

# 2013

ANNUAL REPORT

EN

European  
Construction  
Industry  
Federation



**F I E C**



29  
countries

33  
federations

including reports of



## FIEC

### Created in 1905

Legal personality under French law

**29 countries** (25 EU, Switzerland, Norway, Croatia and Turkey)

**33 national member federations** representing firms:

- of all sizes (from one person SMEs through to the large firms)
- of all building and civil engineering specialities
- practising all kinds of working methods (whether operating as general contractors or as sub-contractors)

### Associate members:

**BFW** Bundesverband Freier Immobilien- und Wohnungsunternehmen e.V.

**EFFC** European Federation of Foundation Contractors

**EQAR** European Quality Association for Recycling e.V.

### Cooperation Agreement:

**NFB** National Federation of Builders (UK)



**Social Partner in the European Sectoral Social Dialogue of the Construction Industry together with FETBB-EFBWW-EFBH** (European Federation of Building and Woodworkers)  
<http://ec.europa.eu/social/main.jsp?catId=480&langId=en&intPagelId=23>



The European founding member of **CICA** (Confederation of International Contractors' Associations)  
[www.cica.net](http://www.cica.net)



Associate member of **CEN** (European Committee for Standardisation)  
[www.cen.eu](http://www.cen.eu)



Member of **ECCREDI** (European Council for Construction Research, Development and Innovation)  
[www.eccredi.org](http://www.eccredi.org)



Associate Member of the "Enterprise Europe Network" of the European Commission  
[www.enterprise-europe-network.ec.europa.eu](http://www.enterprise-europe-network.ec.europa.eu)



Cooperation with **EIC** (European International Contractors) for activities beyond Europe's borders  
[www.eicontractors.de](http://www.eicontractors.de)



Participant in the **ECF** (European Construction Forum)  
[www.ecf.be](http://www.ecf.be)



Member of **ESF** (European Services Forum)  
[www.esf.be](http://www.esf.be)



Partner in the **OSHA** (European Agency for Health and Safety at Work) Campaign on "Healthy Workplaces"  
[www.healthy-workplaces.eu](http://www.healthy-workplaces.eu)



Partner in "Install+RES" project  
[www.resinstaller.eu](http://www.resinstaller.eu)



Member of **WorldSkills Europe**  
[www.euroskills.org](http://www.euroskills.org)



Member of **EHF** (European Housing Forum)  
[www.europeanhousingforum.org](http://www.europeanhousingforum.org)

## The Sector

Total construction in 2012 (EU 27):

**1,172**  
billion €

**9.1%**  
of GDP  
in 2012 (EU 27):

**49.9%**  
of Gross Fixed  
Capital Formation

**3.1**  
million  
enterprises  
(EU 27),  
of which:

**95%**  
are SMEs with fewer  
than 20 and

**93%**  
with fewer than 10  
operatives

**14.6**  
million  
operatives

**6.8%**  
of Europe's total  
employment

**biggest  
industrial  
employer in  
Europe**  
(30.2% of industrial  
employment)

**43.8 million workers**

in the EU depend, directly or indirectly, on the construction sector\*

**Multiplier effect:**

**1 person** working in the construction industry  
=  
**2 further persons** working in other sector\*

\*source: Communication from the Commission "The Competitiveness of the Construction Industry", COM(97) 539 of 4/11/1997, chapter 2

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It is my honour and pleasure to present the latest edition of the FIEC Annual Report, the first of my mandate as President of FIEC. It presents FIEC's main activities over the past year since our 2012 General Assembly in Istanbul. In accordance with a long-standing tradition, our colleagues from the European International Contractors (EIC) and the Confederation of International Contractors' Associations (CICA) also present their activities in this Annual Report.

**FIEC's comprehensive representativeness**

Without discrimination, FIEC represents the interests of construction enterprises of all sizes, i.e. craftsmen, SMEs, family run enterprises and global players. This is the particular strength of FIEC. The participation of contractors and experts of the 33 member federations from 29 countries, as well as the specific role of our Vice-President "SME-Envoy", ensure that each issue addressed by FIEC reflects the interests of enterprises of all sizes. This comprehensive representativeness is also key to ensuring the strength and unity of the voice of construction enterprises in the European Social Dialogue in which FIEC is the officially recognised employer partner, with EFBWW representing the construction workers.

**Economic environment and competitiveness**

Overviews and detailed reports on general developments and construction activity are presented in our Statistical Report (N° 56) published at the same time as this Annual Report. I will therefore only mention some major trends.

Between the total construction volumes recorded in 2008 and 2012, the EU has had an overall decrease of 11,6%. This is the result of a few positive and many negative, even catastrophic developments.

Positive developments have been recorded in only 4 EU countries, namely Poland (18,9%), Germany (4,5%),

Sweden (2,9%) and Belgium (2,4%). Countries outside the EU had growth: Norway (7,6%), Switzerland (11,3%) and Turkey (23%).

This is however not sufficient for compensating the negative development of construction turnover in general in all other countries. The countries worst hit are Ireland (-75,7%), Slovenia (-61%), Bulgaria (-48,4%) and Lithuania (-46,1%). But also countries like Spain (-35,3%), Italy (-25,3%), the Netherlands (-18,2%), the UK (-12,4%) or France (-11,2%) are heavily affected. The consequences of these dramatic developments are tens of thousands of bankruptcies and hundreds of thousands of unemployed construction workers.

The main reason for this is not that contractors are incapable of running their businesses, but that they are victim of a combination of inadequate public policy decisions and practices, such as reductions of investment, down to zero in extreme cases, and late or non-payment of invoices for accepted work at the same time as insisting on prompt payment of taxes and other sums due to them.

**The way out of the crisis: sustainable investment policies**

In view of this overall development, I cannot but reiterate our appeal to governments not to systematically sacrifice investment budgets, but to ensure the steady and consistent flow of investment that is needed for securing social and economic development and the well-being of Europe's citizens for today and future generations.

In fact, reduction or absence of investment in necessary infrastructure, both new and maintenance, energy efficiency measures, climate change mitigation/ adaptation and training, appear to allow immediate savings. However, this perception fails to realise that this behaviour is likely to become very expensive in the medium and long term, as it puts at considerable risk any chance of positive future development and compromises the EU's competitiveness.

In order to avoid any misunderstanding, the European Construction Industry is not asking for public subsidies, but "simply" for the steady and consistent flow of public and private investment that is needed for laying the foundations for future economic growth and the well-being of Europe's citizens for today and future generations.

