charm offensive where the first book left off.” – B&N Sci-fi & Fantasy Blog

The author of Heartstone once again infuses elements of Jane Austen's beloved novel with her own brand of magic in this addictive fantasy that brings back sparring lovers Aliza and Alastair: fierce warriors who match wits, charm, and swords as they fight an epic war to save their world. The Battle of North Fields is over—or so Aliza Bentaine, now a Daired, fervently wants to believe. But rumors are spreading of an unseen monster ravaging the isolated Castle Selwyn on the northern border of the kingdom. When she and Alastair are summoned from their honeymoon by the mysterious Lord Selwyn, they must travel with their dragon Akarra through the Tekari-infested Old Wilds of Arle to answer his call. And they are not alone on this treacherous journey. Shadowing the dragonriders is an ancient evil, a harbinger of a dark danger of which the Worm was only a foretaste. And soon Aliza realizes the terrible truth: the real war is only beginning.

### **Construction Schedule Delays**

Now in its second edition, Construction Law is the standard work of reference for busy construction law practitioners, and it will support lawyers in their contentious and non-contentious practices worldwide. Published in three volumes, it is the most comprehensive text on this subject, and provides a unique and invaluable comparative, multi-jurisdictional approach. This book has been described by Lord Justice Jackson as a "tour de force", and by His Honour Humphrey LLOYD QC as "seminal" and "definitive". This new edition builds on that strong foundation and

has been fully updated to include extensive references to very latest case law, as well as changes to statutes and regulations. The laws of Hong Kong and Singapore are also now covered in detail, in addition to those of England and Australia. Practitioners, as well as interested academics and post-graduate students, will all find this book to be an invaluable guide to the many facets of construction law.

### **Keating on Construction Contracts**

Since the entry into force of the North American Free Trade Agreement (NAFTA) in 1994, several arbitral tribunals have rendered awards dealing with claims of breach of Article 1105. Some of these awards have been very controversial and have had a tremendous impact on the development of the concept of fair and equitable treatment (FET) and the evolution of international investment law. Yet, in spite of the fundamental importance of these awards, no comprehensive study had been undertaken to determine the meaning and the content of the FET standard under NAFTA Article 1105. This book and its systematic analysis of the provision and its case law fills this analytical gap. Because Article 1105 is in many ways different from typical FET clauses contained within most investment treaties, the author examines the particular parameters under which it must be interpreted. He also analyzes how these specific features have influenced NAFTA tribunals and their interpretation of the provision, and how their assessments differ from awards rendered by other tribunals outside NAFTA. Among the issues treated in the course

of the analysis are the following: the origin, development, nature and content of the concept of the and 'minimum standard of treatment' and its interaction with the FET standard; the specific parameters under which Article 1105 must be interpreted, including contextual elements such as subsequent agreement and practice between the NAFTA Parties on matters of interpretation; the context in which the Free Trade Commission issued its Note of Interpretation in 2001 and how NAFTA tribunals have applied it; whether or not the concepts of legitimate expectations, transparency, arbitrary conduct, discriminatory conduct, good faith, denial of justice, and due process have been considered by NAFTA tribunals as specific elements of protection to be accorded to investors under Article 1105; the many facets of these elements and the threshold of severity that NAFTA tribunals have required for finding a breach of Article 1105; the interaction between Article 1105 and other NAFTA provisions on national treatment, Most-Favored-Nation treatment, and expropriation; and how NAFTA tribunals have assessed damages for breach of Article 1105. This comprehensive guide to NAFTA case law on Article 1105 is an important contribution to the on-going controversial debate about the scope and content of the FET standard under international law. It will be of great interest to counsel for investors and States as well as to arbitrators, academics and anyone interested in investor-State arbitration.

### **The Fair and Equitable Treatment Standard**

Advanced notion of the Creeping Codification which is based on the 'TransLex Principles', operated by the Center for Transnational Law (CENTRAL) of Cologne University at [www.trans-lex.org](http://www.trans-lex.org). The Trans-Lex Principles are based on the 'List of Principles, Rules and Standards of the Lex Mercatoria' which was reproduced in the Annex of the first edition of this book. This Internet-based codification method realized through the TransLex Principles corresponds to the unique character of the Creeping Codification of the New Lex Mercatoria which is an ongoing, spontaneous, and dynamic process which is never completed.

