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EUROPEAN FEDERATION OF FOUNDATION CONTRACTORS

MINUTES OF A MEETING OF THE CONTRACTS WORKING GROUP

DATE: Thursday 21st June 2018

TIME: 13:00pm

LOCATION: Copenhagen Suite, Radisson Blu Scandinavia Hotel, Copenhagen Denmark

IN THE CHAIR: Chris Harnan FPS (UK)

PRESENT:

Wim Claesen	ABEF (Belgium)
Carlos Vazquez	ARCF/Terratest (Romania)
Dejan Lukic	Infra Suisse (Switzerland)
Jaap Estié	NVAF (The Netherlands)
Peter Vroom	NVAF (The Netherlands)
Federico Trevisani	Trevi (Italy)

IN ATTENDANCE: Ciaran Jennings EFFC Secretariat
Aimee McDermott EFFC Secretariat

No	TOPIC	ACTION
1.	APOLOGIES FOR ABSENCE	
	Andrew West, Bachy Soletanche (UK), Peter Ausserlechner, Bauer (Austria), Michael Fröhlich, Max Bögl (Germany), and Przemyslaw Nowak, Aarsleff (Poland).	
2.	MINUTES OF THE LAST MEETING	
	<p>Chris Harnan reviewed the minutes and actions of the last meeting held in London, UK, on the 8th February. It was requested that the minutes are issued within 3 weeks of the meeting as opposed to just sooner as stated in the previous minutes.</p> <p>Chris Harnan noted that at the previous meeting, FIEC had been discussed and that it was decided that the EFFC will continue as members and increase their involvement within FIEC. There was some discussion about the EFFC's involvement within FIEC. Chris Harnan emphasised the need to have EFFC members attending each three of the groups within FIEC - SOC, ECO and TEC.</p> <p>Dejan Lukic commented on buildingSMART International and noted that they are leading a CEN group that is creating BIM standards. Dejan explained that Infra sends delegates to this group and that they have seen a lot of progress regarding standards relating to BIM.</p> <p>Ciaran Jennings explained that buildingSMART are an interest group that are backed by Arup and other interested organisations to explore BIM and how to implement it in a meaningful way. Ciaran advised that he had discussed buildingSMART with the BIM group in the FPS. It was noted that DFI-Europe are involved with buildingSMART and that this is an area of mutual overlapping interest. Ciaran advised that he had met someone from Arup who is involved in buildingSMART and that he is currently in conversation with him. Ciaran advised that he will consider the best way for the EFFC to engage with them and report back at the next meeting.</p> <p>Wim Claesen reported on the Mutual Recognition of Rig Drivers. It was noted that at the previous meeting this topic was to be passed on to the Health & Safety WG. Wim</p>	<p>EFFC Secretariat</p> <p>C Jennings</p>

	<p>explained that Belgium and the Netherlands have been collaborating on this issue and that they are working on a confidence profile which is the last step in the process. Once this has been achieved then Belgian drivers will be able to legally work in the Netherlands and Dutch drivers legally able to drive in Belgium. Jaap Estié noted that a meeting had been had to facilitate education and that the scheme had government approval. Chris Harnan congratulated Wim and Jaap on their achievement.</p> <p>Chris Harnan commented that the next question was how to implement this scheme in every member state. Jaap Estié advised that during the previous H&S WG meeting the issue was discussed and it was decided to form a Task Group. Jaap explained that the first meeting of the task group will be in Hamburg on the 9th and 10th July 2018. He noted that the group already has an agenda and will be trying to find a common view on what qualification is needed, along with other things that will need to be addressed. Jaap also advised that he has been working with a group who are part of the European Crane Drivers License group and that he will be meeting with a contact there during the week for more discussion on how they achieved this.</p> <p>Chris Harnan commented that the progress made by Belgium and the Netherlands in achieving mutual recognition is something that needs publicity. Jaap Estié agreed, noting that during the Rome conference he had discussed this with the EFFC President who was unaware of the progress made. Jaap commented that there is an issue within the EFFC in that a lot of progress is made but members are not informed. It was noted that the H&S WG meeting does not have a secretariat to take minutes and that this makes it hard to display the progress made. Chris Harnan advised that there is a report every meeting from each committee and that the EFFC website can be used to publicise information to ensure members are aware of the progress each committee is making.</p> <p>Chris Harnan inquired about ECCREDI. Ciaran Jennings advised that Sue Arundale will be coming to the AGM in Brussels in October and that she will be able to explain specifically what ECCREDI are doing.</p> <p>The minutes of the last meeting were approved.</p>	
3.	FIEC	
	<p>a) TEC Priorities</p> <p>i. BIM Manifesto/Construction 4.0</p> <p>The TEC priorities were discussed.</p> <p>b) ECO Priorities</p> <p>Ciaran Jennings reported that the TEC and ECO Priorities were included in the meeting papers and that there is a need to work out which priorities align with those of the EFFC. Ciaran advised that Sue Arundale, the secretary of the TEC group, will be attending the next EFFC AGM in Brussels in October and that this opportunity can be used to find out more about FIEC and how the EFFC can increase its involvement.</p> <p>The TEC and ECO priorities were discussed. Chris Harnan commented that, for both TEC and ECO, a detailed understanding of the priorities is needed to acknowledge their relevance to the EFFC. Chris emphasised the need for someone to attend the meetings and feedback in order for more understanding within the EFFC. Chris noted that Sue is familiar with the EFFC and her involvement with both FIEC and ECCREDI will be helpful to gain more understanding on how to engage further with each organisation.</p> <p>Ciaran Jennings noted that Mark Sheridan is working on BIM. Mark had spoken to Ciaran and commented that Mark feels that FIEC are interested in stopping software providers from dominating BIM and promoting digital construction. Mark feels the technology is already there and now the focus needs to be on collaboration and contractual terms of BIM – this has not been addressed by FIEC yet.</p>	