### Real progress needs real investment into real economy

In this context, FIEC speaks out in favour of a healthy balance between public and private investment. Reasonable use of PPP-schemes and innovative financial instruments proposed by the Commission, such as project bonds, are welcome. However, given the increasingly restricted access to credit that the private sector is facing, due to the financial crisis and banks' prudential rules, this cannot replace an effective policy of long-term public investment.

This, in turn, should also mean that the current treatment of such investment for projects of European interest should be reconsidered in national stability pact calculations.

Furthermore, it is difficult to accept that the EU taxpayers' money which the European Central Bank puts at the disposal of banks for little or no interest, does not reach the real economy to a much larger extent. The ECB should consider conditioning its transfers to banks correspondingly.

These are also the key messages of the construction sector in the framework of the Commission's Communication on "Sustainable Construction Industry". In fact, they are presented in the European Construction Forum's "Manifesto" of which a revised version was published in January 2013 for the EU Commission's High Level Forum.

The Commission Communication and its various aspects are addressed in a specific chapter of this report (see page 12).

### Other issues, to name but a few, which you will find in this year's Annual Report are:

- Public procurement, PPPs, concessions and project bonds
- Fair contract conditions
- Fair competition on open markets, worldwide
- Vocational training and education
- Improving Health & Safety on construction sites
- Posting of workers and enforcement of rules
- Boosting the role of contractors in standardisation
- Sustainable Construction
- Energy efficiency and climate change mitigation
- Infrastructure development
- Research, Development and Innovation
- Resource Efficiency
- Housing and urban policy, demographic change.

### My thanks

On this occasion, I would like to extend my thanks to everybody who, during the first year of my mandate, has participated actively or by virtue of their advice in our work: my Steering Committee colleagues, the Presidents and members of our commissions, sub-commissions and working groups, the contractors and staff of our member federations and also the staff of the FIEC secretariat in Brussels.

At the same time, I would also like to thank all our interlocutors in the European institutions and the associations/federations with whom we have closely cooperated on the numerous themes linked to construction. I would like to address a special thanks to our social partner EFBWW, with whom we have – again – successfully organised conferences and studies, as well as agreed on a number of important joint position papers.

### Construction is the solution industry

In conclusion, I would like to reiterate a personal appeal to policymakers, which I had the opportunity of addressing directly to Herman Van Rompuy, President of the European Council, José Manuel Barroso, President of the European Commission and Enda Kenny, Leader of the Presidency of the EU Council, on the occasion of the spring Tripartite Social Summit on 14/3/2013:

Whether it is in preparing the ground for future growth through investing in infrastructure, dealing with the threat of climate change, adapting buildings to make them more energy efficient or in planning cities to meet the changing needs of future generations, the construction sector is the fundamental partner to make the future a reality. As we try and draw the lessons of the financial crisis, let us use the talent, expertise and dedication of the men and women of the construction industry. They have a lot to offer to society as a whole.

### Construction is the solution industry!

Enjoy reading FIEC's 2013 Annual Report and please do not hesitate to contact us for any comment you would like to make or any further information you would like to receive. Our revamped website [www.fiec.eu](http://www.fiec.eu) also provides a wealth of information and all our position papers.



Thomas Schleicher,  
President of FIEC

## 4 | PRESIDENT'S MESSAGE

### Tripartite Social Summit for Growth and Employment, Brussels – 14/3/2013

Pictures from the screens in the Council meeting room, Building Justus Lipsius

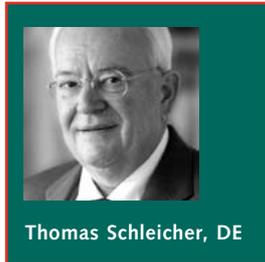


José Manuel Barroso,  
President of the European Commission



Thomas Schleicher, FIEC President  
participating in the open debate of the Social Partners





Thomas Schleicher, DE

President



Jacques Huillard, FR

Vice-President  
ECO  
(FR)



Johan Willemen, BE

Vice-President  
SOC  
(BE-IE-LU-NL)



Kjetil Tonning, NO

Vice-President  
TEC  
(DK-EE-FI-LT-NO-SE)



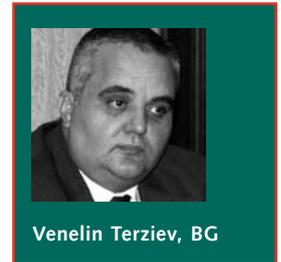
Michel Buro, CH

Vice-President  
Treasurer  
(AT-CH-HR-HU-SI-SK)



Paolo Astaldi, IT

Vice-President  
Competitiveness  
(IT)



Venelin Terziev, BG

Vice-President  
ECF  
(BG-CY-GR-MT-RO)



Néstor Turró, ES

Vice-President  
MEDA  
(ES-PT)



Frank Dupré, DE

Vice-President  
SME  
(DE)



Emre Aykar, TR

Vice-President  
CICA Senior Vice-President  
(TR)



Duccio Astaldi, IT

Vice-President  
EIC President

**GENERAL ASSEMBLY**

**COUNCIL**

**STEERING COMMITTEE**

**Economic and Legal Commission (ECO)**

President:  
Jacques Huillard, FR  
Rapporteur:  
Christine Le Forestier, FIEC

**Working Group  
Transport Infrastructure**

Chairman: Jacques Huillard, FR

**Temporary Working Groups**

**International accounting rules**  
Chairman: Enrico Laghi, IT

**PPPs and Concessions**

Chairman:  
Vincent Piron, FR

**EU Contract Law**

Chairman: Wolfgang Bayer, DE

**Public Procurement**

Chairman: Jan Wierenga, NL

**Social Commission (SOC)**

President:  
Johan Willemen, BE  
Rapporteur:  
Domenico Campogrande, FIEC

**SOC-1:**

**Vocational Training**

Chairman: Alfonso Perri, IT  
Executive Chairman: Jacques Lair, FR

**SOC-2:**

**Health and Safety**

Chairman: Cristina García Herguedas, ES

**SOC-3:**

**Economic and Social  
Aspects of Employment**

Chairman:  
François Jacquél, FR (-05/2013)  
Jean Cerutti, FR (05/2013-)

**Technical Commission (TEC)**

President:  
Kjetil Tønning, NO  
Rapporteur:  
Frank Faraday, FIEC (-06/2013)  
Sue Arundale, FIEC (06/2013-)

