

FIDIC OR NOT FIDIC: THAT IS THE QUESTION!



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As one of humanity's oldest and most essential industries, construction has long been tasked to carry the responsibility of transforming societies' ideas and needs into tangible reality.¹ Yet behind every successful project lies not only engineering excellence but also the silent force of a well-chosen contract.

In today's globalized market, FIDIC contracts have become a common language in international construction, praised for their balance and global reach, yet often criticized for their complexity and common law heritage.

Is FIDIC truly the universal solution it aspires to be or merely one model among many? That question remains at the heart of today's international construction landscape.

I. From a European Idea to a Global Language

In 1913, three national engineering associations, from Belgium, France, and Switzerland, came together with a bold vision:² to give consulting engineers a unified voice on the global stage.³ That gathering marked the birth of the Fédération Internationale des Ingénieurs-Conseils (FIDIC).⁴

War, reconstruction, and uncertainty shaped FIDIC's early years, slowing its development until the late 1940s and confining its membership to Europe, where it gained a reputation as a "European club of engineers".

From the post-war period onward, FIDIC gradually expanded beyond Europe, first welcoming members from the United Kingdom,⁵ Australia, Canada, South Africa, and the United States,⁶ and later, in the 1960s, associations from developing countries such as Colombia, Malawi, Zambia, and Zimbabwe, thereby affirming its evolution into a truly global network.

¹ S. Brekoulakis and D. Brynmor Thomas QC, *The Guide to Construction Arbitration*, Global Arbitration Review, Third edition, Part I, §1, Aisha Nadar, 'The Contract: Foundation of Construction Projects', p. 7.

² J. Jenkins and S. Stebbings, *International Construction Arbitration Law*, Kluwer Law International, 2006, Chapter 1, Introduction, §IV, p. 13; see also International Federation of Consulting Engineers, About: History, available at <https://fidic.org/history>.

³ International Federation of Consulting Engineers, About, History: FIDIC, the Global voice of Consulting Engineers, available at <https://fidic.org/history>.

⁴ S. Brekoulakis and D. Brynmor Thomas QC, *The Guide to Construction Arbitration*, Global Arbitration Review, Third edition, Part I, §5, E. Baker, A. Lavers, R. Major, 'Introduction to the FIDIC suite of Contracts', page 54; See also International Federation of Consulting Engineers, About: History, available at <https://fidic.org/history>.

⁵ J. Jenkins and S. Stebbings, *International Construction Arbitration Law*, Kluwer Law International, 2006, Chapter 1, Introduction, §IV, p. 13.

⁶ International Federation of Consulting Engineers, About: History, available at <https://fidic.org/history>.

Today, FIDIC represents more than one million professionals and 40,000 firms across over 100 countries (through approximately 90 member associations), and its influence now extends well beyond engineering advocacy to the way international projects are structured and risks allocated.

Early on, FIDIC recognized that international projects require clarity, consistency, and fairness in contractual arrangements, leading to the development of standardized contract models designed to balance the interests of employers, engineers, contractors, and investors.

This contribution is embodied in the well-known “Rainbow Suite”, beginning with the Red Book in 1957, followed by the Yellow Book in 1963 for electrical, mechanical, and design-and-build projects, both of which were subsequently refined through several editions to progressively recalibrate the allocation of rights and obligations among project participants.⁷

The mid-1990s marked a further turning point with the introduction of the Orange Book, FIDIC’s first turnkey contract, followed by the comprehensive revision of the Red and Yellow Books,⁸ culminating in 1999 in the launch of the iconic “Rainbow Suite”, which for nearly two decades formed the backbone of international construction contracting.⁹

In December 2017, FIDIC released the Second Editions of the Red, Yellow, and Silver Books to address the growing complexity of infrastructure projects,¹⁰ a move soon reinforced by their adoption by major development banks, including the World Bank in 2018 and the Inter-American Development Bank in 2019.¹¹

FIDIC’s portfolio has continued to grow with the publication of the Emerald Book in 2019, developed with the International Tunnelling and Underground Space Association, and dedicated to the specific risks of underground works.

Therefore, over time, FIDIC has evolved from a regional association into a global authority, shaping not only engineering practice but also the very language of international contracting.

II. Origins Questioned, Scope Expanded

FIDIC’s story is not without its controversies. As previously mentioned, the 1957 Red Book was essentially an authorized rebranding of the Institution of Civil Engineers’ (ICE) Conditions of Contract.¹² Rooted in English law, it carried the DNA of common law systems, a fact that critics from

⁷ S. Brekoulakis and D. Brynmor Thomas QC, *The Guide to Construction Arbitration*, Global Arbitration Review, Third edition, Part I, §5, E. Baker, A. Lavers, R. Major, ‘Introduction to the FIDIC suite of Contracts’, pp. 54-55.

