

READING LIST

INTERNATIONAL CONSTRUCTION: CONTRACTS AND ARBITRATION

Primary Material:

“*The FIDIC Conditions of Contract for Civil Engineering Work (the Red Book)*” including *inter alia*:

- a. FIDIC Conditions of Contract for Civil Engineering Work (the Red Book)
- b. FIDIC Conditions for Design-Build and Turnkey (The Yellow Book)
- c. FIDIC Conditions for EPC/Turnkey Projects (The Silver Book)

Secondary material:

I. Textbook

1. Jane Jenkins and Simon Stebbings, *International Construction Arbitration Law* (Kluwer 2013)
2. John Hinchey and Troy Harris, *International Construction Arbitration Handbook*, (2013)
3. Nael G Bunni, *The FIDIC Form of Contract*, 3rd. Ed (Blackwell Oxford 2005)
4. Ellis Baker, Ben Mellors, Scott Chalmers, and Anthony Lavers, *FIDIC Contracts: Law and Practice*, (Informa Law 2009)
5. Axel-Volkmar Jaeger and Götz-Sebastian Hök, *FIDIC – A Guide for Practitioners* (Springer-Verlag 2010)
6. Jeremy Glover & Simon Hughes, *Understanding the New FIDIC Red Book*, (Sweet & Maxwell, 2006)
7. John Uff, *Construction Law* (Sweet & Maxwell, 2013, 11th Ed.)
8. Keating on Construction Contracts and Supplement
9. Emden’s Construction Law
10. Hudson’s Building and Engineering Contracts and Supplement
11. The Award, in Jacob Grierson and Annet van Hooft , *Arbitrating under the 2012 ICC Rules*, (Kluwer Law International 2012)
12. Fadri Lenggenhager, Part II: Commentary on the ICC Rules, in Manuel Arroyo (ed), *Arbitration in Switzerland: The Practitioner's Guide*, (Kluwer Law International 2013)

II. Articles

Construction Contracts:

1. Fritz Nicklisch, *“Realization of privately financed infrastructure projects – Economic viability, contract structure, risk management”*
2. J. Tieder, *“The Globalisation of Construction – Evolving International Standards of Construction Law”*
3. Donald Charrett, *A Common Law of Construction Contracts—or Vive la Difference*, (2012) ICLR 72
4. Philip Chan Chuen Fye, *Different Models For Securing Payment In Construction Contracts: A Singaporean Case Study*, (2013) ICLR 296
5. Gotz-Sebastian Hok, *Employer’s Requirements In Design-Build Contracts Under FIDIC—A Comparative Study*, (2012) ICLR 121
6. Andrew Chew & Georgina Crouch, *Equipment Procurement Contracts—Managing the Key Drivers*, (2014) ICLR 355
7. Christopher Wong, *Recent Developments on Demand Bonds and Guarantees in England and Australia*, (2012) ICLR 51
8. Ola Nisja, *“The Engineer in International Construction: Agent? Mediator? Adjudicator?”* ICLR 230 (2004)
9. Vera Van Houtte, *“The Role and Responsibility of the Owner”*
10. Donald Charrett, *“The Engineer is Dead, Long Live the Engineer”*
11. David Bateson, *“Impartiality of the Engineer”*
12. Beth Lyon, *The Role of the Consulting Engineer in Developing Country Construction Under the FIDIC Form of Contract*
13. Timothy Leone Ganado, *How PFI/PPP Interface Agreements in the UK Healthcare Sector Operate in Practice*, (2014) ICLR 62
14. Peter Friedrich Bultmann, *Public-Private Consortia: a Model for PPP and Public Procurement Law Assessment*, (2013) ICLR 267
15. Joseph Huse, *“Use of the FIDIC Silver Book in the Context of a BOT Project,”* ICLR (2000) 384
16. Richard Appuhn & Eric Eggink, *“The Contractor’s View of the MDB Harmonised Version of the New Red Book,”* ICLR (2006) 4
17. Matthew Bell, *“Will the Silver Book Become the World Bank’s New Gold Standard? The Interrelation between the World Bank’s Infrastructure Procurement Policies and FIDIC’s Construction Contracts”*, ICLR (2004), p.164
18. Dee Davenport, *“Size Matters- Access to Public Procurement by Small and Medium Enterprises in the EU Construction Sector”*, ICLR (2008), p. 85