### **Arbitrating for Peace**

Construction Law in the United Arab Emirates and the Gulf is an authoritative guide to construction law in the United Arab Emirates and the Gulf. The principal theme is the contrast between construction law in an Islamic civil law jurisdiction and construction law in a common law jurisdiction. • the first authoritative text on the application of the laws of the UAE • extensive extracts from the region's applicable laws, all translated from Arabic, and hundreds of judgments of the most senior courts used to back up the analysis provided

### **Ethics in International Arbitration**

Construction Arbitration in Central and Eastern Europe Contemporary Issues Edited by: Crina Baltag & Cosmin Vasile The successful execution of a construction project is inextricably linked to the management of risks and the expeditious settlement of any disputes that may arise. In this regard, the wealth of experience gained by Central and Eastern European practitioners in dealing with complex issues arising in construction projects in the region is highly relevant to international arbitration. Thus, this timely book provides a combination of local expertise and cross-jurisdictional perspectives on topics that most often emerge in construction disputes and which resonate far beyond the specific region covered. The authors, all practitioners with significant expertise in international and domestic construction disputes in Central and Eastern European countries, focus on the following topics: the peculiarities of evidence in construction disputes; the probative value of dispute boards, as well as their enforceability; multi-party issues triggered by the participation of various stakeholders besides employer, contractor and subcontractors; provisional measures; arbitrability of contracts with public authorities; issues of liquidated damages; changes of legislation and costs over passage of time; time bar issues; and resolution of disputes related to construction projects as protected investments. Given the increasing number of disputes and the scarce resources available, this essential guide to contemporary topics in construction disputes, with its cross-border perspective, will prove invaluable to practitioners and to academics in the field of construction law and dispute resolution.

## **Chern on Dispute Boards**

Changes to the work on construction projects are a common cause of dispute. Such variations lead to thousands of claims in the UK every year and many more internationally. Liability for variations is not only relevant to claims for sums due for extra work but this is also an important underlying factor in many other construction disputes, such as delay, disruption, defects and project termination. This is the first book to deal exclusively with variations in construction contracts and provide the detailed and comprehensive coverage that it demands.

Construction Contract Variations analyses the issues that arise in determining whether certain work is a variation, the contractor's obligation to undertake such work as well as its right to be paid. It deals with the employer's power to vary and the extent of its duties to approve changes. The book also analyses the role of the consultant in the process and the valuation of variations. It reviews these topics by reference to a range of construction contracts. This is an essential guide for practitioners and industry professionals who advise on these issues and have a role in managing, directing and compensating change. Participants in the construction industry will find this book an invaluable guide, as will specialists and students of construction law, project management and quantity surveying.

## **The FIDIC contracts guide**

In September 1999, FIDIC introduced its new Suite of Contracts, which included a “new” Red, Yellow, Silver and Green forms of contract. The “new” Red Book was intended to replace the 1992 fourth edition of the Red Book, with the ambition that its use would cease with time. This ambition has not materialised and is unlikely to do so in the future. Despite the importance of the 1999 Forms, there has been very little published on the new concepts adopted in them and how they interact with the previous forms. This important work considers these aspects together with the many developments affecting the fourth edition of the Red Book that have taken place since 1997, when the second edition of this book was published, and relates them to key contracting issues. It is written by a chartered engineer, conciliator and international arbitrator with wide experience in the use of the FIDIC Forms and in the various dispute resolution mechanisms specified in them. Important features of this book include:

- background and concepts of the various forms of contract;
- a detailed comparison of the wording of the 1999 three main forms, which although similar in nature; it nevertheless significantly differs in certain areas where the three forms diverge due to their intended purpose;
- analysis of the rights and obligations of the parties involved in the contract and the allocation of risks concerned;
- a range of ‘decision tree’ charts, analysing the main features of the 1992 Red Book, including risks, indemnities and insurances, claims and counterclaims, variations, procedure for claims, programme and delay, suspension, payments and certificates, dispute resolution mechanisms, and dispute boards;
- a much enlarged discussion of the meaning of “claim” and

“dispute” and the types of claim with a discussion of the Notice provision in the 1999 forms of contract for the submittal of claims by a contractor and by an employer; · the FIDIC scheme of indemnities and insurance requirements; and the methods of dispute resolution provided by the various forms of contract; and · five new chapters in this third edition, the first four chapters deal with each of the 1999 forms and the fifth chapter is confined to the topic of Dispute Boards.