⁸ *Ibid.*, p. 55.

⁹ P. Battrick, *The rainbow suite*, ‘The 1999 FIDIC suite’, 2012, pp. 1-2, available at <https://www.fidic.org/sites/default/files/FIDIC-rainbow-suite-2012.pdf>.

¹⁰ S. Brekoulakis and D. Brynmor Thomas QC, *The Guide to Construction Arbitration*, Global Arbitration Review, Third edition, Part I, §5, E. Baker, A. Lavers, R. Major, ‘Introduction to the FIDIC suite of Contracts’, p. 55.

¹¹ *Ibid.*; see also Caribbean Development Bank signs five-year agreement to use FIDIC standard contracts, available at <https://fidic.org/node/23548>.

¹² S. Brekoulakis and D. Brynmor Thomas QC, *The Guide to Construction Arbitration*, Global Arbitration Review, Third edition, Part I, §5, E. Baker, A. Lavers, R. Major, ‘Introduction to the FIDIC suite of Contracts’, p. 54.

civil law jurisdictions have never overlooked.¹³ In the words of Paul Battryck, “*FIDIC’s Employer / Contractor contracts, first issued in 1957, have a distinctly British feel to them.*”¹⁴

Despite such criticism, FIDIC persisted, evolving and diversifying its forms. Later models broke away from English precedent, proving FIDIC’s remarkable capacity for adaptation. Each new edition of the Red Book,¹⁵ refined the balance between global applicability and local realities.

As FIDIC expanded its reach and refined its models, the focus gradually shifted from its origins to its tangible benefits, *i.e.*, the very features that explain why it has become the preferred framework for international construction projects.

III. Why the World Trusts FIDIC

The enduring success of FIDIC contracts lies in a combination of clarity, balance, and international credibility.

First, FIDIC contracts enjoy strong international recognition, being trusted in both civil law and common law systems,¹⁶ and are often considered as a first choice and required by leading financial institutions such as the World Bank or the European Investment Bank.¹⁷

Second, FIDIC’s structure promotes a balanced allocation of risks and responsibilities, reducing the likelihood of unfair burdens being placed on one party and fostering long-term confidence among employers, contractors, and funders alike.

A further strength of FIDIC lies in its uniform and logical framework. The 1999 Rainbow Suite (Red, Yellow, and Silver Books) adopted a uniform¹⁸ and consistent 20-clause structure with aligned numbering making it easier for users to navigate the documents, cross-reference provisions, and streamline both training and contract administration.

FIDIC also ensured broad accessibility by commissioning translations of its contracts into numerous languages. The 1999 editions were translated into Arabic, Chinese, French, Polish, Portuguese, Russian, Spanish, Turkish, and Vietnamese, as well as at least one contract translated for nine further European languages¹⁹ and three Asian languages.²⁰ In 2019, FIDIC’s CEO announced that the 2017 editions would

¹³ *Ibid.*

¹⁴ P. Battryck, *The rainbow suite*, ‘The 1999 FIDIC suite’, 2012, p. 1, also available at <https://www.fidic.org/sites/default/files/FIDIC-rainbow-suite-2012.pdf>.

¹⁵ S. Brekoulakis and D. Brynmor Thomas QC, *The Guide to Construction Arbitration*, Global Arbitration Review, Third edition, Part I, §5, E. Baker, A. Lavers, R. Major, ‘Introduction to the FIDIC suite of Contracts’, p. 54.

¹⁶ R. Gerrard, *A comparison of NEC and FIDIC*, NEC contract Website, also available at <https://www.neccontract.com/getmedia/2bd4ffb9-8e1e-4684-af86-1d913152f10d/A-comparison-of-NEC-and-FIDIC-by-Rob-Gerrard.pdf.aspx?srsId=AfmBOoqMUBTuiN7KfyarGM9dnfVXZGt6BhOGJoL6389Jbm9BkBwXVQID>.

¹⁷ S. Brekoulakis and D. Brynmor Thomas QC, *The Guide to Construction Arbitration*, Global Arbitration Review, Third edition, Part I, §5, E. Baker, A. Lavers, R. Major, ‘Introduction to the FIDIC suite of Contracts’, p. 55; see also J. Jenkins and S. Stebbings, *International Construction Arbitration Law*, Kluwer Law International, 2006, Chapter 1, Introduction, §IV, p. 14.

¹⁸ S. Brekoulakis and D. Brynmor Thomas QC, *The Guide to Construction Arbitration*, Global Arbitration Review, Third edition, Part I, §5, E. Baker, A. Lavers, R. Major, ‘Introduction to the FIDIC suite of Contracts’, p. 56.

