



Contract Users' Newsletter

ISSUE 8
December
2021

Published by the International Federation of Consulting Engineers (FIDIC)

www.fidic.org

Building the FIDIC contracts community

Despite Covid challenges, the past 12 months have seen the profile of FIDIC contracts grow, with more opportunities for users to connect than ever before.

The profile of FIDIC contracts is on the increase, with increasing numbers of clients and funding bodies seeing these industry standard documents as their contract of choice in challenging times.

FIDIC's standard construction contracts were already highly regarded across the global industry, with clients and users alike attracted by the fair and balanced approach they take, especially in the area of project risk. However, the past year has seen these contracts increasingly becoming the benchmark for global construction projects, a position that is set to be boosted further by the number of organisations that have signed licence agreements with FIDIC to use its contracts on their projects.

The high regard in which these documents are held only serves to raise their profile even more and FIDIC has looked to respond to that increasing interest by ensuring that it takes steps to build up its contracts community by providing more opportunities for users to connect and network.

A key strength of FIDIC contracts is that they are responsive to users' demands and that they keep up to date with the latest industry and business developments. During the pandemic, FIDIC was quick to respond by issuing key guidance to users outlining the

provisions in FIDIC's various general conditions of contract which might be relevant regarding likely scenarios that were arising as a consequence of the challenges raised by the Covid crisis. This guidance was well received and appreciated by users across the global industry.

FIDIC has also sought to build its contract community over the past year by organising more training and holding a number of regional contract users' conferences to give users the opportunity to hear about the latest developments from experts in the contracts and legal arena.

Alongside these events, FIDIC has also been building up its Official Contract Users' LinkedIn group to provide a platform where members can be the first to hear of the latest FIDIC contract users' news, events, training and offers and to provide a forum where they can compare experiences with other contract users on the most common challenges facing the industry. The group and the contract users' conferences are also providing a conduit into FIDIC to help brainstorm ideas, creativity and innovation for the future

development of FIDIC contracts.

These opportunities to connect are set to continue into 2022. Daduna Kokhreidze, FIDIC's general counsel, said: "We are proud that FIDIC contracts are highly regarded and widely used by the global industry but with that support comes the responsibility to continue to support that community of users further.



"Next year will see more contract users' events, more engagement and a stepping up of our activities to ensure that we maintain the position of FIDIC contracts as the documents of choice for the global construction sector."

Daduna Kokhreidze, FIDIC general counsel.



International conference highlights global contract challenges

The annual event targeting the global contract users' community gave delegates a unique opportunity to share progress on the application and use of FIDIC contracts internationally and across different regions.



The Official FIDIC International Contract Users' Conference, which took place online over three days on 7-9 December 2021, began with a keynote address by international judge and arbitrator Sir Vivian Ramsey in which he highlighted that new working practices that had been ushered in by the pandemic were giving rise to new challenges for the industry.

According to Ramsey, these challenges made collaboration more important than ever and as far as dispute resolution was concerned, he said that there was a growing realisation that working together and avoiding disputes in the first place was the way to work. "The avoidance role of dispute avoidance/adjudication boards (DAAB)

is critical and no major project can be contemplated without a DAAB in place," said Ramsey. The important role of DAABs was a recurring theme of the conference with many speakers highlighting the key role they play.

The key role of FIDIC in the global industry was also highlighted by Ramsey during his address. "One of the important features of FIDIC is to ensure that around the world, especially the developing world, that there are sufficient qualified engineers to do the vital work that needs undertaking post-pandemic and this is a key role of the organisation on the global stage," he said.

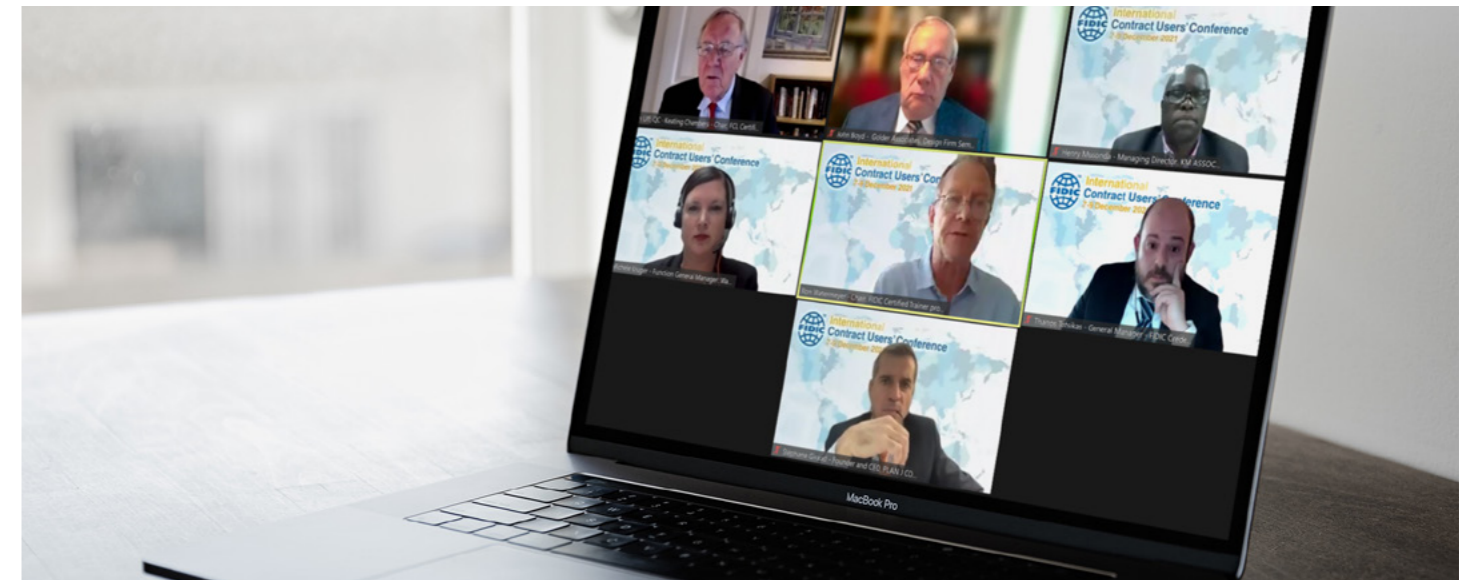
The conference also gave an overview of FIDIC Credentialing (FCL) and the various programmes it is