**TEC-1:**

**Directives, Standards  
and Quality Assurance**

Chairman: Jan Coumans, BE

**TEC-2:**

**Research, Development  
and Innovation**

Chairman: Bernard Raspaud, FR

**TEC-3:**

**Environment**

Chairman: Jan Wardenaar, NL

**Temporary Working Groups**

**TWG End of Waste Criteria**  
Chairman: Chris Harnan, EFFC

**TWG Energy Networks**  
Chairman: Daniel Bosdari, FR

**Competitiveness**

President: Paolo Astaldi, IT  
Rapporteur: Ulrich Paetzold, FIEC

**EIC – European International Contractors e.V.**

President: Duccio Astaldi, IT  
Director: Frank Kehlenbach, EIC

**CICA – Confederation of International Contractors' Associations**

President: Manuel R. Vallarino, ROP  
Senior Vice-President: Emre Aykar, TR  
Director General: Roger Fiszelson, CICA



Ulrich Paetzold  
Director General



Christine Le Forestier  
Rapporteur  
Economic and  
Legal Commission



Domenico Campogrande  
Rapporteur  
Social  
Commission



Frank Faraday  
Rapporteur  
Technical  
Commission  
(-06/2013)



Joëlle Caucheteur  
Secretariat



Yasmina Koeune  
Secretariat



Sue Arundale  
Rapporteur  
Technical  
Commission  
(06/2013-)



Sylvie Masula  
Secretariat



Muriel Lambelé  
Accountant



Marie-Cécile Bailly  
Webmaster –  
Communication officer

Photo: Yvan Clavier, Brussels

**The Secretariat has a double responsibility:** *internally towards its member federations, and externally towards the European Institutions and other organisations both at the European and world levels. With the objective of defending and promoting the interests of enterprises in the construction sector.*

**So far as this “internal” role is concerned,** in the first instance it ensures the coordination and the proper functioning of internal bodies of the federation (General Assembly, Council of Presidents, Steering Committee, Commissions, Sub-commissions and working groups etc.) and on the other, ensures communications with the member federations which includes consulting them on all actions undertaken towards the European Institutions, directly or indirectly of concern to the construction sector.

**As concerns its external role,** this involves on the one hand representing the sector in its debates with the European Institutions, from the first consultative phases, ensuring the follow-up and proposing initiatives, through to individual specific actions of the organisations such as seminars and conferences. At the same time, the Secretariat takes care of the coordination of contacts and other actions with other organisations such as EIC (European International Contractors) and CICA (Confederation of International Contractors Associations).

Conference - Le Meridien Hotel Etiler, Istanbul –  
“Modernising public procurement: competitive markets  
in the EU and worldwide” 8/6/2012



1

**Conference 8/6/2012**  
**“Modernising public procurement:  
competitive markets in the EU and  
worldwide”**  
**European contractors call for  
rejecting “abnormally low tenders”  
and for fair competition on open  
procurement markets worldwide.**

“We call for sustainable and innovative public procurement, fair contract conditions and for rejecting abnormally low tenders! Finally, we need fair competition between EU and non-EU companies based on reciprocity!” These are the words with which Luisa Todini, FIEC President, concluded the conference of the FIEC Congress 2012, on 8<sup>th</sup> June in Istanbul.

At a time when public procurement<sup>1</sup> is very high on the EU legislative agenda, FIEC dedicated the conference part of its annual Congress in Istanbul, to this very important issue in terms of business opportunities for EU construction companies.

“Public procurement plays a crucial role in the economic performance of the European Union. Public authorities in Europe spend around 18% of EU GDP per year in supplies, services and works. This represents – solely for public contracts above the directives’ thresholds – a volume of business opportunities amounting to €420 billion!” stressed Todini. Hence, such an opportunity must not be wasted.

For that purpose, a series of conditions must be met. “these include the need to promote sustainability through increasing the use of the Most Economically Advantageous Tender, systematically allowing variants and ensuring confidentiality of tenders

1<sup>st</sup> Round Table – Modernising procurement  
procedures



2

Keynote speech  
“Public  
Procurement –  
modernisation  
package”



3

1. Luisa Todini, opening of the Conference
2. Ursula Weidenfeld (conference moderator), Alessia Centioni (EP – on behalf of MEP Tarabella), Jan Wierenga (Chair of FIEC TWG “Public Procurement”), Jan Michiel Hebly (Prof. Leiden University), Hans-Hartwig Loewenstein (ZDB President), Ricardo Gomes (FEPICOP President)
3. Alessia Centioni, speaking on behalf of MEP Marc Tarabella, Rapporteur on EC draft directives on Public Procurement
4. Ursula Weidenfeld (conference moderator), Jan Michiel Hebly (keynote speaker), Michel Démarre (EIC immediate Past President), Alessia Centioni (EP-on behalf of MEP Tarabella), Frank Dupré (ZDB Vice-President)
5. Jan Michiel Hebly (Professor in procurement & construction law, Leiden University, NL)

2<sup>nd</sup> Round Table – Fair conditions and international  
aspects of Public Procurement



4

Keynote speech “Latest developments – contract  
conditions & market access to EU Public Procurement”



5

*to push innovation in our industry, the need to avoid measures that will affect the organisation of our value chain, by trying to artificially impose inadequate business structures on our companies, such as the limits envisaged on sub-contracting or the "joint liability" of the main contractor, and finally once and for all putting an end to awarding contracts to abnormally low tenders that distort competition and drive down quality."* claimed Todini.

Finally, by recently proposing a draft Regulation on "market access", the European Commission has sent a very positive signal towards the EU's trading partners that the bloc does not want protectionism but fair competition between EU and non-EU companies by ensuring reciprocity in public procurement worldwide<sup>2</sup>. *"This initiative represents a first step in the right direction",* said Todini, *"however, FIEC and EIC will also put forward some concrete improvements in order for this legislative instrument to work more effectively in practice."*

Marc Tarabella, member of the European Parliament for the S&D Group and rapporteur for the public procurement directive stressed, in reaction to the proceedings of the FIEC conference, that *"in the current context, marked by the need of economic growth, public procurement is a powerful vector to stimulate the European economy"*.