### **Mediation and Arbitration in the Middle Ages**

Since the first edition of this invaluable book in 2012, third-party funding has become more mainstream in international arbitration practice. However, since even the existence of a third-party funding agreement in a dispute is often kept secret, it can be difficult to glean the specifics of successful funding agreements. This welcome book, now updated, expertly reveals the nuances of third-party funding in international arbitration, examines the phenomenon in key jurisdictions, and provides a reliable resource for users and potential users that may wish to tap into and make use of this distinctive funding tool. Focusing on Australia, the United Kingdom, the United States, Germany, the Netherlands, Canada, and South Africa, the authors analyze and assess the legal regime based upon legislation, judicial opinions, ethics opinions, and practitioner anecdotes describing the state of third-party funding in each jurisdiction. In addition to updating summaries of the law of the various jurisdictions, the second edition includes a new chapter addressing

third-party funding in investor-state arbitration. Among the issues raised and examined are the following: · payment of adverse costs; · “Before-the-Event” (BTE) and “After-the-Event” (ATE) insurance; · attorney financing: pro bono representation, contingency representation, conditional fee arrangements; · loans; · ethical doctrines affecting the third-party funding industry; · possible future bundling, securitization, and trading of legal claims; · risk that the funder may put its own interests ahead of the client’s interests; and · whether the existence of a funding agreement must or should be disclosed to the decision maker. The second edition also includes discussion of recent institutional developments as they relate to third-party funding, including the work of the ICCA-Queen Mary Task Force on Third-Party Funding and how third-party funding is being incorporated into arbitral rules and investment treaties. Aply providing a thorough understanding of what third-party funding entails and what legal parameters exist, this book will be of compelling interest to parties aiming to take advantage of the high values, speed, reduced evidentiary costs, outcome predictability, industry expertise, and high award enforceability characteristic of the third-party funding arrangements available in international arbitration.

## **Construction Contract Variations**

## **FIDIC Users' Guide**

### **The Fall of the Priests and the Rise of the Lawyers**

The terms of the Conditions of Contract for Design - Build and Turnkey have been prepared by the Federation Internationale des Ingenieurs Conseils (FIDIC) and are recommended for general use for the purpose of the design and construction of works where tenders are invited on an international basis; with minor modifications, the Conditions are also suitable for use on domestic contracts.

### **The 2017 FIDIC Contracts**

About the IAI Series on International Arbitration: The IAI (International Arbitration Institute) Series on International Arbitration is a publication focusing on topical questions of international arbitration discussed at conferences organized by the IAI. About the IAI: The International Arbitration Institute (IAI) is an organization created under the auspices of the Comité Français de l'Arbitrage (CFA) with the purpose of fostering exchanges in the field of international arbitration. It currently has over 600 members on a worldwide basis. Its activities include the organization of international conferences, as well as the publication of a Directory of Members,

which is the most highly regarded freely accessible source of information on international arbitration specialists. About the Book: The seventh in the International Arbitration Institute (IAI) series, Fifteen Years of NAFTA: Section 11 Arbitration compiles the papers from leading authorities on NAFTA dispute resolution, presented at the international academic conference, 15 Years of NAFTA Chapter 11 Arbitration, in Montreal on 25 September 2009. Where necessary, the chapters were revised and updated before publication. As a result, the reader receives up-to-date practical tips and important analyses of difficult issues. Dealing wholly with investment arbitration, the work focuses specifically on the controversial Chapter 11 feature of the NAFTA agreement and its influence on international investment law. Chapter 11 arbitration is an area of growing importance for both practitioners and academics, and the work covers both substantive and procedural issues.