running and delegates heard from the various programme committee members. Henry Musonda, KM Associates director, highlighted the Adjudicator Programme, Dr John Boyd of Golder Associates and Design Firm Seminars, spoke about the Consulting Engineer Programme, Stephane Giraud, founder and CEO of Plan J Consulting, explained the Contract Manager Programme and Dr Michele Kruger, general manager - water infrastructure at SMEC South Africa highlighted the Consulting Practitioner Programme.

Siobhan Fahey, arbitrator and adjudicator and member of the FIDIC contracts committee, focused on the use of a 'standing DAAB' in FIDIC contracts and the

key advantages that accrue from this. She said that since 1999, experience in practice had shown that 'standing' dispute boards have proven undoubtedly to be more effective. "This is due to there being no delays in starting the decision process, the reduced costs from going down this route and the invaluable advantages for dispute avoidance given that the dispute board becomes a part of the project team and therefore has important knowledge of the personalities involved in a contract," Fahey said.

Day two of the conference showcased some large infrastructure projects around the world that have used FIDIC contracts and looked at some of the benefits and lessons learned.



Contracts advisor Christaan Grosskopf spoke about the Dasu Hydropower Project in Pakistan, which used the FIDIC MDB 2010 set of conditions and the Koysha Hydroelectric Project in Ethiopia, which used the FIDIC Silver Book 1999 conditions. Following this, Pieter Mattelaer, deputy group leader at CERN described the use of the FIDIC conditions of contract on CERN projects.

Day three's highlights included a session focusing on international finance institutions' procurement and their use of FIDIC forms. An expert panel of speakers included Evgeny Smirnov, associate director and policy advisor at the European Bank for Reconstruction and Development,

Xavier Mesnard from the procurement support division at the Agence Française de Développement (AFD), Hisham Merghani, senior project procurement specialist at the Islamic Development Bank and Jenny Yan Yee Chu, procurement specialist at the Asian Development Bank.

Smirnov said that FIDIC contracts were the most common forms of contracts used on ERBD construction projects and have been used since the bank's inception in 1991. Although the contracts were well known in the marketplace, there are still challenges in getting clients (and consultants) to understand the benefits of using these standard contract forms, he said. Smirnov said that he thought that greater

effort was needed to promote FIDIC contracts more widely and raise awareness of the benefits of using them.

Xavier Mesnard from the Agence Française de Développement spoke about the AFD's FIDIC-based standard bidding documents. He said that the AFD was very satisfied with the use of FIDIC Conditions of Contract, but he made the point that contracting authorities needed more training and communication on FIDIC contracts to help raise awareness and understanding.

Hisham Merghani spoke about the Islamic Development Bank's licence agreements that enable the bank to refer to the FIDIC Documents for projects that are financed in whole or in part by IsDB where the bank's standard bidding documents are used. Jenny Yan Yee Chu from the Asian Development Bank spoke about the concept of sustainable public procurement principles. "Sustainable public procurement allows governments to meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole-life basis in terms of generating benefits not only

to the organisation, but also to society and the economy, while remaining within the carrying capacity of the environment," she said.

The conference concluded with a Q&A session with the FIDIC contracts committee, chaired by Daduna Kokhreizze, general counsel of FIDIC. Contracts committee members in attendance included the chair Vincent Leloup, founder and managing partner at Exequatur, vice chairs Kiri Parr and Husni Madi, CEO of Shura Construction Management, Peter Collie, barrister, arbitrator and mediator at 3 PB Barristers and Adriana Spassova, partner at EQE Control OOD.

Committee members answered questions on a wide range of issues including the newly launched FIDIC Green Book, the key role of the engineer in FIDIC contracts, dispute avoidance and resolution, collaborative working, the cost of preparing claims under the contract, the continuing effects of the Covid pandemic on contract implementation and delivery, potential new FIDIC contracts in the pipeline, the FIDIC Golden Principles and much more.

FIDIC would like to thank its global strategic partner, the international law firm CMS, for their support for the Official FIDIC Contract Users' Conferences. <https://cms.law/>



FIDIC contracts keeping projects on track

A five-country rail project in Europe and a major rail infrastructure scheme in New Zealand are just two of the latest projects to sign up to use FIDIC contracts, reports FIDIC's international client manager IEVA LIAUGAUDE.

Here at FIDIC, we are proud that our contracts are used widely around the world to help deliver major projects. We know that clients choose them because they know that when they select FIDIC they will get a fair and balanced contract that will give them every opportunity to deliver their project on time, within budget and with no major disputes.

A recent project that has chosen FIDIC is Rail Baltica. This 'Project of the Century' is a greenfield rail transport infrastructure project with a goal to integrate the Baltic states in the European rail network. The project includes five European Union countries – Poland, Lithuania, Latvia, Estonia and indirectly also Finland. It will connect Helsinki, Tallinn, Pärnu, Riga, Panevežys, Kaunas, Vilnius and Warsaw. The Baltic part of the Rail Baltica project is referred to as the Rail Baltica global project.

Rail Baltica has chosen to use a FIDIC bespoke

licence to construct the Rail Baltica Ülemiste Terminal. This critical public transport node will impact the lives of Tallinn's residents and visitors well into the future and will become a critical lifeline connecting the Tallinn Airport and the entire Ülemiste district with the downtown city centre. It goes without saying that FIDIC is proud that its contracts are being used to deliver such a major project.