*"Awarding contracts only on the basis of the Most Economically Advantageous Tender is the only way to deliver a better outcome and to improve the efficiency of public expenditure,"* confirmed Tarabella before stressing, *"furthermore, respecting social and environmental criteria as well as public health protection are the only ways to fight against unfair competition and social dumping, inside and outside European's borders."*

<sup>1</sup> Please also refer to the chapter "Economic and Legal Commission- ECO" page 24

<sup>2</sup> Please also refer to the chapter "International issues on the Internal Market" page 18

### Keynote speech "Turkey -EU Accession negotiations on Public Procurement"



Isa COŞKUN, Deputy Undersecretary for the Ministry of Finance

### EU Communication and Action targeting the Construction Industry



Daniel CALLEJA, Director General of DG Enterprise and Industry

### Increasing Turkey - EU Business Cooperation



Egemen Bağış, Minister for European Union Affairs and Chief Negotiator



Emin Sazak (TCA President), Daniel Calleja, Luisa Todini, Egemen Bağış, Thomas Schleicher (new elected FIEC President), Emre Aykar (TCA Vice-President)

**Construction Summit “Sustainable competitiveness of the Construction Industry” 9/6/2012**



1

**Presentation of EU forthcoming Action Plan for the Construction Sector**



2

3

1. Emin Sazak (TCA President), Thomas Schleicher (incoming FIEC President), Duccio Astaldi (EIC President), Luisa Todini (outgoing FIEC President), Antonio Tajani (EU Vice-President), Daniel Calleja (EU Commission – DG ENTR), Fabrizia Benini (EU Commission-Cabinet of V-P Tajani)
2. Antonio TAJANI, Vice-President of the European Commission, responsible for Industry and Entrepreneurs
3. Emin Sazak, Egemen Bağış (Turkish Minister for EU-Affairs), Antonio Tajani, Luisa Todini, Thomas Schleicher
4. Participants to the Construction Summit – Le Meridien Hotel Etiler, Istanbul



4

**First “Construction Summit”:  
laying the foundations for the  
sustainable competitiveness of the  
construction industry**  
Istanbul, 9/6/2012

*“The performance of the construction sector has a significant bearing on the development of the overall economy.”* declared **Antonio Tajani, Vice-President of the European Commission**, *“The competitiveness of construction companies is therefore an important issue not only for growth and employment in general but also to ensure the sustainability of the sector.”* added Tajani referring to the construction sector as strategic for growth, within the EU 2020 strategy agenda.

Vice-President Tajani made his intervention in the “Construction Summit”, organised by FIEC and the European Commission that took place in Istanbul during the federation’s annual congress. The aim of the summit was to discuss a forthcoming Action Plan for the Construction Sector soon to be adopted by the European Commission together with representatives of the construction industry from across Europe.

Outgoing FIEC President, Luisa Todini, took the opportunity to underline that *“there is much potential linked to the renovation of existing buildings, renewables, and sustainable transport and energy infrastructure but very often financing is lacking and the regulatory framework does not encourage a long term investment perspective”*. Furthermore, Todini added, *“many of our companies, mainly SMEs, are being forced into bankruptcy through continued late payment by public authorities and through the refusal of banks to lend.”*

In order to ensure the competitiveness of EU companies, *“it is crucial to ensure a level playing field in the compliance with environmental, social and corporate governance standards both on the European and on international markets”* she underlined.

Concluding the summit, Todini congratulated Vice-President Tajani on his decision to hold more regular high level summits between FIEC and the European Commission adding *“this is a very welcome step and we will do all we can to ensure that the proposed policies and recommendations will translate into useful instruments for sustainable and competitive growth on the ground”*.

FIEC is committed to playing its role as part of the solution to the challenges Europe faces today and in the future.

The Construction Summit was followed by a press conference, in which also the Turkish Minister for EU-Affairs, Egemen Bağış, participated.

Hosting Member Federation TCA, Turkish Contractors Association, celebrating their 60<sup>th</sup> Anniversary in 2012



Gala evening – Cruise on the Bosphorus, 8/6/2012



Outgoing and incoming FIEC Presidents



General Assembly – election new FIEC President and new Steering Committee – outgoing and incoming members



- 5. Emre Aykar (TCA Vice-President and new elected FIEC Vice-President), Emin Sazak (TCA President)
- 6. Antonio Tajani (EU Vice-President), Thomas Schleicher, Luisa Todini
- 7. Luisa Todini, Thomas Schleicher
- 8. (from left to right) Michel Démarre, Néstor Turró, Jacques Huillard, Frank Dupré, Duccio Astaldi, Emre Aykar, Thomas Schleicher, Luisa Todini, Paolo Astaldi, Elco Brinkman, Kjetil Tønning, Angelo Provera, Andreas Mikallos, Michel Buro, Johan Willemen, Venelin Terziev



Paolo Astaldi, IT

President

Ulrich Paetzold, FIEC  
Rapporteur

### Strategy for the sustainable competitiveness of the construction sector and its enterprises

Communication from the Commission to the European Parliament and the Council, COM(2012)433 of 31/7/2012

#### Construction Summit, Istanbul,

The (at that time forthcoming) Communication was the main issue of the Construction Summit which FIEC organised on the occasion of its Annual Congress in Istanbul in June 2012 (see page 10). Commission Vice-President Antonio Tajani, together with DG Enterprise Director General Daniel Calleja and their experts in charge of the issue, presented the main lines of the strategy intended to boost the competitiveness of the construction sector to a select audience of contractors and federation executives.

FIEC assured Vice-President Tajani that the contractors and their federations will do all they can to ensure that the proposed policies and recommendations will translate into useful instruments for sustainable and competitive growth on the ground.

#### The Commission Communication

Following thorough consultation of all stakeholders of the construction sector, the European Commission finally adopted and published, on 31/7/2012, the long awaited Communication and Action Plan, accompanied by Staff Working Document SWD(2012)236 intended "to strengthen the factual basis underpinning the Communication".

*"The present Communication identifies the main challenges that the sector faces today and up to 2020 in terms of investment, human capital, environmental requirements, regulation and access to markets, and proposes initiatives to support the sector for this purpose. In the short term, emphasis is put on the need to support growth and employment in the construction sector in response to the crisis. In the long term, the challenges the industry faces will require a concerted and coordinated approach at European level to improve the functioning of the value chain, particularly through voluntary partnerships between the private and public sectors and an appropriate regulatory framework, where necessary."*<sup>1</sup>

In fact, the Commission has identified 5 key challenges, each of which is divided into a number of sub-items:

1. *stimulating favourable investment conditions*
2. *improving the human-capital basis of the construction sector*
3. *improving resource efficiency, environmental performance and business opportunities*
4. *strengthening the Internal Market for construction*
5. *fostering the global competitive position of EU construction enterprises.*

The strategy's recommendations also differentiate between short to medium-term challenges concerning economy and employment, as well as long-term challenges concerning sustainable effects on the competitiveness of the sector. Several of the items mentioned refer to on-going legislative procedures, others are of a more general political nature.