4.	CONCRETE TASK GROUP	
	<p>Chris Harnan reported that the second edition of the Tremie Concrete Guide was launched in Rome at the EFFC-DFI Conference at the beginning of June and is now available for download on the EFFC website.</p> <p>Chris advised that the Guide has been greatly improved and now describes actual acceptance values. He noted that a copy of the R&D report, which contains all the field and lab testing work done and backs up the guide, is also available for download on the EFFC website.</p> <p>Chris requested that members push the guide for use within their companies and federations as it is something that will help the industry greatly.</p>	All
5.	SUPPORT FLUIDS TASK GROUP	
	<p>Chris Harnan reported that the Support Fluids Guide is approximately 6 months from publication. He noted that there are still a few meetings before it is finalised but that the group hope to launch edition 1 by the end of the year.</p>	
6.	FAIR PAYMENT/ EARLY PAYMENT SCHEMES & RETENTION	
	<p>Chris Harnan asked the group if any members had experienced issues with Fair Payment/ Early Payment schemes and retention. Each member described the norm in their country, with retention and bank guarantees appearing to be common ways of implementing payment. In general, it was reported that retention and payment schemes are not currently a huge problem for members with the exception of Italy where there are some issues. It was however noted that only six member countries were represented at the meeting.</p> <p>Chris Harnan explained the FPS historic policy on retention where all member company MDs agreed not to accept retention. Chris noted that this had been implemented as the FPS had conducted a survey and found that 16 of their member companies were owed a collective sum of £10 million due to retention. Unfortunately the competition authorities became involved and the FPS had to change its policy to allow retention. However, generally this problem in the UK has now disappeared in the piling sector and that members give bonds if they must but will not accept cash retention under contract. Chris advised that he mentioned the FPS approach as if EFFC member federations can get agreement they can campaign against the practice.</p> <p>Chris Harnan inquired what the group would like to do in response to the discussion; whether an EFFC position or guide was desired or if giving FPS experience to other members would be helpful. Dejan Lukic commented that any assistance or support would help and that reading the FPS retention position could be a good start. Chris proposed conducting a survey within each member company to discover the prominence of retention abuse experienced within the EFFC.</p> <p>Jaap Estié proposed taking the issue to FIEC, however Chris Harnan noted that FIEC would need to see evidence of the issue before it is discussed, something which a survey could help prove. It was agreed to discuss retention at the Executive meeting and gain the committees approval for a survey to be the first steps in addressing the issue.</p> <p>Dejan Lukic reported that in Switzerland they are currently facing issues with insurance and high liability, particularly with clients asking for specific insurance solutions that do not exist on the market. As an example, Dejan explained that some clients want insurance for issues faced by weather conditions, such as snow, that will affect the time-frame of works and impact on the projects progress. He noted that clients want contractors to insure their own risk but that often contractors sign to say they have insurance when they do not. Dejan noted that if this is an issue in other countries then perhaps it could be added into the survey on retention. Carlos Vazquez</p>	C Harnan