Rail Baltica is the largest Baltic-region infrastructure project in the last 100 years. Construction is set to last for ten years and the project will carry both passenger and freight traffic. The 870-kilometre project will be environmentally friendly, powered by electricity and producing less noise and vibration. The project will

lead to more than €5bn investment in the region and is financed jointly by the European Union's Connecting Europe Facility together with Estonia, Latvia and Lithuania.

Another project using FIDIC is the City Rail Link (CRL) in Auckland, New Zealand. CRL is the largest transport infrastructure project ever to be undertaken in New Zealand and when complete will allow the rail network to at least double rail capacity. Rail transport growth statistics suggest that by 2035, CRL stations will need to cope with 54,000 passengers an hour at peak travel times, rather than the original estimate of 36,000.

The CRL is a 3.45km twin-tunnel underground rail link up to 42 metres below the city centre transforming

the downtown Britomart Transport Centre into a two-way through-station that better connects the city's rail network.

Siemens Mobility Pty Australia has chosen FIDIC contracts to be used on the C7 contract of CRL which includes the provision of track installation, overhead line, signalling, control systems, communication systems, control room fit out and building works and auxiliaries as well as installation of rail systems, testing and commissioning and operational readiness.

We look forward to Rail Baltica and Siemens Mobility delivering successful outcomes and wish them the best of luck on their projects which will make a positive difference to the lives of millions of people.



King's runs first FIDIC university programme in Europe

FIDIC joins forces with a leading European university to deliver its first training summer school on the FIDIC contracts and their use.

King's Centre of Construction Law and Dispute Resolution in London has delivered the first FIDIC summer school on FIDIC contracts and their practical use. The intensive course, which took place from 17 September to 12 November 2021 at the Dickson Poon School of Law, is FIDIC's first training contract collaboration with a European university and follows a memorandum of understanding signed between the law school and FIDIC.

The summer school was the first time that FIDIC had joined forces with a European university to deliver training on the FIDIC contracts and their use. The school was led by Phillip Capper, emeritus professor at the Dickson Poon School of Law and partner at the law firm White & Case and Nicholas Gould, visiting professor at The Dickson Poon School of Law and a partner at law firm Fenwick Elliott. They delivered the programme alongside King's professor Renato Nazzini and professor David Mosey together with leading practitioners in London and overseas.

The online course focused on the common law and civil law legal frameworks within which the contracts are used and examined how the FIDIC standard form processes operate in various legal systems. Participants carried out an in-depth analysis of FIDIC contracts, reviewed procurement systems, considered the legal systems within which contracts are interpreted and examined options and strategies for dispute avoidance and resolution.



Commercial managers, engineers and lawyers from across 20 jurisdictions took part in the summer school and those who successfully completed the course were awarded with a certificate of attendance.

Professor Renato Nazzini, director of King's College London Centre of Construction Law and Dispute Resolution, said: "I am delighted at the great success of the first FIDIC Summer School at King's. This new partnership plays an important role in the Centre of Construction Law and Dispute Resolution's aim to deliver a leading education and research programme on UK and international construction law and dispute resolution."

"It was an honour to open the course alongside FIDIC chief executive Dr Nelson Ogunshakin OBE. I was impressed by the high calibre of the students and

their lively participation. Thanks to professor Nicholas Gould and Professor Phillip Capper for leading on this important initiative, which we are excited to continue with into future years."

FIDIC chief executive, Dr Nelson Ogunshakin OBE, said: "We are delighted to see the success of this first FIDIC summer school and to be working alongside such a prestigious academic institution, which is ranked in the top 25 universities worldwide. Our partnership will enhance the global FIDIC body of knowledge and help the development of professionals in our industry and we look forward to a continuing collaboration that will expand FIDIC contract usage to the next generation of project promoters, consultants, engineers, investors, project managers and risk specialists with an interest in infrastructure development."

ADB signs five-year agreement to use FIDIC contracts



The Asian Development Bank (ADB) is the latest international funding institution to sign an agreement with FIDIC to use its industry-leading standard contract forms.

FIDIC has secured a major agreement with the Asian Development Bank (ADB) that will see the bank adopt the use of six FIDIC standard contracts for the next five years.

Under the terms of the agreement, FIDIC has granted the ADB a non-exclusive licence to refer to the six major FIDIC contracts (see box below) for projects they finance and the documents will be used as part of the bank's standard bidding documents.

The contracts mainly include the 2017 Second edition FIDIC contracts, which cover a wide range of international construction and infrastructure work and ADB's move to use the documents is a yet another significant endorsement for the contracts from a key international funding organisation.

Commenting on the ADB's move, FIDIC chief executive Dr Nelson Ogunshakin said: "The signing of this agreement represents another major development for FIDIC in our relationships with international funding organisations. We are delighted that ADB has agreed to adopt our 2017 editions of the rainbow suite of contracts and use them as a key part of their standard bidding documents.

"The ADB's decision to work with us will create more certainty in the market as by adopting FIDIC contracts on its projects ADB is saying that it endorses the fair and balanced approach that these documents offer to parties on major construction contracts. The familiarity that FIDIC contracts bring make it easier to get

projects underway as many of the typical commercial risks are clearly addressed in the contracts and all parties understand their obligations and responsibilities.

"Endorsement by a key funding organisation like ADB should also provide additional comfort to the financial, institutional and private equity investors operating in the global market to adopt the use of FIDIC standard procurement contracts as

an effective tool to mitigate the risks associated with construction and infrastructure projects."

