



A Meeting of the EFFC Contracts WG held on Thursday 10th September 2020 from 08.30-11.30 (BST) via Cisco WebEx.

Action List and Minutes of the meeting

In attendance:

Peter Ausserlechner	Austria
Jaap Estié	Netherlands
Chris Harnan	United Kingdom
Przemysław Nowak	Poland
Thomas Schroeder	Germany
Federico Trevisani (Chair)	Italy
Peter Vroom	Netherlands
Andy West	United Kingdom

Present:

Ciaran Jennings	EFFC Secretary
Isabel Jennings	EFFC Secretariat

No.	Owner	Action List
1	EFFC Secretary	Ask FIEC whether they are currently looking into Cash Retentions.
2	EFFC Secretary	Chase responses (from Romania, the Czech Republic and Spain) on the EFFC GCC's document.
3	All	Review the EFFC GCC's document and prepare comments for the next CWG meeting.
4	EFFC Secretariat	Keep section 4 B) a. "Covid-19 insight document" on the agenda for the next meeting.
5	All	Brainstorm how the EFFC can tackle problem of worker mobility during C-19.
6	EFFC Secretariat	Keep section 4 C) "Building Smart International" on the agenda for the next meeting.
7	F Trevisani	Compile the CWG AGM presentation with the work of the TG's in mind.
8	EFFC Secretariat	Include section on "webinar topics" on the agenda for the next meeting.

Minutes	
1	<p>Apologies</p> <p>Dejan Lukic, Thomas Pirkner, Dirk Siewert, Stig Weis, Jindrich Ricica.</p>
2	<p>Approval of the Minutes of the meeting held on Thursday 23rd April 2020</p> <p>The minutes of the meeting were approved by the group.</p>
3	<p>Task Group Updates</p> <p>Federico started discussion by asking the group how they are finding the new WG format. Andy noted that the cash retentions task group has found it hard to organise meetings due to group availability, which has resulted in little progress. Federico stated that members should not worry about slow progress as this is expected in smaller groups. Ciaran advised that he thinks it is worth persevering with the new format. It was agreed to continue with the new format and review again at the next committee meeting.</p> <p style="text-align: center;">a) Collaborative Working and Digitisation</p> <p>Federico noted that he, Thomas and Dejan have had several meetings since the last WG meeting. Federico explained that at these meetings they have spoken about how to approach the matter of digitalisation – e.g. should the group get more involved with FIEC and Building Smart International or try and have a wider impact and educate on digitalisation. Federico noted he intends to ask the AGM/Officers on what they want from the group in relation to this topic.</p> <p>Federico explained that a key issue discussed within the group has been the capability of the National Federations (NF) to adapt to BIM. The group agreed that educating the NF's on how to use BIM could be beneficial as, eventually, BIM will become a requirement for working. Federico suggested that circulating a questionnaire to the NF's might be the best way to get this big picture.</p> <p>Peter A agreed that it would be a good to see how advanced the NF's are on these processes – as, for example, Bauer is very involved in digitalisation (e.g. digitally record data from rigs, soil etc.) but other members of VÖBU are not. Thomas explained that in Germany they are working on how to automate the generation of calculations and data coming from the rigs, which would in turn allow them to show clients correct working procedure/practices. Thomas noted this is not to do with BIM - as BIM is for the whole project (if it is large enough).</p> <p>Ciaran noted that in the UK there are a few larger companies (e.g. Keller) who have started dealing with digitalisation and BIM but that they tend not to share their knowledge – as it puts them at a contractual advantage. Andy noted that it is important to remember that digitalisation and BIM are distinguished things. For example, the digitalisation of records etc. in the UK is progressing well in most companies. Ciaran agreed, and noted that the group will need to consider whether the focus of the group is digitalisation or BIM.</p> <p>Przemysław stressed that sub-contracts will need to learn how to use BIM as main contractors will soon state it as a pre-requisite to work. Andy agreed with Przemysław and noted that on HS2 they are obliged to work within the BIM system. Ciaran asked Andy if it took a lot for Bachy to adapt to BIM/digitalisation. Andy explained that it has not caused any specific problems</p>

as it is not necessarily a new process, just a different way of channelling information.

Ciaran suggested that, at the AGM, Federico should ask the NF's how experienced their Members are with BIM.

b) Cash Retentions

Andy explained that the group has not made much progress due to group availability.

Andy noted that he, Przemysław and Jindrich have met once since the last WG meeting. At the meeting it was agreed that the group would aim to produce a position paper which they would ask the NF's to endorse. Assuming approval, this would then be presented to FIEC by the EFFC.

Andy noted that the group anticipates the proposal will be that sub-contractor obligations are guaranteed by means of an independent bond, rather than cash. Andy explained the TG hopes that FIEC recognises that the current scheme of cash retention is open to abuse. Especially as, currently, the only option sub-contractors have is to reflect the retention in their pricing. Andy concluded that an equitable solution to protect the sub-contractor's cash would be beneficial to all parties in the long-term.

Andy mentioned that the group considered creating a standard wording for a retention bond, but later agreed that variables across countries would make this almost impossible to implement. Federico noted that making noise in FIEC and at the European Commission, could result in some progress on reducing cash retentions. Ciaran noted that retentions is clearly an issue for main contractors as well, which should result in some interest from FIEC. Ciaran agreed to find out whether FIEC is looking into retentions.