#### FIEC's first reaction

In its press release of the same day, entitled "putting investment and jobs first" (enclosed), FIEC warmly welcomed the Commission's action plan and applauded Vice-President Tajani's recognition of the importance of the construction sector for Europe's economy. FIEC President Thomas Schleicher insisted that governments need to see investment in sustainable buildings and vital infrastructure as a contributor to future economic growth and jobs and not simply as another form of public spending.

Also the same day, in an interview to the TV-Channel Euronews on this issue. FIEC's Director of Technical Affairs Frank Faraday stressed that the construction sector will be able to deliver the solutions of which

<sup>1</sup> COM(2012)433, chapter 1 "introduction", last paragraph.

it is capable only, if the necessary investment is ensured ([www.euronews.com/2012/07/31/eu-strategy-to-rejuvenate-construction-industry](http://www.euronews.com/2012/07/31/eu-strategy-to-rejuvenate-construction-industry)).

Considering the comprehensive approach of the communication, it is evident that FIEC coordinates its efforts for international issues with EIC and as far as possible for all issues with the other participants of the European Construction Forum ECF (see specific chapter, page 75).

## The Action Plan

The response to these challenges from the European Commission is a strategy and an Action Plan which can be found in the Annex of the Communication. It addresses the short term (2012-2014) and mid- to long-term challenges (2014-2020), the latter being the 5 key challenges mentioned above.

*"The proposed actions include<sup>2</sup>:*

### 1. stimulating favourable investment conditions

*- in particular in the renovation and maintenance of buildings and infrastructures - by promoting financial instruments such as loan guarantees or project bonds and encouraging national level incentives such as reduced VAT rates."* According to the Commission, this includes developing insurance or financing schemes aimed at covering innovative solutions, in particular for SMEs and smaller projects.

### 2. "boosting innovation and improving labour qualifications and mobility

*by promoting the share of information on curricula, employment market and employer's needs."*

This includes the extension of the BUILD-UP project to energy efficiency training and education or the anticipation of future skills needs.

### 3. "improving resource efficiency and environmental performance,

*promoting mutual recognition of sustainable construction systems in the EU."*

This includes European rules for the environmental assessment of buildings.

### 4. providing standard design codes of practice for construction companies making it easier for them to work in other Member States."

This includes identifying excessive administrative burdens, overlaps and inconsistencies in EU and

national legislation on construction services or promoting and facilitating the use of Eurocodes.

### 5. "fostering the global position of European construction enterprises

*to stimulate good performances and sustainable standards in third countries."*

This includes promoting better cooperation with emerging markets in Africa, Latin America, Russia and Neighbourhood countries, including government procurement, mainly in the area of sustainable construction.

## Governance and working structure

The Commission has created a tripartite strategic **High Level Forum (HLF)**, composed of the Member States, stakeholders and the Commission, meeting on 2 occasions a year, and **5 Thematic Groups (TGs)**, one for each of the key challenges/ actions, meeting on 3-4 occasions a year.

According to the Commission's powerpoint presented in the first HLF meeting (29/1/2013), ...

... the HLF scope is

- *"To ensure leadership for the commitment of adequate resources for agreed actions;*
- *To provide an informed opinion about the scope of the TGs and the expected outcomes;*
- *To take into account the work of the TGs in formulating the HLF's recommendations*
- *To inform the Forum about ongoing national policy developments;*
- *To provide feedback on the Action Plan impact"*

... and the TGs' scope is

- *"Mapping sector needs and blockages to the implementation of the Action Plan*
- *Recommendations on how to proceed with concrete proposals and solutions related to legal acts and other policy instruments."*

In the same presentation, the Commission also indicated the priorities for the 5 TGs:

*"Thematic Group 1: Stimulating investment in Renovation & Innovation*

- *Targets for building stock renovation*
- *Financial facilities for energy efficiency, especially for small renovation projects, eligible under Cohesion Funds, EIB, EBRD, EEEF*
- *Monitoring & impact assessment issues; complementarity of EU and national mechanisms*

<sup>2</sup> Commission MEMO/12/610 of 31/7/2012.

- *Conference on innovation (21.10.2013): priorities for Horizon 2020, COSME and Cohesion Funds*

*Thematic Group 2: Skills & Qualifications*

- *Framework and financial mechanisms to support the implementation of BUILD UP Skills roadmaps nationally and its possible extension*
- *Joint initiatives between BUILD UP Skills, EU Sector Skill Council and EU Sector Skills Alliance*

*Thematic Group 3: Sustainable use of natural resources*

- *Opinion on the options under analysis for the future Sustainable Buildings Communication*
- *Criteria of interpretation for the development of harmonised rules for construction products with respect to a sustainable use of natural resources*

*Thematic Group 4: Internal Market*

- *Specific needs for a 'fitness check' of EU legislation regarding construction*

*Thematic Group 5: International competitiveness*

- *Cooperation activities and joint projects to engage within the context of agreement on industrial cooperation with the EU, e.g. Eurocodes, exchange of experience on special infrastructure requirements (e.g. earthquake) or financial set up"*

FIEC and EIC nominated the following representatives for the 5 TGs:

TG-1	Mr. José Pablo Martínez	CNC (Spain)
	Mr. Vincent Piron	FNTF (France)
TG-2	Mr. Enrique Corral	FLC (Spain)
TG-3	Mr. António Rodrigues	FEPIOP (Portugal)
	Mr. Sauro Guidi	ANCE (Italy)
TG-4	Mrs. Myriam Diallo	FFB (France).
TG-5	(FIEC) Mr. Antonio Monaco	AGI (Italy)
	(EIC) Mr. Mathieu Ryckewaert	CC (Belgium)

The TG meetings have commenced on 11/3/2013 with TG-1. The meetings of the other TGs have been scheduled for April/ May and September/ October, with the second HLF meeting in November 2013. For the time being, it is impossible to express a view on the outcome or possible results.