The decision by the ADB to adopt the use of six FIDIC standard contracts for the next five years means that FIDIC has now signed similar agreements with all the main global multilateral development banks, a significant achievement for the organisation and the international engineering, construction and infrastructure

The six FIDIC contracts covered by the FIDIC/ADB agreement

- Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer (Red Book), Second edition 2017.
- Conditions of Contract for Plant & Design-Build for Electrical & Mechanical Plant & for Building & Engineering Works Designed by the Contractor (Yellow Book), Second edition 2017.
- Conditions of Contract for EPC Turnkey Projects (Silver Book), Second Edition, 2017).
- Client/Consultant Model Services Agreement (White Book), Fifth Edition 2017.
- Conditions of Contract for Design, Build and Operate Projects (Gold Book) First Edition 2008.
- The Short Form of Contract (Green Book), First Edition 1999.



Key issues to look out for in 2022

After another challenging year, not least because of the ongoing effects of the Covid pandemic, we look ahead to what 2022 may bring and consider some of the hot topics on the legal and contractual front.



It's traditional at the end of the year to look forward to what the next 12 months might bring. Given that the past two years have been coloured in one way or another by the unprecedented global Covid pandemic, you might think that crystal ball gazing is a fool's errand. Nevertheless, it's probably (just) worth looking ahead to try and second guess what a few possible hot topics might be in 2022.

Speaking of the pandemic, the emergence of the new Omicron variant shows that the challenges of Covid will be with us for some time to come and it's certain that the early part of 2022 will be affected by this latest stage of the global crisis. One key issue to look out for in the early part of the year will undoubtedly be how any Covid-19 claims cases are emerging for contracts signed pre-pandemic.

It's likely that there will

probably be a great variance in outcomes from such cases as different governments took varying actions during Covid ranging from long and strict lockdowns to almost no restrictions at all. The Covid guidance that FIDIC issued to its contract users should be helpful but those who have not benefited from this – or who have used contracts other than FIDIC – may encounter problems.

Still on Covid, another topical issue which likely to arise is the question of whether or not parties should try to add 'Particular Conditions' to contracts in the light of lessons learned from the pandemic. This is an issue that has already been raised at many FIDIC webinars over recent months and it has also been discussed at FIDIC

Contract Users' Conferences. The contractual implications of widespread and increasing supply chain delays, often at least one step removed from the pandemic itself, are also likely to come to the fore in the months ahead and will need to be addressed by the industry.

Aside from Covid, the issue of sustainability and net zero is likely to play into the legal and contractual landscape in 2022. Fenwick Elliott partner Nicholas Gould has spoke about a potential rise in new disputes, a need for clarity on sustainability benchmarking and the risk that unsustainable companies will be blocked from tendering as issue to watch out for.

"Sustainability disputes will certainly arise," said Gould. "Disputes are more likely where parties are

unclear of their obligations. It will benefit parties to be very explicit about sustainability obligations by integrating clauses that contain express provisions and targets. This is where legal leadership comes in because it is typically the lawyers who advise clients of these obligations and indeed draft them," he said.

Still with sustainability, another issue of note is the need or otherwise, for special contract provisions for offshore wind farm projects (or a dedicated industry form of contract), especially with the arrival of technology permitting floating foundation installations. This is an area currently being looked at by FIDIC, so watch this space for updates on that and other emerging issues going forward.

Updated FIDIC Green Book short form contract launched

FIDIC has launched an updated second edition of its Green Book short form of contract and the newly updated contract has already been warmly welcomed by many in the industry.

The much-anticipated 2021 update of the FIDIC Green Book was launched by FIDIC on 9 December 2021 to an appreciative response from the industry.

The updated Short Form of Contract meets the current demand of the international construction industry for projects

where the perceived level of risk is low and/or where construction parties need a contract form that is simple to use and doesn't require significant contract administration and management resources.

The Green Book 2nd Edition continues FIDIC's key principles of balanced

risk sharing while seeking to build on the substantial experience gained from the original Green Book's use over the past 22 years. The updated contract captures the essential rights and obligations of the parties and is used as an alternative to the 2017 Red and Yellow

Books, resulting in FIDIC providing for a fully-fledged range of contract solutions to meet different project specificities.

The updated Green Book 2nd Edition includes provisions for employer's or contractor's design of the works, appointment of an engineer to administer the contract,

wide range of valuation methods, simplified contract machinery, two distinct contractual routes to handle claims and variations, tabulated insurance requirements, use of liquidated damages provisions for delay, omission of work and termination events for a faster and easier management of damages flowing from such events, early appointment of an adjudicator who can provide dispute avoidance services on top of her/his regular dispute resolution services, to name just a few of its provisions.

The Green Book also includes some brand-new features such as the prolongation cost (PGC) mechanism, a tabulated summary of contractor's entitlement for employer's risks, the use of an insurance certificate to be signed by an insurer or broker, user-friendly flow charts and 40 communication forms provided as guidance for practitioners.

Speaking at FIDIC's recent International Contract Users' Conference, Pieter Mattelaer, deputy group leader at the CERN project in Switzerland, said that they were looking forward to using the new Green Book and welcomed the flexibility and ease of use of all the FIDIC suite of documents. Richard Touroude, director of international affairs at the Fédération Nationale des Travaux Publics, thought that the Green Book could well be used for larger projects as well as the smaller ones for which it was designed

and that the newly updated edition was "a great step forward" for the industry.

Alain X. Morel, principal country specialist at the Philippines country office of the Asian Development Bank, said that he thought that the Green Book was a good development that could be used on smaller contracts by the multilateral development banks. "The contract is based on a risk analysis approach and the discussions I have had with colleagues in our procurement teams indicate that there is likely to be interest in taking up the Green Book," he said.

Mahmoud Abu Hussein, senior manager procurement and contracts UAE at Dolphin Energy, highlighted the significant industry consultation that had taken place during the development of the updated contract. The updated Green Book includes provisions for employer's or contractor's design of the works as well as the appointment of an engineer to administer the contract, he said. Dispute resolution provisions were also updated, with two distinct contractual routes to handle claims and variations and provision made for the

early appointment of an adjudicator who can provide dispute avoidance services on top of their regular dispute resolution services.

