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CIC/CMT/P/053/12
(for discussion)

Construction Industry Council

Committee on Subcontracting

Meeting No. 005/12 of the Committee on Subcontracting for 2012 was held on 9 October 2012 (Tuesday) at 2:30pm at Meeting Room 1, CIC Headquarters, 15/F Allied Kajima Building, 138 Gloucester Road, Wan Chai, Hong Kong.

Summary Notes of the Committee on Subcontracting Meeting No. 005/12.

Agenda Item	Paper	Major Resolutions/ Progress Highlights
5.1	CIC/SBC/R/004/12	<u>Confirmation of the Progress Report of the Previous Meeting</u> – Members confirmed the progress report of the previous meeting held on Thursday, 16 August 2012 at Meeting Room 1, CIC Headquarters, 15/F Allied Kajima Building, 138 Gloucester Road, Wan Chai, Hong Kong.
5.2		<u>Matters Arising from the Last Meeting for 2012</u> Item 5.2.1 - Wage Payment Alert No. 001/12 on Protect your Payment Rights The content was finally confirmed and the production was now under way. The electronic version of the posters in English and Chinese had been uploaded to CIC web site under the section “Information Centre” and the print copies would be dispatched to local construction companies in due course. The companies would be encouraged to put up the poster at common areas such as on-site construction offices, meeting rooms or training centres which could easily grab the attention of frontline workers.

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		<p>Item 5.2.3 - MPF Contribution (Item 3.3 of the Meeting 003/12)</p> <p>In response to a Member's comment at the 3rd meeting suggesting to formulate a long-term strategy to modify the MPF scheme to be solely paid by the employers and a pilot scheme to be conducted to assess the effectiveness before full implementation. MPFA followed up with the Secretariat subsequently and indicated that the proposed pilot scheme might not be practicable under the current legislation since both the employee and the employer were required to fully comply with the provisions of the MPF Schemes Ordinance by making contributions. Requested by MPFA, the Secretariat relayed this message to Members.</p> <p>A Member commented that MPFA, as an organisation executing the MPF scheme had no authority to take forward this major change. The proposal for modification of MPF scheme must be escalated to a higher level in the government (i.e. Chief Executive). In response, CIC would help to relay this recommendation to the government through the regular meeting with DevB.</p>
5.3	CIC/SBC/P/027/12 (for information)	<u>Revised Categorisation of the CIC Publications</u> – Members took note of the new categorisation of the CIC publications, including Alerts, Reference Materials, Guidelines and Codes of Conduct, as approved at the Council Meeting on 31 August 2012.
5.4	CIC/SBC/P/028/12 (for information) CIC/SBC/P/029/12 (for information)	<u>Task Force on Dispute Resolution Documentation</u> Item 5.4.1 - Guidelines on Application of Dispute Resolution in Construction Contracts - Members generally agreed that the document should be issued in the form of Reference Material owing to the following reasons: <ul style="list-style-type: none">• DevB and HA might not adopt the dispute resolution mechanisms proposed in the document. It would therefore be considered inappropriate to issue the document as

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	CIC/SBC/P/030/12 (for endorsement)	<p>guidelines in which all industry practitioners were expected to adopt.</p> <ul style="list-style-type: none">• The definition of guidelines in previous categorisation was equivalent to reference material in accordance with the new categorisation of the CIC publications. By the same token, the document should be issued in the form of reference material. It could be further reviewed after the document had been issued for some time. <p>Chairman concluded that the proposed draft document was endorsed subject to the following changes and amendments:</p> <ul style="list-style-type: none">• It was agreed that the document was more appropriate to be published in the form of Reference Material.• The terms of reference should be included in the document to define the objectives, scope and deliverables.• To amend Clause 12 of Annex H to stipulate short form arbitration is regarded as a form of arbitration and correspondingly be regarded as a domestic arbitration to ensure both arbitration or short form arbitration can enjoy the automatic opt-in provisions referred to in Section 100 of the Arbitration Ordinance (Cap 609). <p>On the subject of whether the Guidelines on Dispute Resolution published in September 2010 would require to be renamed. CT proposed that a paper would be prepared and submitted to the Council to review the categorisation of all publications issued by the CIC over the past few years and provide recommendation for the categories of all previous publications.</p> <p>Upon approval of the document at the Council Meeting on 26 October 2012, Members agreed that the Task Force on Dispute Resolution Documentation would be dissolved.</p>