19. Adrian Brown & Miranda Ramphul, *Transparency, Award Criteria and Framework Agreement in Public Procurement: A Review of Recent Case Law*, ICLR (2009) 367
20. Adrian Brown & Miranda Ramphul, *Public Procurement and Development Agreements and an Update on the Construction Bill*, ICLR (2010) 253
21. HH Humphrey Lloyd, “Prevalent Philosophies of Risk Allocation: An Overview” paper presented to the “World Conference on Construction Risk”, ICLR (1996) 145
22. Peter Fenn, “Review of International Practice of the Allocation of Risk of Ground Conditions” ICLR (2000) 439
23. Jan Van Dunne, “The Changing of the Guard: Force Majeure and Frustration in Construction Contracts—the Foreseeability Requirement Replaced by Normative Risk Allocation” ICLR (2002) 162
24. Götz-Sebastian Hök, *Payments And Disputes Under Fidic, In Particular Under The Fidic Silver Book – The Sedgman Case*, (2014) ICLR 310
25. Nathan D O’Malley, *Recent California Case Law Affecting Risk Mitigation in Construction Contracts*, (2014) ICLR 151
26. AR Marshall, “Delay, Progress and Programming”, (2010) ICLR p. 137
27. Ian Bailey, “Concurrency, Causation, Common sense and Compensation”, (2010) ICLR p.198
28. Franco Mastrandrea, *The Evaluation of Plant Claims in Construction*, (2011) ICLR 295
29. Tony Marshall, “Delay Progress and Programming”, ICLR (2010) 136
30. F Mastrandrea, *Concurrent Delay in Construction – Principles and Challenges*, ICLR (2014) 84
31. Andrew Stephenson, “Early Completion and Its Effect on Contractor’s Right to an Extension of Time”, ICLR (2011) 328
32. E Kratochvilova & M Mendelblat, “Testing the Water—A New FIDIC Subcontract” (2011) ICLR 47
33. L di Paolo & P Spanu, “Back to Back Contracts” (2009) ICLR 489
34. J F Pulkowski, “The subcontractor’s Direct Claim in International Business Law”, (2004) ICLR 31
35. Emma Kratochvilova & Michael Medelblat, *The FIDIC Subcontract*, First Edition (2012) ICRL 104
36. F Chaix & S Marchand, “Right of Recourse of Employer against a Sub-contractor” (1998) 15 ICLR 211
37. J Winter, *FIDIC Conditions and FCEC Sub-Contract*, (1997) 14 ICLR 433

38. Chao-Duivis, *Subcontracting in Europe: The Results of a Questionnaire*, (2013) ICLR 319

Construction Arbitration

1. Christopher Seppala, “*Contractor’s Claims Under the FIDIC Contracts for Major Works, paper in 2005 International Construction Contracts and Dispute Resolution Conference in Cairo*”
2. Nael Bunni, “*The Gap in Sub-clause 20.7 of the 1999 FIDIC Contracts for Major Works*,” (2005) ICLR 272
3. C. Seppala, “*Enforcement by an Arbitral Award of Binding but not Final Engineer’s or DAB’s Decision under the FIDIC Conditions*,” (2009) ICLR 414
4. Carroll Dorgan, “*The ICC’s New Dispute Board Rules*”, (2005) ICLR 142
5. Dale Brackin, “*Sub-clause 20.5 of the FIDIC Contracts and Amiable Dispute Resolution*” (2006) ICLR 442
6. Sundaresh Menon, *Origins and Aspirations: Developing an International Construction Court*, ICLR (2014) 342
7. Donald Charrett, *The ‘Best’ Method of Resolution of Construction Disputes: Elusive or Illusory?* (2013) ICLR 88
8. “*Final Report on Construction Industry Arbitrations*” ICC International Court of Arbitration Bulletin Vol. 12/No. 2 – Fall 2001
9. Christopher Seppalla, “*The Arbitration Clause in the New FIDIC Contracts*”
10. ASA Paper on “*Do’s and Don’ts*” in Arbitration
11. Christopher Seppalla, “*Obtaining the Right International Arbitral Tribunal: A Practitioner’s View*”, ICLR 98 (2008)
12. John Tieder, “*Factors to Consider in the Choice of Procedural and Substantive Law in International Arbitration*,” *Journal of International Arbitration* 20(4) (2003) 393;
13. R H Christie, “*The Law Governing an International Engineering Contract*”
14. Philip Britton, *Oxalic Acid and the Applicable Law: the Rome Convention and Construction*
15. Humphrey Lloyd, *Multi-Party Clauses and Agreements*
16. F Nicklisch, “*Multi-Party Arbitration and Dispute Resolution in Major Industrial Projects*” (1994) 11(4) *J. Int. Arb*, p. 57
17. S. Brekoulakis, *Third Parties in International Commercial Arbitration* (OUP 2010) para 2.271 et seq