**The European Council**

In its meeting on 10-11/10/2012, the Council "Competitiveness" (Internal Market, Industry, Research and Space) *"held a debate focused on reinforcing European industrial policy and its contribution to growth and economic recovery. They*

*also considered specific measures in support of the construction sector ..."*

*"Ministers addressed the situation of the construction sector in the various countries and focused on the measures put in place or envisaged in support of the sector at national level. They welcomed the action plan drawn up by the Commission to promote construction as a driving force for the creation of jobs. (...) The strategy also puts emphasis on appropriate programmes for repair, maintenance and renovation projects and relevant fiscal and financial instruments and credit mechanisms for renovation pursuing ambitious sustainability targets. (...)"*

**The European Economic and Social Committee (EESC)**

The EESC is one of the consultative bodies of the EU and *"contributes to strengthening the democratic legitimacy and effectiveness of the European Union by enabling civil society organisations from the Member States to express their views at European level"*<sup>3</sup>

Prepared in section CCMI (Consultative Commission on Industrial Change) by a study group including the rapporteur Laurentiu Plosceanu (RO, Group 1), the EESC opinion (CCMI/106) was adopted by the EESC plenary meeting on 17/4/2013.

This ECOSOC opinion contains numerous conclusions and recommendations addressed to Parliament, Member States and construction sector, as well as to the Commission and its High Level Forum. The full text of this opinion is available, in all EU languages, from the website [www.eesc.europa.eu](http://www.eesc.europa.eu).

In this Annual Report, we can only show some extracts from this opinion to which also FIEC has actively contributed (highlighting by FIEC):

1.2 The EESC recognises the **strategic importance** of the construction sector in the European economy in terms of the sector's contribution to GDP, in terms of the role of construction in employment and also as a vector of economic growth.

1.4 (...) The EESC is of the view that the **construction sector does not need direct financial support such as subsidies**, but that the Action Plan should seek to create a policy and regulatory

<sup>3</sup> EESC mission statement, <http://www.eesc.europa.eu/?i=portal.en.about-the-committee>.

framework that will enable the sector to optimally perform its role as a contributor to economic growth, social well-being and environmental stewardship, **this includes ensuring the adequate flow of public investment and private financing to sustain viable projects**; with Member States' economies being financed primarily through bank loans, **immediate and effective measures are needed to improve SMEs' access to credit**, inter alia by developing specific guarantee and counter-guarantee mechanisms.

- 1.6 The EESC is acutely aware that whilst austerity is rebalancing structural gaps, it is not leading to renewed growth; rather, it is exacerbating the economic crisis in many countries. **Investment in sustainable buildings and infrastructure is necessary in order to secure Europe's future growth and job prospects.**
- 1.7 Organised civil society invites the Commission, the European Parliament, the Council and the governments of the Member States to see **investment** in sustainable buildings and vital infrastructure as a **strategic contributor** to future economic growth and jobs and **not simply as another form of public spending**. Furthermore, the EESC recommends that **such investment should not be used in the calculation of a country's performance with relation to the Stability and Growth Pact.**
- 1.8 There is a **huge potential** to reduce demand for energy through renovating the EU's ageing building stock in order to meet the EU's objectives to reduce greenhouse gas emissions by 20% and reduce energy demand by 20%. (...) **In order to realise this potential, countries have to ensure that adequate financial and fiscal incentives are in place to drive the market towards greater energy savings** and to ensure that the skills gap is reduced.
- 1.12 **Construction has a vital role** to play in these challenges **provided that the required investment is made available** and, while project bonds are a way of leveraging additional private financing for projects, they cannot replace the role of public investment.
- 1.13 Many companies in the construction sector, especially SMEs, are feeling intense pressure due to late payments by public and private sector clients. **Directive 2011/7/EU on combating late payment in commercial transactions must be properly enforced to ensure the survival of companies.** In order

to fully implement the provisions of Directive 2011/7/EU and achieve its objectives, the EESC would stress in particular the need to **reduce payment/receipt terms in public procurement contracts to a maximum of 30 days (...). (...); very significant delays in payment of invoices for public procurement contracts seriously affect the competitiveness, profitability and viability of companies.** Those countries that have hitherto had shorter payment periods **should not use the directive's derogations to increase these periods.** In this framework, the EESC recommends that a **30 day payment period should be the maximum permitted for invoice payments (including acceptance and verification).**

- 1.14 In order not to jeopardise or significantly reduce the chances of economic recovery, the EESC would stress the **need to restore and increase bank loans for investors and the real economy.** (...) In order not to aggravate already squeezed lending, financial prudential rules such as those put forward under the **Basel III agreement should not lead to a further curb in lending** by banks to the real economy. For this to be achieved, **borrowing cheap money from the ECB should be conditioned by the obligation that an important part has to benefit the real economy.**
- 1.15 (...) Thus, the Action Plan should also include strategies to stabilise employment and **fight unlawful practices such as false self-employment** in the sector.
- 1.17 Circumventing the rules and social obligations distorts the construction market. (...) To achieve this, **proper enforcement mechanisms to secure host country conditions must be applied.**
- 1.21 There is a **need to upgrade the share of R&D** in the construction sector as a tool to enhance productivity.(...)
- 1.22 The EESC supports **fair and balanced contract conditions**, which should be in place in all EU Member States and should **include non-EU companies active on the EU construction market.** The promotion of the Most Economically Advantageous Tender (instead of the "lowest price"), as well as a **consistent approach to rejecting abnormally low tenders** are essential pillars of efficient and fair competition.

### **The European Parliament**

Much to the surprise of many construction stakeholders, the European Parliament decided not to draft a specific report on the Commission Communication on sustainable competitiveness of the construction sector.

On the other hand, the Parliament will work on the Industrial Policy Communication Update<sup>4</sup>, in which the construction Communication serves as a reference in the chapter on priority action lines, item iv) entitled "Sustainable industrial policy, construction and raw materials".

Consequently, the European Construction Forum is in contact with the European Parliament, in order to ensure that the Commission Communication and the ECOSOC opinion be taken into consideration in the EP's work on the more general industry policy communication.

### **Outlook**

Considering that this Communication has put the construction sector high on the European agenda and that its crucial role for combating at the same time global challenges and enabling growth and jobs has been recognised, a major step into the right direction has been made. It will now be up to the EU institutions, the Member States, the Commission and the construction sector to do their utmost for making best use of it. Obviously, this also includes the fundamental requirement of allocating the budgets for the necessary investments.

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<sup>4</sup> Com(2012)582 of 10/10/2012, p.10/11.



Final 31/07/2012

## PRESS RELEASE

**Communication on Construction Sector Sustainable Competitiveness:  
putting investment and jobs first**

FIEC warmly welcomes today's unveiling of the Commission's Action Plan on the Sustainable Competitiveness of the Construction Sector and applauds Vice-President Tajani's reiteration, following his speech to the FIEC Congress in June, of the importance of the construction sector for Europe's economy and his decision to hold regular summits with the sector. FIEC President, Thomas Schleicher, commenting on the publication on the Communication stressed however that announcements need to be backed up with concrete results on the ground.