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5.5	CIC/SBC/P/031/12 (for discussion)	<p><u>Variable Remuneration to be Included in the Specimen Employment Contract</u> – To reflect the reality in the construction industry and to protect workers’ payment rights, LKC emphasised that the specimen employment contract should be revised by including a space for worker to specify where appropriate other income to be received on top of the basic wages.</p> <p>A Member suggested using “Earnings (收入)” instead of “Top-up wages” because the word “Earnings” could include time-based wages or piece-work payments. Another Member commented that the term “Top-up wages” itself was ambiguous in what it actually means.</p> <p>After a long discussion, Chairman proposed and Members agreed that an informal working group would be formed to review this particular issue and how the variable remuneration could be properly specified in the specimen employment contract. Considering the significance of the issue, CW proposed to nominate a few HKCA's members to take part in the working group and LD was invited to participate as a member also.</p>
5.6	CIC/SBC/P/032/12 (for discussion)	<p><u>Task Force on Voluntary Subcontractor Registration Scheme (VSRS) Stage 2</u></p> <p>Members took note of the proposed Applications Forms and Guidance for Submitting Application for the SRS.</p> <p>The promotion plan would be carried out accordingly in the coming quarter to prepare for the launching of the SRS on 1 January 2013.</p>

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		<p>The Committee agreed that the Task Force on Voluntary Subcontractor Registration Scheme (VSRS) Stage 2 could be dissolved by end of this year saved for further refinements on related documents, if any to be identified by the Secretariat in accordance with the approved principles.</p> <p>Raised by a Member, the Secretariat would study the feasibility of including a key message in SRS's rules and procedures to encourage registered subcontractors to sign written employment contract with their employees. Instead of setting up a new task force or working group, Chairman proposed that this recommendation could be discussed by the informal working group, which would be established to review the amendment of specimen employment contract mentioned in agenda item 5.5 above.</p>
5.7	CIC/SBC/P/033/12 (for information)	<u>Update on VSRS Operations</u> - The Secretariat updated Members on the latest VSRS operations as detailed in paragraphs 2 to 4 in the paper.
5.8	CIC/SBC/P/034/12 (for discussion)	<u>Strengths and Competitive Advantages of the Hong Kong Construction Industry</u> - Based on previous discussion at the 4 th meeting last year, Members supplemented more comparative strengths and competitive advantages of Hong Kong construction industry. <p>From industrial perspective:</p> <ul style="list-style-type: none">• The subcontracting system in the construction industry optimizes resources planning, improves financial risk sharing and enhances quality of work. Subcontractors will also

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		<p style="text-align: center;">take initiative to improve the performance.</p> <p>From the perspective of soft power:</p> <ul style="list-style-type: none">• Hong Kong people are hardworking, productive and have always been known to have a “can-do” spirit;• Started as a rookie at a very young age, many proprietors along the construction supply chain have solid and extensive experience in construction;• Hong Kong construction industry has developed a high degree of trade specialisation/division of labour and entrepreneurial spirit, which significantly increases productivity, risk-taking capability and results. <p>From an improvement potential perspective, a Member indicated that there was still much room for improvement in the areas of construction life cycle assessment, asset management and services quality in maintenance works.</p>
5.9	CIC/SBC/P/035/12 (for discussion)	<u>Tentative Work Plan for Year 2013</u> - In continuation of last year’s works, the Committee would continue carrying out and completing the tasks specified in the paper. A number of new tasks proposed to be commenced in 2013 were also reported.
5.10	CIC/SBC/P/036/12 (for information)	<u>Tentative Meeting Schedule for Year 2013</u> - Members were reminded to mark in their diaries four committee meetings tentatively scheduled for 2013.

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5.11		<u>Any Other Business</u> - As a side issue, Members were advised that ByW was nominated as a member of the Special Group on Unfair Terms and Contracts established by the Committee on Procurement to review the concern raised by Hong Kong Construction Association over unjustifiable allocation of risk from developers under the main contract.