### **The International Application of FIDIC Contracts**

Many investment arbitration cases involve a challenge to a regulatory measure of a host state on the basis of indirect expropriation. The practice of arbitral tribunals is diverse and unsettled. In recent years States have been trying to clarify the relationship between regulatory freedom (also known as 'police powers') and indirect expropriation by revising provisions on indirect expropriation in their investment treaties. This book provides the first focused analysis of indirect

expropriation and regulatory freedom, drawing on a broad range of the jurisprudence of investment tribunals. The nature of regulatory freedom in international law has been explained on the bases of jurisprudence of international courts and tribunals such as the International Court of Justice (ICJ), Permanent Court of International Justice (PCIJ), dispute resolution bodies of the World Trade Organisation (WTO), European Court of Human Rights. While showing how cases involving standoff between regulatory freedom and indirect expropriation can be resolved in practice, the book goes on to present a conceptual framework for interpreting the nuances of this relationship. The book provides a detailed responses to the following complex questions: • To what extent do states retain regulatory freedom after entering into investment treaties? • What is the scope of regulatory freedom in general public international law? • What are the elements of regulatory freedom and standard of review? • How to draw a dividing line between regulatory freedom and indirect expropriation? • Whether the sole effects doctrine or the police powers is the appropriate method for distinguishing between regulatory freedom and indirect expropriation? While addressing these questions, the author analyses different theoretical approaches that reflect upon the relationship between regulatory freedom and indirect expropriation and how far they assist in understanding these potentially overlapping concepts; their relationship with each other; and the method for distinguishing between them. Given the dense network of around three thousand bilateral investment treaties (BITs) that impose an obligation to protect foreign investments in a State, this book

will help practitioners identify, through analysis of cases from diverse fields, how a situation may be categorized either as regulatory freedom or as indirect expropriation. The analysis will also be of value to government officials and lawyers involved in negotiating and re-negotiating investment treaties, and to arbitrators who have to decide these issues. Scholars will welcome the book's keen insight into the contentious relationship between a customary international law norm and a treaty norm.

### **Conditions of Contract for Design-build and Turnkey**

FIDIC contracts are the most widely used contracts for international construction around the world and are used in many different jurisdictions, both common law and civil law. For any construction project, the General Conditions of Contract published by FIDIC need to be supplemented by Particular Conditions that specify the specific requirements of that project. The International Application of FIDIC Contracts: A Practical Guide provides readers with detailed guidance and resources for the preparation of the Particular Conditions that will comply with the requirements of the applicable laws that apply to the site where the work is carried out, and for the governing law of the contract, for a number of the jurisdictions in which FIDIC contracts are used. This book is essential reading for construction professionals, lawyers and students of construction law.

## **International Arbitration in the Energy Sector**

FIDIC Contracts: Law and Practice is sure to become the leading industry standard guide to using the FIDIC forms, and is the only book to date which deals with the whole suites of contracts, including the new gold book for Design, Build and Operate projects. The White & Case work is outstanding in its detailed consideration and treatment of the legal aspects of the interpretation and application of the Conditions, touching on many points that most people would not have encountered. Humphrey LLoyd, International Construction Law Review [2010] ICLR 386

## **Challenges and Recusals of Judges and Arbitrators in International Courts and Tribunals**

## **Fifteen Years of NAFTA Chapter 11 Arbitration**

## **FIDIC Contracts: Law and Practice**

International arbitration is a remarkably resilient institution, but many unresolved

and largely unacknowledged ethical quandaries lurk below the surface. Globalization of commercial trade has increased the number and diversity of parties, counsel, experts and arbitrators, which has in turn lead to more frequent ethical conflicts just as procedures have become more formal and transparent. The predictable result is that ethical transgressions are increasingly evident and less tolerable. Despite these developments, regulation of various actors in the system arbitrators, lawyers, experts, third-party funders and arbitral institutions remains ambiguous and often ineffectual. Ethics in International Arbitration systematically analyses the causes and effects of these developments as they relate to the professional conduct of arbitrators, counsel, experts, and third-party funders in international commercial and investment arbitration. This work proposes a model for effective ethical self-regulation, meaning regulation of professional conduct at an international level and within existing arbitral procedures and structures. The work draws on historical developments and current trends to propose analytical frameworks for addressing existing problems and reifying the legitimacy of international arbitration into the future.