"Austerity is not leading to renewed growth but is deepening the economic crisis in many countries" said Schleicher. "We need to see that all important investment in sustainable buildings and infrastructure in order to secure Europe's future growth and job prospects". He continued by commenting that the construction sector in Europe does not need subsidies but rather is the key to recovering Europe's competitive edge and laying the foundations of longer term economic growth. "Governments need to see investment in sustainable buildings and vital infrastructure as a contributor to future economic growth and jobs and not simply as another form of public spending".

It is well-known that the built environment accounts for 40% of primary energy demand and over a third of greenhouse gas emissions. There is a huge potential to reduce demand for energy through renovating our ageing building stock in order to meet Europe's 20-20-20 objectives but to realize this potential countries have to ensure that adequate financial and fiscal incentives are in place to drive the market and that the skills gap is reduced.

There is a further huge challenge to upgrade Europe's transport, energy and broadband infrastructure to meet the needs of future generations. If governments fail to see the importance of this kind of investment, Europe will fall behind other parts of the world both economically and in terms of social well-being. Construction has a vital role to play in this challenge provided that the required investment is made available and while project bonds are a way of leveraging additional private financing for projects, they cannot replace the role of public investment.

Internationally, FIEC welcomes ongoing Commission legislative proposals to ensure that Europe's public procurement markets are protected from unfair competition from international contractors but these remain timid steps. Schleicher commented that "the state aid rules that apply to European companies must equally apply to companies from outside the EU. At present, as we have seen, this is not always the case".

Turning to short term needs, Schleicher stated that "many construction companies are feeling intense pressure through late payment by public clients compounded by the failure of banks to provide bridging loans to viable enterprises". "Late payment and the absence of credit are pushing many otherwise healthy companies, in particular SMEs, to the verge of bankruptcy" he added.

Schleicher concluded by reiterating that construction, representing almost 10% of EU GDP, is the key to the health of the economy as a whole. "In pursuing growth, national policymakers must engage with the construction sector as the Commission has done through this Communication and see that the sector, given the right financial and regulatory conditions, can deliver the growth, jobs and environmental protection that we so rightly deserve".

FIEC is the European Construction Industry Federation, representing via its 33 national Member Federations in 29 countries (27 EU & EFTA, Croatia and Turkey) construction enterprises of all sizes, i.e. craftsmen, small and medium-sized enterprises as well as "global players", carrying out all forms of building and civil engineering activities.

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Since the publication of our Annual Report 2012, the importance of international issues having a direct impact on the EU Internal Market has continued to increase. Considering that the international interests of FIEC

Member Federations and their contractor members are defended by FIEC's sister organisation "European International Contractors" (EIC), it is self-evident that combining forces, expertise and efforts of both federations is the most efficient way forward.

For this reason, we present our joint work in this particular chapter, in addition to the specific EIC report commencing on page 64.

### Third country state-owned enterprises on the EU Internal Market

The access of third country state owned enterprises to EU public procurement markets continues to be an on-going issue. It is essential not to lose interest in this issue, just because there have not been many new cases observed over the last 12 months. The economic crisis and the related budgetary problems of many Member States are likely to tempt contracting authorities to take combined financing and construction contracts offered by third country state-owned enterprises seriously into consideration. This can be seen in neighbouring countries outside the EU and first indications show that such developments are currently under consideration also in some EU Member States.

In order to avoid any misunderstanding, FIEC and EIC would like to reiterate that they are firmly opposed to any forms of protectionism and are in favour of fair competition on symmetrically open markets. Competition, provided it is fair and healthy, contributes to progress and innovation, whereas unfair and unhealthy competition, based on the lowest price only, endangers the EU economy and society.

Also the joint FIEC and EIC appeals from June 2011 remain valid:

- *Genuinely reciprocal/ symmetric market access opportunities and corresponding incentive*

*measures (i.e. trade defence instruments) at EU level, if international negotiations do not achieve tangible progress.*

- *EU public procurement legislation should therefore be amended, in order to ensure an effective level playing field for all potential EU and third-country tenderers, avoiding, in particular, unfair forms of competition between private and state owned companies.*
- *Prices including state aid which would be illegal in the EU and/or the non-respect of social and environmental requirements present unacceptable unfair competition which must be avoided by mandatory rules on Abnormally Low Tenders (ALTs) instead of the currently available optional possibilities, in order to prevent EU Member States from abusing the unprotected openness of the Internal Market.*

### The EU legislators' response

The Commission proposed to tackle this problem in two ways, namely by specific rules on abnormally low tenders ("ALT", Art. 69 of the proposed classical procurement directive)<sup>1</sup> and by the "Market Access" Regulation<sup>2</sup>. Both proposals are currently being addressed by the European Parliament and the Council as co-legislators in so-called informal trilogue negotiations which are aimed at coming to an agreement without going through further official readings.

### Art. 69 of the "Classical" Public Procurement Directive

On the one hand, the Commission's proposal was considered an improvement compared to the current directive (2004/18), but on the other it was considered insufficient in relation to the challenges ahead. In fact, the proposed rules would leave contracting authorities with a wide margin for accepting ALT, and the industry without any specific remedy against such decisions on ALT.

FIEC's specific proposals for amendments aimed at strengthening the rules and reducing the possibilities to award public procurement contracts to ALT did, however, not find much support in EP or Council. The ALT rules currently negotiated between Parliament and Council fail to provide for

- *more realistic and alternative conditions regarding the contracting authority's obligation to ask for explanation of the prices*

<sup>1</sup> Document Com(2011)896.

<sup>2</sup> Document Com(2012)124.

- mandatory rejection of tenders suspected of containing state-aid, if the tenderer does not prove that the aid in question is compatible with EU competition law
- the assumption that state-owned or state-supervised and –managed enterprises are deemed to receive or have received state aid, combined with the obligation to the contracting authority to award the corresponding contract only if the tenderer has proven the invalidity of this assumption

The main difference of the two positions in a situation "when a tender appears to be abnormally low" is that the EP obliges ("shall") the contracting authority to ask the tenderer for explanations, while the Council simply allows ("may") asking. Obviously, both these approaches enable contracting authorities to exclude ALT, but they also leave the door wide open for any contracting authority seeking "value for money", even if experience shows that awarding a contract on an ALT tends to be very expensive in the long run.

