

**Construction Industry Council**

**Committee on Subcontracting**

---

Meeting No. 003/10 of the Committee on Subcontracting for 2010 was held on 10 August 2010 (Tuesday) at 2:30 pm at Room 1201, Murray Building, Central, Hong Kong.

Present:	Mike WONG	(MW)	Chairman
	Luen-kiu CHOW	(LKC)	
	Peter LAM	(OKL)	
	Conrad WONG	(CW)	
	Kam-hung YU	(KHY)	
	Fu-choi CHIN	(FCC)	for Permanent Secretary for Transport and Housing (Housing)
	David CHAN	(NSC)	Hong Kong Construction Association
	Kenny FOK	(KF)	Independent Commission Against Corruption
	Lawrence NG	(LN)	Hong Kong Marble and Granite Merchants Association
	Ki-cheung TANG	(KCT)	Hong Kong Institute of Surveyors
Chun-yuen TSE	(CYT)	Hong Kong Construction Subcontractors Association	
Sing-lam WONG	(SLW)	Contractor's Authorized Signatory Association	
In Attendance:	Kevin POOLE	(KP)	Representing Stanley HUI
	Sek-yiu KWAN	(SKW)	Water Supplies Department
	Simon LAU	(SLU)	Development Bureau
	Sing-hin TSO	(SHT)	Labour Department
	Christopher TO	(CT)	Executive Director
	Ivan WONG	(IW)	Senior Manager (Council Services) 2
	Phoebe LEUNG	(PLG)	Manager (Council Services) 2
Apologies:	Teresa CHENG	(TC)	
	Hau-wai CHEUNG	(HWC)	
	Stanley HUI	(SH)	
	Koon-sun WAN	(KSW)	
	Wai-wai YU	(WWY)	

Paul CHONG	(PC)	The Hong Kong Federation of Electrical and Mechanical Contractors
Bernard HUI	(BH)	The Hong Kong Institute of Architects
Michael HUI	(MH)	Development Bureau
Joseph NG	(JN)	Hong Kong General Building Contractors Association

## **PROGRESS REPORT**

### **Action**

#### **3.0 Welcome Remarks**

The Chairman welcomed a new Co-opted Member Mr David CHAN for his participation in the committee work. Mr CHAN was nominated by Hong Kong Construction Association.

#### **3.1 Confirmation of the Progress Report of the Previous Meeting**

Members took note of Paper CIC/SBC/R/002/10 and confirmed the progress report of the previous meeting held on Tuesday, 11 May 2010 at Room 1201, Murray Building, Central, Hong Kong.

#### **3.2 Matters Arising from the Previous Meeting**

##### **3.2.1 Committee Membership and Terms of Reference**

The committee membership and the revised Terms of Reference of the Committee were approved by the CIC at its meeting held on 25 June 2010.

##### **3.2.2 Model Documents for Dispute Resolution**

Discussed under Agenda Item 3.5

##### **3.2.3 Report on Survey of Problems of Outstanding Payments in Construction Supply Chain (Survey Report)**

The Survey Report was submitted to the CIC for discussion at its meeting held on 25 June 2010. As to the projection of outstanding payments, some CIC members suggested conducting a further study to obtain more accurate results. The CIC also considered that

Action

the Survey Report should be kept for internal reference only.

3.2.4 Setting up Task Force on Standard Contract Provisions for Domestic Subcontracts

Discussed under Agenda Item 3.4

3.2.5 Setting up Task Force on Security of Payment Legislation

Discussed under Agenda Item 3.6

3.2.6 Comments on Report of Working Group on Mediation

Members' responses to the Report of the Working Group on Mediation were given to the Department of Justice on 8 June 2010.

**3.3 Task Force on VSRS Stage 2 (TF-VSRS2)**

Members took note of the Paper CIC/SBC/P/014/10.

