







22-26 April, Hanoi, Vietnam

"Geospatial Information for a Smarter Life and Environmental Resilience"



# Power Indicators in International Construction Law

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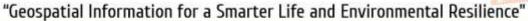








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## **About the study**

- Countries selected for desk-based practitioner commentary review (Practical Law Company)
- England and Wales, United Arab Emirates ("UAE"), France, Germany,
  United States of America ("USA), India, Australia & Brazil.
- Basic split between common law and civil law countries
- Backdrop of increased harmonisation through common contracts FIDIC, NEC
- Vive la difference!

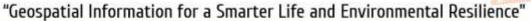








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### **Key principles**

- The two dominant universal forces at work with construction law are:
- freedom to contract
- and pacta sunt servanda.
- Put simply, the parties are largely free to agree the terms upon which they contract and are bound by that agreement once made
- Paper does not discuss contract amendments, philosophy or corruption









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#### Key concept

Who has the balance of power in a construction contract?

Client Contractor











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### The indicators (1)

- Termination for Convenience
- Pay-when-paid clauses
- Unconditional Bond
- Ability to Subcontract
- Duty to Warn
- Time bar









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### The indicators (2)

- Statutory Payment Regimes
- Supplier's Lien
- Force Majeure/ Frustration
- Hardship payments
- Constructive Acceleration
- Fitness for Purpose









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#### The outcomes

- UAE client friendly
- UK balanced
- France contractor friendly
- Other countries range inbetween work out where your country is!









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#### **Conclusions**

- Worthwhile to think of these things in the round
- Starting point for a wider consideration
- Appreciation of difficulty of international jurisidictions
- Prepares us for the global connected community and a debate rather than the imposition of terms
- Thanks for listening









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