¹⁹ Including Bosnian, Croatian, Estonian, Hungarian, Italian, Latvian, Lithuanian, Serbian, and Slovak.

²⁰ Bahasa Indonesia, Japanese, and Mongolian.

also be translated into Arabic, Chinese, French, Portuguese, and Spanish, specifically to support their adoption by the World Bank and other multilateral development banks.²¹ By providing accurate, authorized versions, FIDIC ensured that its contracts could be applied consistently and with confidence across diverse regions.

Another hallmark of FIDIC's success is its approach to dispute resolution. The Dispute Adjudication Board (DAB) mechanism is widely respected and has proven remarkably effective²² for preventing escalation of conflicts and preserving working relationships during the life of the project. In the 1999 suite, the Red Book provided for a standing DAB, while the Yellow and Silver Books only allowed for an *ad hoc* DAB appointed after disputes arose.²³ The 2017 suite strengthened this approach by introducing the Dispute Avoidance/Adjudication Board (DAAB), a permanent body appointed at project inception and maintained throughout to help parties resolve issues in real time and actively promote collaboration, representing a decisive shift from dispute settlement to dispute avoidance.

If disputes persist despite DAAB involvement, the 2017 forms emphasize an amicable settlement stage before moving to arbitration.

Finally, the 2017 updates further strengthened FIDIC's legitimacy by introducing the Golden Principles (GPs), which define what must remain intact for a contract to be considered a true "FIDIC" contract.²⁴ These include clear and unambiguous Particular Conditions, preservation of the balance of risk/reward allocation, reasonable time periods, and mandatory reference of disputes to a DAAB before arbitration.²⁵

Taken together, these features reduce uncertainty and build confidence among stakeholders, making FIDIC a trusted framework for complex international projects.

IV. When One Size Doesn't Fit All

Over time, users and commentators have identified several recurring concerns that accompany the sophistication and global reach of the FIDIC contracts.

One of the most frequent criticisms relates to their complexity and length. The expansion from the 1999 to the 2017 suite illustrates the issue clearly: while the 1999 Books averaged around 60 pages, the 2017 editions ballooned to more than 100 pages, supplemented by over 40 pages of guidance notes.²⁶ This level of sophistication inevitably drives up legal, administrative, and management costs.

²¹ S. Brekoulakis and D. Brynmor Thomas QC, *The Guide to Construction Arbitration*, Global Arbitration Review, Third edition, Part I, §5, E. Baker, A. Lavers, R. Major, 'Introduction to the FIDIC suite of Contracts', p. 56.

²² J. Jenkins and S. Stebbings, *International Construction Arbitration Law*, Kluwer Law International, 2006, Chapter 3, Dispute Avoidance and Resolution, §III, para. D, p. 14.

²³ S. Brekoulakis and D. Brynmor Thomas QC, *The Guide to Construction Arbitration*, Global Arbitration Review, Third edition, Part I, §5, E. Baker, A. Lavers, R. Major, 'Introduction to the FIDIC suite of Contracts', p. 56.

²⁴ Produced by FIDIC's Task Group 15, available at https://fidic.org/sites/default/files/golden_principles_1_12.pdf.

²⁵ S. Brekoulakis and D. Brynmor Thomas QC, *The Guide to Construction Arbitration*, Global Arbitration Review, Third edition, Part I, §5, E. Baker, A. Lavers, R. Major, 'Introduction to the FIDIC suite of Contracts', p. 60.

²⁶ *Ibid.*

FIDIC contracts are sometimes criticized for their rigidity. Designed primarily for large, complex, and internationally financed projects,²⁷ they may prove less suitable for small-scale or highly localized works, where standard provisions can appear cumbersome or misaligned with local practices. This concern has been reinforced by the 2017 editions, which introduced detailed programming and delay-management obligations that some commentators view as overly prescriptive and not always compatible with national practices.

Another limitation lies in the need for adaptation to specific legal environments. A solid understanding of domestic law is essential, and addressing local legal factors early on helps clarify obligations and minimize potential disputes.²⁸ As a matter of fact, FIDIC contracts are drafted to operate across jurisdictions, but they cannot always account for the mandatory rules, laws, or customs of a particular legal system. Provisions of public policy inevitably prevail, such as the strict liability of builders under the French Civil Code,²⁹ the duty of good faith under the UAE Civil Code,³⁰ or the prohibition of “*pay when paid*” clauses under the UK Housing Grants, Construction and Regeneration Act.³¹

The claim procedure further complicates matters as it imposes a strict 28-day time-bar on both Contractors and Employers.³² Failure to issue timely notice can result in the complete loss of entitlement, a requirement seen by many as harsh and unfair, particularly in complex projects where claims may take longer to surface.³³

Finally, by their very nature, standardized contracts are unable to reflect every particularity of a given project site. Local site conditions, technical constraints, and cultural practices often require careful amendment to ensure that the contract aligns with reality on the ground.