Commenting on the launch of the new Green Book, FIDIC contracts committee chair and principal drafter of the new Green Book, Vincent Leloup, said: "We are delighted to bring the latest edition of the FIDIC Green Book Short Form of Contract to market. The inclusion of new features and essential updates will make for an even more relevant and user-friendly document that builds on FIDIC's tradition of providing contract forms that are fair to all parties and which advocate balanced risk sharing. I am confident that the updated Green Book will be seen as the natural alternative to a 2017 Red or Yellow Book and warmly welcomed by users around the world"



"The inclusion of new features and essential updates will make for an even more relevant and user-friendly document and I am confident that the updated Green Book will be warmly welcomed by users around the world."

Vincent Leloup, chair of the FIDIC contracts committee



[Click here to order digital copies of the new updated FIDIC Green Book.](#) Hard copies will be available from late January 2022.

Winners announced for 2021 FIDIC Contract Users' Awards

The winners have been unveiled of the annual awards for the users of FIDIC's global construction contracts.

The winners have been announced for the 2021 FIDIC Contract Users' Awards. The awards, now in their third year, recognise excellence in the use of FIDIC contract forms for project delivery and showcase examples of good practice through collaboration from across the world.

Despite the challenges as a result of the Covid-19 pandemic, FIDIC was able to assemble a strong awards shortlist from a record crop of entries. The judging panel, chaired by international judge and arbitrator Sir Vivian Ramsey, chose winners across seven categories including Project of the Year, Client of the Year, Consultant of the Year, Legal or Professional Services of the Year, Trainer of the Year, Adjudicator of the Year and the Golden Principles Award.

The winners were announced at an online ceremony on 9 December 2021 by FIDIC CEO Dr Nelson Ogunshakin, FIDIC vice president Catherine Karakatsanis and the chair of the awards judging panel Sir Vivian Ramsey. Sir Vivian commented: "It's been a year with quite a number of challenges due to the global pandemic as we all know only too well, but I was delighted to see that the number of entries this year was a significant increase on last year. In fact, we had the highest number of entries ever, showing the increased interest in FIDIC contracts and the role that they play in the global industry."

The full list of winners in the 2021 FIDIC Contract Users' Awards are listed opposite, together with judges' comments for the winning entries.



Project of the Year



Winner - Supervision for Construction of Çerkezköy -Kapıkule Section of Halkalı Kapıkule RailwayLine Project in Turkey.

The judges were particularly impressed that this significant

project demonstrated key aspects of biodiversity and also the use of the FIDIC contract in promoting sustainability, which they thought was an important factor on such a high-profile project.

Highly Commended - Asahan No. 3 Hydroelectric Power Plant Construction Project (174 MW) in Indonesia.

Client of the Year



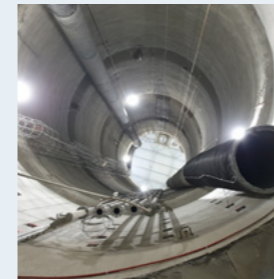
Winner - Manila Water Company Inc, Philippines.

The judges were impressed that the project highlighted a number of wider benefits such as capacity building and that the

client had demonstrated its commitment to a wider use of FIDIC contracts in future, including the newer versions.

Highly Commended - IMDAD Project Jeddah, Saudi Arabia.

Consultant of the Year



Winner - Setectpi-CSD-Rocksoil (Consortium ORIGIN) and Lombardi-Artelia-Pini (Consortium LAP), Switzerland

The judges were impressed with the consultants'

comprehensive use of FIDIC contracts, especially the White Book, on an iconic project with a significant global profile. The combination of an iconic project and the use of the FIDIC contract is worthy of note too.

Legal or Professional Services of the Year



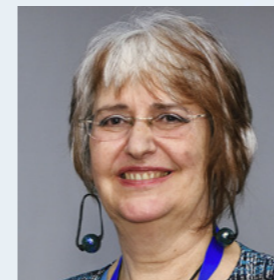
Winner - CMS from the United Kingdom.

The judges were impressed with CMS's commitment to FIDIC and their proactive commitment to FIDIC contract activities, including conferences

and events, which shines through much of the company's activity and was reflected in their excellent awards entry.

Highly Commended - Corbett & Co International Construction Lawyers Ltd, United Kingdom.

Trainer of the Year



Winner - Adriana Spassova from Bulgaria.

The judges were impressed with Adriana's ability to deliver FIDIC training in multiple languages and the fact that she is very proactive within the

FIDIC training arena. Her entry also demonstrated good feedback from contract users and training attendees which clearly shows that what Adriana delivers is very highly regarded indeed.

Highly Commended - Salvador JrP Castro from the Philippines.

Adjudicator of the Year



Winner - Nicholas Gould from the United Kingdom.

Nicholas was a clear winner in this category. Our judges thought that he demonstrated a clear commitment to his work as an adjudicator

and were very impressed by his application of an incisive legal mind to the process.

Highly Commended - Stephane Giraud from France.

Golden Principles Award



Winner - Cagdas Evren Bayrak from Qatar.

The judges were impressed with Cagdas's approach and his advocacy of FIDIC principles. Seeing someone promoting FIDIC's Golden

Principles in a challenging environment is to be highly welcomed and is just what FIDIC needs and the judges had no hesitation in naming him as the winner of this award.

Commenting on the awards, FIDIC CEO Dr Nelson Ogunskain said: "These awards took place at a very opportune moment for our industry. As the world slowly emerges from the Covid pandemic and looks to build a sustainable recovery, the consulting engineering and construction industry has a vital role to play in contributing to the better, more sustainable, more climate smart infrastructure that the world needs.

"Through its contracts, FIDIC is also playing a key role in providing the frameworks through which that infrastructure is delivered and we are delighted to recognise and celebrate those who use those contracts with these annual awards."