According to the existing Rules and Procedures for the Primary Register of the Voluntary Subcontractor Registration Scheme (VSRS), regulatory actions would be taken against those Registered Subcontractors who were convicted of violating specified legislations such as violating the Employment Ordinance for failure to pay wages on time to workers. Some members of the TF-VSRS2 proposed imposing more stringent measures on wages payment within the framework of the VSRS. It was suggested that Registered Subcontractors failing to pay wages to workers within 10 days after the end of the wage period should be subject to regulatory actions under the proposed Subcontractor Registration Scheme (SRS). The Management Committee of the SRS would base on clear evidence of late payment of wages such as information provided by Hong Kong Housing Authority to decide appropriate regulatory actions. However, some other members of the TF-VSRS2 had reservation about the proposed change considering that substantial administrative work would be required for implementing such measures.

After much deliberation, Members supported that more stringent

Action

measures should be taken to combat non-payment of wages to construction workers. For effective implementation, the TF-VSRS2 was requested to propose necessary changes to the Rules and Procedures of the VSRS for Members' consideration in due course. Members also agreed that the general principle of taking regulatory action only after conviction should hold and such change should only be applicable to the clauses relating to the payment of workers wages.

**TF-VSRS2**

Members also took note of the revised Codes of Conduct for Registered Subcontractors under the Subcontractor Registration Scheme. A Member proposed imposing regulatory action for non-provision of safety training and would discuss with the CIC Secretariat about the viability of the suggestion.

**Labour  
Department  
/CIC  
Secretariat**

**3.4 Task Force on Standard Contract Provisions for Domestic Subcontracts (TF-SCDC)**

Members took note of the Papers CIC/SBC/P/015/10 and CIC/SBC/P/018/10. Chairman expressed his appreciation of the effort of the TF-SCDC to translate the principles advocated by the Guidelines on Standard Forms of Domestic Sub-contracts for Basic Trades, which was published by the then Provisional Construction Industry Co-ordination Board, into subcontract clauses for adoption by the industry.

**3.5 Task Force on Dispute Resolution Documentation (TF-DRD)**

Members took note of the Paper CIC/SBC/P/019/10.

The TF-DRD was tasked to prepare model contract clauses for incorporating into commonly used forms of construction contracts based on the dispute resolution practices recommended in the Guidelines on Dispute Resolution which would be published by the CIC in the following week. It was suggested that the model document would better be a standalone and self-contained document which could be readily adopted in either public sector or private sector projects. Members also suggested keeping the TF-SCDC informed of the work of TF-DRD so as to facilitate the preparation of sub-contract clauses.

**CIC  
Secretariat**

**3.6 Task Force on Security of Payment Legislation (TF-SPL)**

**Action**

Members took note of Paper CIC/SBC/P/016/10.

Development Bureau was discussing with the Census and Statistics Department to conduct a further survey in relation to the projections of outstanding payments within the construction industry to facilitate the consideration of legislation on security of payment and would like to work in collaboration with the CIC on the survey. Members then requested the TF-SPL to provide assistance to Development Bureau in the matter.

**TF-SPL**

Another Member suggested revising the wording of the second item of the Terms of Reference (ToR) to elaborate that the TF-SPL was tasked to, *inter alia*, study issues relating to security of payment legislation and make proposals on the scope of legislation for consideration by the Committee. It would make it clear that the responsibility for formulating recommendation would be shared by the Committee. The ToR should also include the discussion on the necessity of the legislation. The CIC Secretariat was then directed to amend the Terms of Reference.

**CIC  
Secretariat**

Members also noted that the CIC held a press conference on the publication of Guidelines on Measures for Protection of Workers' Wages on 4 August 2010. This set of Guidelines aimed to facilitate the implementation of good practices within the industry by incorporating proper provisions in contractual agreements to handle non-payment wages to workers.

**3.7 Tentative Work Plan for 2011**

Members took note of Paper CIC/SBC/P/017/10 and agreed to the proposed tasks.

**3.8 Any Other Business**

Nil

**3.9 Tentative Date of Next Meeting for 2010**

9 November 2010 (Tuesday) at 2:30 pm at Room 1201, Murray Building, Central, Hong Kong

**All to note**

There being no further business, the meeting was adjourned at 3:40 pm.