Chris advised that going to FIEC with a stance to "stop sub-contractor retentions" is unlikely to progress, as most of the key figures in FIEC are main contractors and they will see this as a huge cash flow problem. Chris determined that the only way to address this with FIEC is to say, "stop cash retentions completely". Andy noted that removing retentions is not impossible as the FPS has been successful in offering guarantees and bonds, in lieu of cash, to main contractors. Chris agreed with Andy but noted that, with FIEC, it will unlikely take off in that way.

c) General Contract Conditions

Peter A noted that the group has met 3 times since the last WG meeting but that it has been difficult to get the full group together each time. Peter A also noted that Eelco van der Velde had attended the meetings in the absence of Peter Vroom.

Peter A explained that they started by comparing the previously drafted EFFC General Contract Conditions (GCC), with the Austrian and the Dutch GCC's, and concluded that the EFFC document was already highly comprehensive and required little to no alterations. Peter A explained that the only issue could be that they cannot be easily adopted in SE Europe. Ciaran noted that he had forwarded on the EFFC GCC document for comment to the NF's of Romania, the Czech Republic and Spain but had not received a response yet. Ciaran

EFFC
Secretary

	<p>committed to chasing them for a response so that the group could assess any possible changes to make the document easier to adopt. Peter A commented that, after getting their responses, the group should look to promote wider use of the EFFC GCC's.</p> <p>Thomas asked Peter A whether, in Austria, they are obliged to use the Austrian GCC's. Peter A noted that VÖBU have committed to using them and that they are often used as a standard. Thomas noted that, in Germany, they have "indispensable terms of contract" which all companies, working for a private client, are committed to using. Thomas asked Peter V whether this was the same in the Netherlands. Peter V noted that the NVAF use "UAV 2012" as a general condition for contractors but that foundation contractors also have specific conditions. Peter V continued by stating that GCC's are crucial for insurance purposes.</p> <p>Peter V stated that, because all foundation companies use the GCC's, clients in the Netherlands are used to using them. He continued to note that the NVAF teaches member companies how to uphold the GCC's when talking to clients. Ciaran noted that in the UK they have schedules and attendances which are a common set of conditions incorporated in tender but that the forms of contracts change. Andy agreed with Ciaran and noted that this is the only similarity the UK has with Europe. Andy continued to explain that main contractors are insistent on their own basic terms and that it would be very unlikely that the UK could introduce GCC's.</p> <p>Przemysław asked the group whether these standards are technical or commercial conditions. Thomas and Peter A explained that they cover both and that they essentially cover the basics of all tenders. Peter A noted that, in Austria, they took all the GCC from their main contractors and reviewed them, amended them, and turned them into a VÖBU standard. Federico noted that, like the UK, Italy would have problems adopting an EFFC GCC because main contractors have their own conditions. Peter A agreed but stressed that having an EFFC GCC document might help smaller companies/countries. Federico asked the group to review the document and prepare comments for the next CWG meeting.</p>	<p>EFFC Secretary</p> <p>All</p>
<p>4</p>	<p>Round Table Discussion</p> <p>a) FIEC participation</p> <p>a. Public Procurement</p> <p>Federico noted that he attended the last meeting (in May) and that the meeting focus was mainly on C-19. Federico explained that they held a round-table discussion about each federations experience.</p> <p>Federico noted that there was also discussion about an initiative with the EU about foreign subsidies. Federico explained that this problem is creating anti-competitive bids across Europe. Federico noted that FIEC and the EU are working on a draft white paper about bidding procedures in the Europe.</p> <p>b. Construction 4.0</p> <p>Jaap noted that there has not been a meeting since the last CWG meeting. It was noted that the next meeting is scheduled for 28th September 2020.</p>	

	<p>b) COVID-19</p> <p>a. Covid-19 insight document</p> <p>Dejan not present to discuss – agreed to put on the next agenda.</p> <p>Ciaran noted that at the AGM Andreas Körbler would like to talk about the issue of worker mobility and cross-border working. Ciaran explained that Andreas is interested to know if there would be any mileage in creating an EFFC scheme/protocol for this. Andy noted that worker mobility has been a big problem for the UK but that he did not think that construction workers would get preferential treatment. Ciaran agreed it would be difficult but if the proposition were reasonable, it might be possible. Federico noted that the rapidly changing situation across Europe would impact progress. It was agreed that the group should go away and brainstorm how this problem could be tackled.</p> <p>c) Building Smart International</p> <p>Dejan not present to discuss – agreed to put on the next agenda.</p>	<p>EFFC Secretariat</p> <p>All</p> <p>EFFC Secretariat</p>
5	<p>AGM Presentation</p> <p>Ciaran explained that the AGM will run as a virtual meeting split into two, two hour, sessions. Due to the time restrictions the WG's are being asked to tailor their presentations to cover any key issues/questions. It was agreed that Federico would go away and compile the CWG presentation with the work of the TG's in mind.</p>	<p>F Trevisani</p>
6	<p>AOB</p> <p>a) Contracts WG EFFC webinar</p> <p>Ciaran noted that the H&S WG are looking to hold a series of webinars and that it may be beneficial for the CWG to do this also. Ciaran explained that webinars would be a good way to filter the work of the CWG down to the National Federations. It was noted that cash retentions, collaborative working and digitalisation might be good starter topics. Federico asked whether the webinars would be available just for EFFC members. Ciaran noted that we could choose to keep them open to the whole industry or make them 'members only'. The group agreed that webinars would be a good way to disperse knowledge amongst the industry and that the group should investigate different topics. Federico asked Isabel to put webinar topics on the next agenda, so that the group can formally decide what to present on.</p>	<p>EFFC Secretariat</p>
7	<p>Date of the Next Meeting: Thursday 28th January (9am-12pm) (GMT)</p>	