[Click here to watch the awards on FIDIC's You Tube channel.](#)



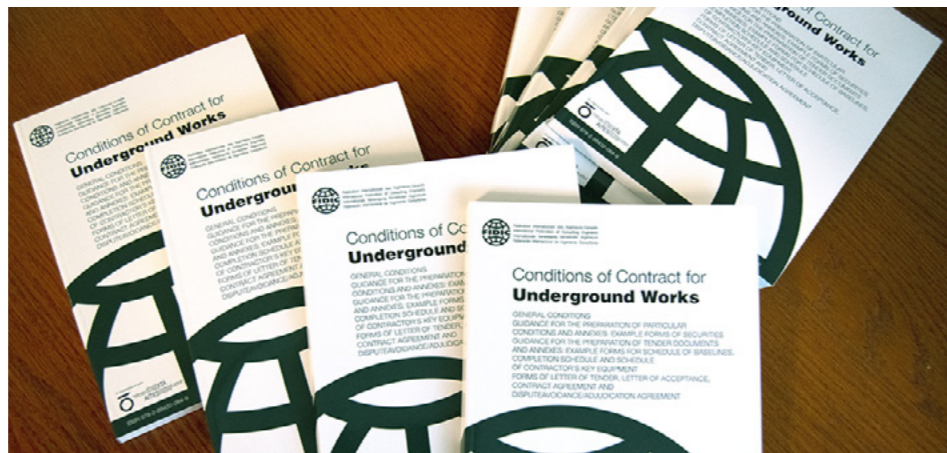
World Bank signs up to use Emerald Book

Agreement with World Bank extended to cover all underground works contracts under the bank's financed projects.

FIDIC has expanded the scope of its 2019 agreement with the World Bank which enables the bank to adopt the use of six FIDIC standard contracts until 2024 to now include the FIDIC-ITA Emerald Book form of contract for tunnelling and underground works.

FIDIC has extended the terms of its license agreement with the World Bank dated 6 February 2019 to enable the international funding organisation to now use the Emerald Book contract for all underground works contracts under World Bank-financed projects, for which invitations for bids are published on the bank's website no later than 31 December 2024.

Both FIDIC and the World Bank have also agreed that the Conditions of Contract for Underground Works (Emerald book) 2019 will be used as part of the bank's standard bidding documents for projects that are financed by World Bank until 31 December 2024. The bank already has a licence to refer to six major FIDIC contracts for projects they finance and these



mainly include the 2017 Second edition FIDIC contracts, which cover a wide range of international construction and infrastructure work.

Commenting on the extension of its agreement with the World Bank to now include the Emerald Book, FIDIC chief executive Dr Nelson Ogunshakin said: "I am delighted that the World Bank has chosen to adopt the use of the Emerald Book and include it in its standard bidding documents. The Emerald Book addresses several critical areas that should lead to the smoother running of contracts in the growing tunnelling and underground works sector and the bank's move will help to command the respect and authority of the tunnel engineering and construction

sector and further underline the fact that both clients and contractors can use this contract with confidence."

FIDIC hopes that the use of the Emerald Book on World Bank-funded projects will herald a new approach for hydropower projects that involve tunnelling and underground works. Large infrastructure projects, including hydropower and dams, are notorious for cost overruns and delays, especially projects with large underground works where the risks are high. The FIDIC-ITA Emerald Book is based on risk sharing principles and was developed through a joint initiative between FIDIC and the International Tunnelling and Underground Space Association based on many years of experience.

Commenting on the World Bank's decision to adopt the contract, Professor Jenny Yan, president of the International Tunnelling and Underground Space Association, said: "We at the ITA welcome the World Bank's decision to utilise advanced and proven contractual mechanisms to deal with subsurface construction risks more fairly and efficiently. The Emerald Book will make dam projects with significant underground works components more efficient to deliver and thereby support sustainable global hydropower energy initiatives."



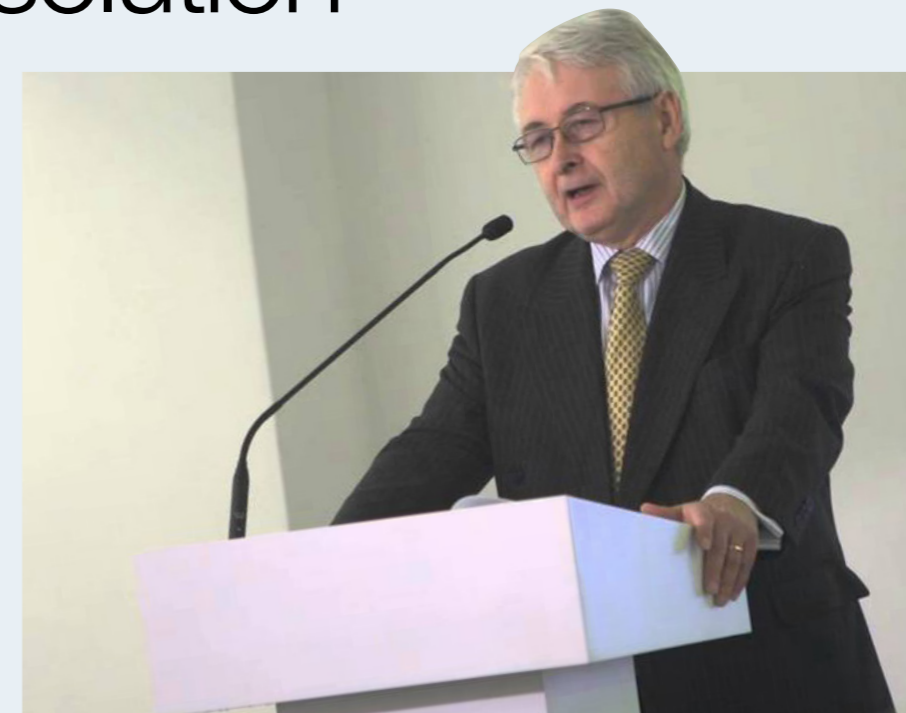
Sir Vivian Ramsey talks Covid, sustainability and dispute resolution

The leading international judge warns construction and legal experts that sustainability, flexibility and increasing collaboration are driving change across the global infrastructure industry.