18. Baruch Baigel, *The Emergency Arbitrator Procedure under the 2012 ICC Rules: A Juridical Analysis*, *Journal of International Arbitration*, (Kluwer Law International 2014, Volume 31 Issue 1) pp. 1 – 18
19. Serge Lazareff, *Terms of Reference*, ICC Bulletin, Vol. 17(1) (2006) p.21
20. Humphrey Lloyd, *The Proceedings up to the Hearing*, Paper in Moscow ICC Master Class (2009)
21. Nathan O'Malley, *An Annotated Commentary of the 2010 Revised IBA Rules of Evidence for International Arbitration*, ICLR [2010], 463
22. Bernard Hanotiau, *Document Production in International Arbitration: A Tentative Definition of Best Practices*, ICC Bulletin (2006)
23. Vera van Houtte, *“Arbitral Procedure at the Dawn of the New Millennium: Party-appointed experts & Tribunal-appointed experts”*
24. Natalie Voser and Anna Katharina Mueller, *Appointment of Experts by the Arbitral Tribunal: A civil law perspective*
25. Virginia Hamilton, *Document Production in ICC Arbitration*, ICC Bulletin (2006)
26. Yves Derains, *Towards Greater Efficiency in Document Production before Arbitral Tribunals – A continental viewpoint*, ICC Bulletin (2006)
27. Olivier Kott, *The Benefits of a Civil Approach in International Arbitration*, ICLR 30 (2013)
28. Andrew Stephenson, *“Concurrency, Causation, Common Sense and Compensation (Part I)”*, ICLR 165 (2010)
29. Ian Bailey, *“Concurrency, Causation, Common Sense and Compensation (Part I)”*, ICLR 197 (2010)
30. G Smith and J Perry, *“The Evolution of Global Claims and Laing Management (Scotland) Ltd V. John Doyle Construction Ltd”*, ICLR 212 (2005)
31. *Who Owns the Float? A Scandinavian Perspective*, ICLR 379 (2013)
32. Bart Ceenaeme, *“ICSID Arbitration as an Option for International Construction Disputes”*, ICLR 220 [2011]
33. John Uff & Alexander Uff, *The Availability of Treaty Arbitration in Construction*, ICLR402 [2010]

III. Caselaws

1. *PT Perusahaan Gas Negara (Persero) TBK v CRW Joint Operation* [2010] SGHC 202 and CA decision [2011] SGCA 33

2. 4A_124/2014, Swiss Federal Tribunal, Decision of the 7 July 2014
3. ICC Interim and Final Award in Case 10619
4. *Jivraj v Hashwani* [2011] UKSC 40
5. *Habaş Sinai Ve Tibbi Gazlar Isthisal Endüstriyaş v Sometal*, [2010] EWHC 29 (Comm)
6. *AT & T v Saudi Cable* [2000] 2 All. ER (Comm) 625
7. *Laker Airways Inc v FLS Aerospace Ltd*, [1999] 2 Lloyd's Rep. 45
8. *R v Bow Street Metropolitan Stipendiary Magistrate, ex parte Pinochet Ugarte* (No 2) [1999] 1 All ER 577,
9. *R v Liverpool City Justices, ex p Topping* [1983] 1 All ER 490
10. *Locabail (UK) Ltd v Bayfield Properties Ltd* [2000] 1 All ER 65
11. *State of Israel v NIOC*, French Cour de Cassation, 1 February 2005
12. *Siemens-Dutco* decision of the French Cour de Cassation (7 January 1992 – XV Yearbook Com. Arb. (1992) 12
13. *Trafalgar House Construction Limited v Railtrack* [1995] 75 BLR 55
14. *City & General (Holborn) Limited v AYH Plc* [2005] EWHC 2494 (TCC)
15. *Lafarge Redland Aggregates v Shephard Hill Civil Engineering Ltd* [2000]
16. *Stellar Shipping v Hudson Shipping Lines* [2010] EWHC 2985 (Comm)
17. *Hughes Masonry v Greater Clark County School Bldg* 659 F 2d 836 (7th Cir 1981).
18. *McBro Planning & Development Co v Triangle Electronic Construction*, 741 F 2d 342, 343 (11th Cir 1984)
19. *Maxum Foundations v Salus*, 779 F 2d 974 (4th Cir 1985)
20. *Mpact Construction Group v Superior Concrete Constructors* 802 NE 2d 901 (SC Indiana 2004)
21. *Simon Carves v Ensus UK* (Legal Briefing, 12 of 2011)
22. *Channel Tunnel Group Ltd. v. Balfour Beatty*, [1993]
23. *Dallah Real Estate and Tourism Holding Company v The Ministry of Religious Affairs, Government of Pakistan* [2010] UKSC 46
24. *Soleimany v Soleimany* [1999] Q.B. 785, 979 (English Court of Appeal)
25. *Bayindir v Pakistan*, ICSID Case No.ARB/03/29 (Decision on Jurisdiction)
26. *Metalclad v Mexico*, ICSID Case (additional facility) No.ARB(AF)/97/1
27. *Salini Construttori v Jordan*, ICSID Case No.ARB/02/13