### **International Arbitration**

The UNIDROIT Principles of International Commercial Contracts provide an excellent tool for cross-border contracts restating an international understanding of global contract law. They can be chosen as a neutral and pragmatic business

oriented contractual regime for cross-border contracts, developed under the auspices and finally approved by the intergovernmental organization UNIDROIT (Rome). They contain over 50 solutions to typical contractual questions constituting compromises between civil and common law. The United Nations Commission on International Trade Law has endorsed their use "as appropriate, for their intended purposes." The commentary analyses the UNIDROIT Principles article by article from a practical perspective, while always discussing alternative courses of action, where they apply. In analysing the UNIDROIT Principles of 2016 in their 4th version, the author navigates the reader through the system of the 211 principles, which provide a sound basis for international contracts. The author is a German practitioner with international training and familiarity with both common and civil law. He has been admitted to the New York Bar and also teaches at the University of Hamburg as a professor of law. He is a regular user and advocate of the UNIDROIT Principles both in arbitrations and in his legal practice.

### **The Energy Charter Treaty**

This fast-paced, inspiring and original work proposes that, if religions fade, then secular law provides a much more comprehensive moral regime to govern our lives. Backed by potent and haunting images, it argues that the rule of law is the one universal framework that everyone believes in and that the law is now the most important ideology we have for our survival. The author explores the decline

of religions and the huge growth of law and makes predictions for the future of law and lawyers. The book maintains that even though societies may decide they can do without religions, they cannot do without law. The book helpfully summarises both the teachings of all the main religions and the central tenets of the law - governing everything from human relationships to money, banks and corporations. It shows that, without these legal constructs, some of them arcane, our societies would grind to a halt. These innovative summaries make complex ideas seem simple and provide the keys to understanding both the law and religion globally. The book will appeal to both lawyers and the general reader. The book concludes with the author's personal code for a modern way of living to promote the survival of humankind into the future. Vividly written by one of the most important lawyers of our generation, this magisterial and exciting work offers a powerful vision of the role of law in centuries to come and its impact on how we stay alive.

### **The Unidroit Principles**

Challenges and Recusal of Judges and Arbitrators in International Courts and Tribunals provides an in-depth analysis of a fundamental control mechanism of international dispute resolution in the context of some of the main international courts and tribunals. The book also assesses specific grounds and standards for challenging judges and arbitrators, and includes both regional and personal perspectives.

## **Dictionary of Construction Terms**

This volume provides a concise overview of the legal principles and practice of international arbitration. It offers an accessible, straightforward introduction to the legal framework for international commercial arbitration, an introduction to international investment arbitration, and descriptions of the contemporary practice and tactics of international arbitration.

## **Third-Party Funding in International Arbitration**

Tells the story of how disputes of all kinds were managed in England between AD 1154 and the first signs of the Common Law, and 1558 when a new period started in the development of the English legal system. This title also includes private papers like the Paston Letters to show how disputes were managed in practice.

## **Construction Law**

Although the legal principles involved in construction contracts and their management and administration are an aspect of general contract law, the practical and commercial complexities of the construction industry have increasingly made this a specialist field. Recognizing this, Construction Contracts is

a fully revised edition of the UK's leading textbook on the law governing this area. Brought up to date with recent cases and developments in the law as it stands at July 2000, this new edition: takes full account of the effects of the Housing Grants, Construction and Regeneration Act 1996, the Arbitration Act 1996, the Contracts (Rights of Third Parties) Act 1999 and the changes in the legal system brought about by the Woolf reforms includes extended coverage of financial protection, construction insurance and tendering controls, as well as the Construction (Design and Management) Regulations has been revised to take account of changes to the common standard-form contracts, particularly the New Engineering Contract and the GC/Works family of contracts. Retaining the same basic approach as its successful predecessors, this important text introduces the general principles that underlie contracts in construction, illustrating them by reference to the most important standard forms currently in use.

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