Speaking to construction and legal experts, leading international judge Sir Vivian Ramsey has set out the major influences currently affecting construction and infrastructure, ranging from the immediate impact of the pandemic to the lasting need for net zero.

Speaking at the recent FIDIC International Contract Users' Conference, Ramsey warned that while everyone becomes a statistician when it comes to Covid-19, "the unprecedented scientific development of the vaccine" indicates that we may have to adapt to the pandemic for the foreseeable future. "We need to look at the approach we've taken. The individual country approach rather than a global approach has caused enormous problems - you can't solve the problem in one country without solving it around the world," he said.

On sustainability, he said that this ran through the life of a project and "whole life costs come with questions about what we will be doing in future." There were unknowns about how new infrastructure might be used in years to come, with transitions potentially involving electric cars and aeroplanes or moves to more hydrogen power, he said and warned that planning for long-term sustainability comes with long term uncertainty.



Ramsey also address current skills shortages being faced by the industry and highlighted the positive role being played by FIDIC. "One of the impacts of the pandemic has been skills shortages – both craft skills and engineering and management skills. That is one area where FIDIC credentialing is at the forefront of ensuring that people are well qualified and able to be trained and qualified globally – so there is a gold standard," he said.

Turning to dispute resolution, Sir Vivian sounded an optimistic note. "There's been a realisation by both the client sector and contracting and consultancy sectors. This has been because of the realisation that disputes in contracts are just a waste of time in the long run and one therefore has to move to collaboration and collaborative forms of contracts – as well as

collaboration between the parties in the construction process."

He suggested that instead of issuing court proceedings, "timely introduction of Dispute Avoidance and Adjudication Boards (DAABs) for large projects" would be important, and stressed "I don't think any employer can consider a contract not having a DAAB and I think in particular, the avoidance role of that group of experts is absolutely key in keeping the show on the road and ensuring disputes don't fester."

Ramsey pointed out that there was now greater flexibility in how to engage in dispute resolution. Along with the role of international courts, he said that hearings were now conducted "by Zoom, in person and some hybrid hearings and that will be the pattern for some time to come."

Licencing route to contract success

More organisations are signing licence agreements to use FIDIC contracts thereby helping to widen the use of these industry standard documents across the global construction sector.

As well as making its contract documentation available for purchase directly from FIDIC, licence agreements granted to organisations enable the contracts to obtain an even greater reach and a wider profile making them more accessible to users across the industry.

One organisation that FIDIC has an ongoing relationship with is Lexis Nexis, which provides users of its services access to some of the highest-quality legal research and intelligence on the market. They help lawyers sift through varied sources of information to quickly get to the right information for the work they're doing and provide practical guidance in a wide range of practice areas.

Lexis Nexis has signed a licence to place 12 key FIDIC titles on their platform for all their different users worldwide to be able to view them. The titles include the Green Book, Red Book, Pink Book, Yellow Book, Silver Book, Gold Book and the Emerald Book. Making the FIDIC contracts available for viewing on such a leading global platform that is accessed by thousands of users further helps to raise the profile of the contracts to a key and influential audience and should help lead to increased sales.

Another organisation that has signed a licence with FIDIC is the KfW Development Bank in Germany. For more than 50 years, the bank has been helping the German government to achieve its goals in development policy and international cooperation. They have many years of national and international financing expertise and



development policy expertise around the world and on behalf of the federal government, especially the Federal Ministry for Economic Cooperation and Development, the bank finances and supports programmes and projects in developing and emerging countries to assist their partner countries in fighting poverty and securing peace.

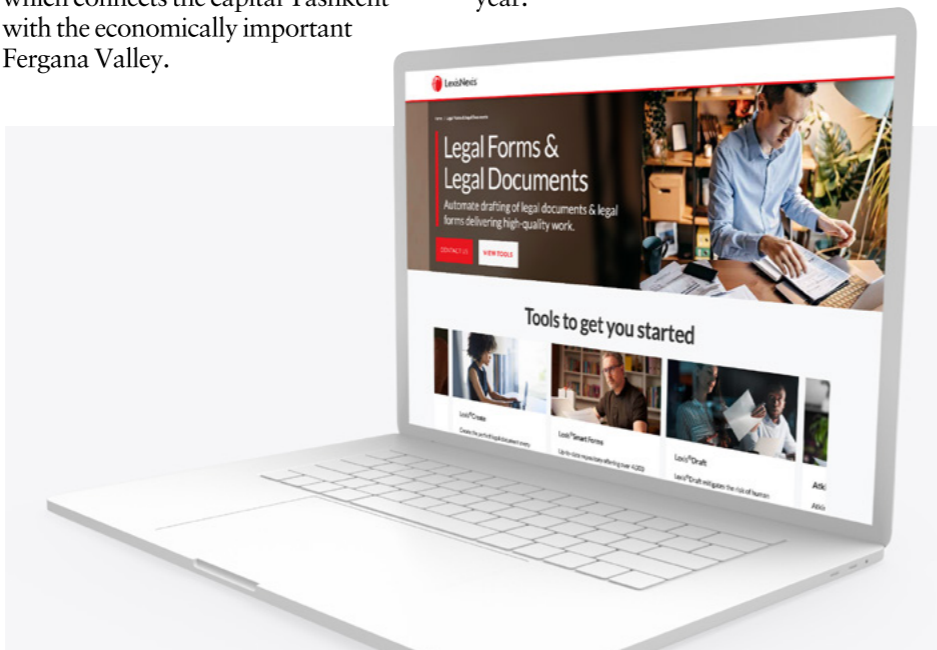
The licence with FIDIC enables KfW to incorporate FIDIC's general conditions of contract into the standard bidding documents issued by the bank for procurement of works. One of the KfW projects on which FIDIC is being used is the Electrification of the Tashkent-Angren Railway Line. Uzbekistan was given KfW assistance in the modernisation of its railway network, which was electrified along the approximately 114km-long

Tashkent to Angren railway line which connects the capital Tashkent with the economically important Fergana Valley.

