

1 _ Fact in Tender Dossier > Pink Book MDB 2010 - PCC SC20.7

The Tender Dossier for an Infrastructure Project *replaces* the Sub-Clause 20.7 of the General Conditions of Contract *entirely with the wording* in the Particular Conditions of Contract PPC as follows (refer to page 2, too)
PCC Sub-Clause 20.7 [Failure to Comply with Dispute Board's Decision]
... *"In the event that a Party fails to comply with any decision of the DAB, whether binding or final and binding, then the other Party may, without prejudice to any other rights it may have, refer the failure itself to Arbitration under Sub-Clause 20.6 [Arbitration] for summary or other expedited relief, as may be appropriate,*
Sub-Clause 20.4 [Obtaining Dispute Adjudication Board's Decision] and Sub-Clause 20.5 [Amicable Settlement] shall NOT apply to this reference ...

2 _ Compare GCC Pink Book MDB2010, SC 20.4 p5, p6 and SC20.5

SC 20.4 p5: either Party gives the Notice of its dissatisfaction and intention to commence arbitration within 28 days

SC 20.4 p6: the Notice of Dissatisfaction shall state and set out the matter in dispute and reasons for dissatisfaction otherwise no Party shall be entitled to commence arbitration ... *EXCEPT as stated in Sub-Clause 20.7 [Failure to Comply with Dispute Board's Decision] and SC 20.8 [Expiry of Dispute Board's Appointment]*

SC 20.5: *Where notice* of dissatisfaction has been given under SC204. The Parties shall attempt to settle the dispute within 56 days

3 _ Intentions or Advantages for the Parties to change the wording of SC 20.7

3.1 The replaced paragraph (refer to page 2, full text) overturns the *procedural rule* of Notice of Dissatisfaction and Time Bars. It allows the Parties to go for Arbitration without any *Amicable Settlement effort at any time* i.e. a) straight after receiving the DB-decision or b) ahead of issuance of the Performance Certificate, because no time bar and pre-condition of a timely submitted notice of dissatisfaction is required anymore.

3.2 Does such a *change comply* with the basic principle of FIDIC?

4 _ Your "un-bound" opinion / interpretation of the replace SC20.7 is appreciated

Thank you very much in advance.

Here the original text
Particular Conditions of Contract PCC – Part B – Specific Provisions SC20.7

20.4 Obtaining Dispute Board's Decision	<i>Insert the following as a new penultimate paragraph:</i> "If the decision of the DAB requires a payment by one Party to the other Party, the DAB may require the payee to provide an appropriate security in respect of such payment."
20.7 Failure to Comply with Dispute Board's Decision	<i>Replace Sub-Clause 20.7 in its entirety with:</i> "In the event that a Party fails to comply with any decision of the DAB, whether binding or final and binding, then the other Party may, without prejudice to any other rights it may have, refer the failure itself to arbitration under Sub-Clause 20.6 [Arbitration] for summary or other expedited relief, as may be appropriate. Sub-Clause 20.4 [Obtaining Dispute Adjudication Board's Decision] and Sub-Clause 20.5 [Amicable Settlement] shall not apply to this reference."

*LAWYERS AT WORK
TO GENERATE FAST
INSTEAD TO TRY TO RESOLVE THE DISPUTE AMICABLY
WITH PATIENTIECE.*



*235 -275 USD PER HOUR IN EX-USSR
300-600 EURO PER HOUR IN WEST-EUROPE.*