	<p>noted that Romania have had a similar experience with some clients where contractors have been forced to work through extreme weather conditions that they would normally stop works on.</p> <p>Chris Harnan noted that this had not been a problem in the UK and that it seemed an issue specific to Switzerland, however if any other members had experienced it then it could be added to the survey.</p>	
7.	EARLY CONTRACTOR INVOLVEMENT	
	<p>Any West was not present to report on Early Contractor Involvement. It was requested that Andy provide slides from HS2 regarding this.</p> <p>Dejan Lukic commented that in Switzerland the law about public procurement is in revision and has given an opportunity to question the government. Dejan noted that there is a problem in Switzerland where when working for public clients, main contractors can change their sub-contractors after having won the contract. Carlos Vazquez commented that in Romania they have a similar issue where a letter of intent was used to guarantee a job but now there is a gap that can allow for changes to be made.</p> <p>Chris Harnan advised that in the UK, on jobs with significant engineering input, a deal/agreement would be signed with the main contractor regarding the design and if successful then the works would be carried out, so the MC is committing at an early stage. Frederico Trevisani commented that in Italy on some jobs there is a guarantee letter and if a sub-contractor does not get the job after the initial processes they request a fee.</p> <p>Dejan advised that a line has been added to contracts stating that changing sub contractors is only subject to approval. Dejan agreed to feedback on this at the next meeting. He noted that this issue can also be a question of market and culture too. Peter Vroom commented that this issue is also dependent on the relationship with clients.</p>	<p>A West</p> <p>D Lukic</p>
8.	SUSTAINABILITY	
	<p>a) EFFC Sustainability WG</p> <p>Chris Harnan reported that the Sustainability WG will be having its first meeting on Tuesday 25th September in Paris. An email requesting members for this group will be circulated by the end of the next week.</p>	EFFC Secretariat
9.	ROUND TABLE DISCUSSION – NATIONAL CONTRACTUAL/COMMERCIAL ISSUES	
	Nothing to report.	
10.	EFFC RISK ASSESSMENT AND RISK REGISTER	
	<p>Chris Harnan explained that the risk register was produced as there was variance within the EFFC regarding how risk was assessed. He noted that in bigger companies a risk assessment was often standard procedure, however some smaller companies were unaware of what risk assessments were and rarely employed them. Chris advised that the EFFC produced the document as a guideline to educate companies and help members who were not so developed when looking at risk. Chris asked for comments on the register and if any members felt any amendments were needed.</p> <p>Peter Vroom commented that the current register is still valid but that there needs to be more discussion regarding what should be kept on there and what is important. He noted that the importance of items will vary between each company. Dejan Lukic advised that in Switzerland they have a similar register but that there has been no agreement about publishing it as risk is viewed as a company's own business.</p> <p>The group decided to review the document and discuss/ amend at the next Contracts WG meeting. It was requested that the guide is circulated to the Chairmen of the</p>	AII/ EFFC

	Health and Safety WG, Technical WG and the Sustainability WG as well as reissued to the Contracts WG for any comments. Comments and any suggested changes will be required before the 1 st September when they will be reviewed by the WG Chairman prior to the next meeting in Belgium in October.	Secretariat
11.	UNCAPPED LIABILITIES ON PROJECTS	
	<p>a) EFFC Position Paper including Soil Risk Statement</p> <p>Peter Vroom showed a document that he has been working on within NVAF that combines the EFFC Level 3 Conditions, the EFFC Uncapped Liability Positions, FPS positions, UAV Conditions (Uniform Administrative Conditions for the Netherlands) and PELSC (Principles of European Law on Service Contracts) conditions into a document that could work as the conditions for all foundations work throughout Europe. Peter Vroom explained that the document is a draft but that their aim is to create one document that can work for the whole of Europe which has EFFC accredited status.</p> <p>There were some concerns about how the document would be implemented and that each member country has existing conditions that may not fit with the new document. It was also noted that the new document would need to be extensively checked over by member federations before it could be EFFC endorsed.</p> <p>Chris Harnan commented that there will be problems with main contractors when it comes to signing the contract as asking to sign a different contract will cause concern about risk. Federico Trevisani commented that international standards already exist and that as a federation the EFFC can say they support certain standards over others. Peter Vroom advised that everything in the document was an existing standard already and that the document was more a combination of the best conditions and standards currently available.</p> <p>Dejan Lukic stated that an international document could be beneficial in specific projects to negotiate. He also commented that the document could help countries with less developed conditions to build these up. Dejan noted that all standards and norms come to revision at some point and that a minimum contract in Europe could help those with lower standards to increase them over time. Carlos Vazquez agreed that the document could help with negotiating terms with contractors and clients.</p> <p>Chris Harnan commented that the document could be titled Terms and Conditions and attached to a contract but that it would be unfeasible to delete all other forms of contract and just have one.</p> <p>It was decided to recirculate the document to members for comment and ask for amendments in line with each country's general conditions. Comments will be requested before 1st September 2018 in time for discussion at the next Contracts WG meeting in October.</p>	All/ EFFC Secretariat
12.	LEVEL 3 CONDITIONS	
	<p>a) Translations</p> <p>Chris Harnan thanked those who have translated the Level 3 Conditions. It was noted that the only outstanding translation is German. The translated versions are to be published to the EFFC website.</p>	EFFC Secretariat
14.	ANY OTHER BUSINESS	
	<p>Dejan Lukic explained that dispute and conflict resolution is becoming a bigger problem in Switzerland. He asked the group of any quicker ways to solve this with a smaller number of people involved. He noted that in Switzerland a mediator is often trying to harmonise the situation and that it is better if both parties can settle outside of court.</p> <p>Chris Harnan advised that adjudication is a good tool for dispute resolution and one</p>	

	<p>that is mandatorily employed as part of contract law in the UK. An adjudicator, generally one person, is appointed to a case. Once a dispute has been registered, documents must be submitted within certain time frames by both sides of the dispute and then the adjudicator makes a decision within 28 days. Chris noted that an adjudication decision can be over turned by arbitration or litigation at a later date, however instances of this happening are low, and the process generally works very well.</p> <p>Dejan inquired as to whether a decision could be made in 14 days as opposed to 28, however Chris explained that in his experience this would be too short a time for both parties to submit their documents and for the adjudicator to make a decision.</p>	
15.	DATES OF 2018 MEETINGS	
	<ul style="list-style-type: none"> • 4th October in Brussels, Belgium 	