The line, which is part of the TRACECA network (Transport Corridor Europe-CaucasusAsia), is used almost exclusively for freight transport. The electrification of the line will make a contribution to climate and environmentally friendly (freight) transport and strengthen the competitiveness of the line

compared to other means of transport.

FIDIC continues to sign similar licence agreements with organisations across the world and expects to sign more over the coming 12 months. FIDIC's international client manager Ieva Liaugaude, said: "It is a testament to the high regard in which our contracts are held that we see organisations queuing up to sign up to their use and we look forward to granting more licences in the coming year."



Conference highlights Asian/Australasian experience of FIDIC contracts

The rise of the mega-project, opportunities to increase the use of FIDIC contracts, the benefits of disputes boards and quality-based selection were all key issues at FIDIC's Asia and Australasia contract users' conference.

The Official FIDIC Contract Users' Conference that took place from 13-15 July 2021 targeted the Asia and Australasia contract users' community and offered a unique opportunity to share progress on the application and use of FIDIC contracts internationally and across the region.

A key theme which came out of the conference was the rise of the mega-project. Marion Terrill, transport and cities programme director of the Australian public policy think tank, the Grattan Institute, spoke about the rising prevalence of mega-projects. "Bigger projects mean bigger contracts," said Terrill who explained that \$3bn contracts were on average 38% larger. She said that transport spending in Australia was higher than ever currently and that the pandemic had not affected this adversely. The rise of these mega-projects would have an impact on the way that contracting developed going forward and influence contracts in the marketplace,

she said.

Sachin Mishra, legal and company secretary at Tata Consulting Engineers in India, highlighted the importance of the Indian market, saying that despite Covid challenges it was still expected to be the third largest construction market in the world by 2022. Mishra talked approvingly of the use of FIDIC forms for engineering, procurement and construction (EPC) contracts in India, with the Red, Yellow, Silver and Orange Books widely used.

Aston Consult director Julian Hemms spoke about the disparity between regional government assertions and aspirations and what they were doing in practice. Highlighting the benefits of using FIDIC contracts, he said that they offered the benefit of being ensured and endorsed by private funding which was the opposite of the bespoke form contracting that was rife in certain areas of Australia. FIDIC contracts also led to a significant reduction (around 20-24 weeks) in a tender process, Hemms said, who

believed that there was an opportunity for FIDIC to fill a gap in the market.

Michino Yamaguchi, director of the Japan International Cooperation Agency (JICA), highlighted JICA's standard bidding documents and their use of FIDIC contracts, making the point that the agency promoted the use of the FIDIC Golden Principles to ensure contract integrity on projects. Referring to dispute resolution issues, Yamaguchi said that JICA's standard bidding documents for large contracts include provisions for a standing dispute board. She said that JICA strongly recommended a standing dispute board from the point of view of both dispute avoidance and resolution.

Jeff Taylor, director of procurement division 1 at

the Asian Development Bank (ADB), spoke about the bank's \$10.3bn dollar procurement portfolio and outlined the ADB's role in procurement which was to review the borrower's procurement procedures, documents, bid evaluations, award recommendations and contracts to ensure that the procurement process is carried out in accordance with the agreed procedures.

"Quality has become an increasingly important dimension for ADB and this offers a greater opportunity to achieve value for money," he said. Highlighting the key role of FIDIC in the bank's standard documents, Taylor said: "We recognise the strength of FIDIC contracts as the pre-eminent international standard forms for the industry," said Taylor.





Contract Users' Newsletter

CONTACT US

● Please send news, views and articles on FIDIC contracts to the newsletter editor Andy Walker at awalker@fidic.org

● For contract order queries email FIDIC at fidic.pub@fidic.org

● Send general FIDIC enquiries to fidic@fidic.org

Upcoming FIDIC conferences and events

Details of future FIDIC conferences and events of interest, so make sure you save the dates today.



FIDIC Contracts webinar

The first event in a new webinar series on FIDIC contracts

Thursday 3 February 2022 at 12 noon CET
See <https://fidic.org/events>



State of the World launch webinar

Going Digital: Did Covid teach us anything?
The launch of the latest FIDIC State of the World report

Thursday 24 February 2022 at 12 noon CET
[Click here to book a place.](#)



Official FIDIC Contract Users' Conference Africa and the Middle East

Monday 14 March & Tuesday 15 March 2022
Virtual online event [Click here for details.](#)



Official FIDIC Contract Users' Conference Asia and Pacific region event

Thursday 17 March & Friday 18 March 2022
Virtual online event [Click here for details.](#)



Official FIDIC Contract Users' Conference Americas region event

Monday 21 March & Tuesday 22 March 2022
Virtual online event [Click here for details.](#)



Official FIDIC Contract Users' Conference Europe region event

Thursday 24 March & Friday 25 March 2022
Virtual online event [Click here for details.](#)



Net zero clauses in FIDIC contracts

A webinar organised by the FIDIC contracts committee

Tuesday 10 May 2022 at 12 noon CET
See <https://fidic.org/events>



FIDIC Contracts webinar

The second event in a new webinar series on FIDIC contracts

Tuesday 31 May 2022 at 12 noon CET
See <https://fidic.org/events>



FIDIC Global Infrastructure Conference 2022

11-13 September 2022, Geneva
Planned as an in-person event.

See <https://fidic.org/events>

All dates/locations are subject to change and some events may be virtual depending on the Covid situation.

[Find out more and check the latest details at http://fidic.org/events](http://fidic.org/events)



FIDIC CONTRACT USERS' CONFERENCES 2021

FIDIC is grateful to strategic sponsor CMS for its support of our Official FIDIC Contract Users' Conference series.