With this in mind, while FIDIC offers a powerful and coherent framework for international projects, it may not always be a universal solution.

V. Choosing Wisely: When FIDIC Fits (and When It Doesn't)

The relevance of FIDIC depends primarily on the nature and scale of the project. Designed for major, long-term undertakings involving multiple stakeholders, often across several jurisdictions, FIDIC contracts provide a structured framework offering clarity, predictability, and procedural discipline, which are essential in complex construction and infrastructure projects.

²⁷ FIDIC's Update Task Group, *The FIDIC Contracts Guide 2000*, p. 5, 'Introduction to the use of FIDIC's Conditions of Contract'.

²⁸ F. J. Rosenfeld and F. Ferrari (eds), *The FIDIC Conditions of Contract and Domestic Construction Law: A Guide for Global Dispute Resolution*, 2025, 'Preface'.

²⁹ Articles 1792 and following of the French Civil Code.

³⁰ Article 246 of the UAE Civil Code.

³¹ Section 113.

³² FIDIC, *Conditions of Contract for Construction: For Building and Engineering Works Designed by the Employer (Red Book)*, 2017 (2nd ed.), Sub-Clause 20.2.1, p. 97; see also FIDIC, *Conditions of Contract for Plant and Design-Build: For Electrical and Mechanical Plant, and for Building and Engineering Works Designed by the Contractor (Yellow Book)*, 2017 (2nd ed.), Sub-Clause 20.2.1, p. 99; see also FIDIC, *Conditions of Contract for EPC/Turnkey Projects (Silver Book)*, 2017 (2nd ed.), Sub-Clause 20.2.1, p. 93.

³³ S. Brekoulakis and D. Brynmor Thomas QC, *The Guide to Construction Arbitration*, Global Arbitration Review, Third edition, Part I, §5, E. Baker, A. Lavers, R. Major, 'Introduction to the FIDIC suite of Contracts', p. 63.

In projects financed by multilateral development banks, the use of FIDIC is not simply a preference but a requirement. Institutions mentioned previously have formally adopted FIDIC as part of their lending conditions, ensuring a common contractual language across the international projects they support.³⁴ This harmonization facilitates both financing and project management by aligning expectations among employers, contractors, and funders worldwide.

However, the legal and geographic context must always be carefully considered. National laws and local commercial practices may limit the suitability of FIDIC or require tailored amendments.³⁵ Early legal review is therefore essential – not only to ensure compliance with domestic regulations, but also to preserve the internal coherence of the FIDIC risk-allocation mechanism.

This is a critical point. While FIDIC plays a central role in international practice, it is neither universally suitable nor immune to misuse. Adapting a standard contract requires particular caution: poorly calibrated amendments may inadvertently remove key procedural mechanisms and create uncertainty or deadlock during contract execution. We have encountered situations where an adapted contract removed the reference to the standard provision requiring the Engineer to render a determination in connection with the issuance of Interim Payment Certificates, with the consequence of effectively paralysing the resolution of payment disputes. FIDIC operates as an integrated contractual system; altering one component without due regard to the overall framework may ultimately complicate, rather than facilitate, effective contract management.

Conclusion

From its origins in 1913, FIDIC has evolved into the world’s most widely recognized framework for international construction contracts, valued for its global reach, balanced risk allocation, and structured dispute resolution mechanisms – particularly in large-scale and development-financed projects.

Yet FIDIC is not universal. Its complexity and procedural rigidity mean that alternative contractual models may better suit certain projects or jurisdictions. An early legal review is therefore essential to assess suitability, anticipate constraints, and determine whether – and how – the standard forms should be adapted.

The real question is not simply “*FIDIC or not FIDIC?*” but whether the chosen contractual model genuinely fits the project’s scale, financing, and operational context. FIDIC remains the global benchmark – powerful and time-tested – but its effectiveness ultimately depends on one guiding principle: the right contract, for the right project, in the right context.

At Medici, our extensive experience with FIDIC and other major construction frameworks enables us to support clients from early contract structuring and negotiation through project execution to proactive management and dispute resolution, helping turn complex contracts into strategic tools for effective project delivery.

³⁴ *Ibid.*, p. 55.

³⁵ F. J. Rosenfeld and F. Ferrari (eds), *The FIDIC Conditions of Contract and Domestic Construction Law: A Guide for Global Dispute Resolution*, 2025, ‘Preface’, p. xxxi.