### **"Market Access" Regulation**

From the beginning, FIEC and EIC applauded this initiative as a good first step in the right direction, as reciprocity, fairness and a level playing field between EU and non-EU companies clearly need to be enhanced. At the same time, they saw considerable room for improvement and called for it to be made less timid and more efficient, considering that decades of international negotiations aimed at opening markets had not achieved much progress for international contractors wishing to work on certain third country markets (see also the EIC comments on the "third revised offer" presented by China in December 2012).

In their joint position paper of 27/7/2012 (annexed to this chapter), FIEC and EIC

- disagree with the Commission's statement that the EU public procurement markets are in principle fully open, because there is no legal basis for such a statement in primary or secondary law
- ask to fully implement derogations and exemptions negotiated in the GPA
- criticise certain aspects of the proposal
- ask for the introduction of a remedies procedure
- propose specific amendments aimed at improving the text

As complements to the Regulation, FIEC and EIC

- ask for the extension of anti-dumping rules to services
- ask for the application of EU rules on subsidies and state aid to all bidders wishing to work in the EU, including those coming from third countries

The current discussions in the European Parliament (INTA Committee) and the Council working group suffer from fundamental differences of view between those who believe in unconditional opening of markets and those who favour a more realistic approach based on reciprocity principles.

Considering this situation and the possible negative consequences for contractors in several countries, FIEC and EIC wondered whether it would not be preferable to continue with the situation as it is, i.e. without this proposed market access instrument. Ultimately, it was decided to continue lobbying for the FIEC/ EIC proposals. At the same time, rumours came up that some lawyers working for EU institutions have considerable doubts that the proposed Regulation corresponds to the necessary requirements, from a purely legal point of view. The outcome of this politically and legally complex situation is uncertain.

### **Fair contract conditions, in particular in case of EU financed projects**

Following the problems with modified FIDIC "Red Book" and "Yellow Book" contract conditions explained in last year's report, FIEC and EIC this year concentrated on two items: a specific joint working group "Poland" and the legislative procedure on the rules for the "Connecting Europe Facility" (see also the ECO report on page 24).

#### **WG "Poland"**

This WG is exclusively composed of contractors and consulting engineers active on the Polish public procurement market, so that it benefits from firsthand experience. Impressed by the outspoken criticism, FIEC and EIC published a joint press release dated 22/11/2012 (attached to this report). Together with the Polish engineers' association ZPBUI, the collection of information on unfair contract conditions and practical cases commenced, in order to build up a data base allowing a more systematic approach to finding a solution, for example by proposing fair contract clauses.

## 20 | INTERNATIONAL ISSUES ON THE INTERNAL MARKET (JOINT FIEC/ EIC ACTIONS)

FIEC and EIC further promoted the WG's positions, in particular in

- The Polish Infrastructure Conference, organised by PZPB and The Executive Club in Warsaw on 23/1/2013 (speaker: Ulrich Paetzold, FIEC)
- a recorded interview, on 13/2/2013, of Ulrich Paetzold, FIEC, and Frank Kehlenbach, EIC, which can be seen on [http://www.youtube.com/watch?v=s5CD5iC\\_gyA](http://www.youtube.com/watch?v=s5CD5iC_gyA)
- the international conference "Good Practice in Procurement and Execution of Contracts in Road Projects", organised by the Polish Road Congress in Warsaw on 20/2/2013 (speaker: Frank Kehlenbach, EIC)

Direct contacts with GDDKiA, the Polish General Directorate of National Roads and Motorways, showed that they do not share the views expressed by contractors and engineers, considering that they have solved their management problems and simply expect contractors and engineers to do likewise in their area of responsibility. GDDKiA has also commenced discussions on contract conditions with Polish stakeholders. The FIEC/ EIC WG will continue working on better knowledge and more transparency, hoping to be able to contribute to a solution which can be considered satisfactory by all parties concerned.

### **Connecting Europe Facility ("CEF")**

On 17/9/2012, FIEC and EIC published a joint position paper on "Use of Fair Contract Conditions for Infrastructure Projects (incl. TEN) co-financed by CSF and CEF funds" with a series of specific amendments for both proposed Regulations. Rather soon, it became evident that the work had to focus on the proposed CEF Regulation. In this legislative procedure, the EP TRAN and ITRE Committees adopted some recitals calling for fair and balanced contract conditions, whilst the corresponding articles were not adopted (equal number of votes for and against). The file is now in the informal trilogue negotiations and FIEC/ EIC and their national Member Federations continue to look for allies in favour of the idea to include also the articles which correspond to the recitals already adopted by the EP Committees. For the time being, it is not clear whether these efforts will be successful.

### **"International Competitiveness"**

This issue is addressed in the Thematic Group 5 of the High Level Forum created by the European Commission for the implementation and follow-up of the Communication on the sustainable competitiveness of the construction sector, COM(2012)433 of 31/7/2013. (see specific chapter commencing page 12)

### **Commission Vice-President Tajani's "growth missions"**

At the end of 2011, Commission Vice-President Tajani decided to organise such missions, which are not "trade missions", because they do not address questions of trade policy or barriers to trade. "Growth missions" have the purpose, among others, "to strengthen cooperation between EU and other countries and regions of the world by combining political meetings with a business dimension (door-opening/prepare steps to match-finding) on enterprise and industry policy issues" and "to facilitate the internationalisation of European enterprises, in particular SMEs". For more details, please refer to DG ENTR's dedicated website [http://ec.europa.eu/enterprise/initiatives/mission-growth/missions-for-growth/index\\_en.htm](http://ec.europa.eu/enterprise/initiatives/mission-growth/missions-for-growth/index_en.htm).

The construction industry was chosen as one of the key sectors, considering the huge markets for construction services in other continents. In the meantime, the growth missions of Vice-President Tajani are complemented by follow up by missions of DG ENTR Director General Daniel Calleja.

FIEC and EIC were represented by high ranking contractors on the following growth missions:

#### **25-28/11/2012, Morocco and Tunisia**

Francisco Paños Ingeniería y Técnica del Transporte TRIA (Spain)

Luisa Todini Salini S.p.A. (Italy)

Leonardo Blanda Salini S.p.A. (Italy)

Isnardo Carta Carta Isnardo S.p.A. (Italy)

#### **23-26/1/2013, Peru and Chile**

Rui Guimarães, Mota Engil (Portugal/ Peru)

#### **15-19/4/2013, Colombia and Mexico**

Gabriel Gonzalez Anton, Ferrovial (Spain/ Colombia)

Currently, the growth mission to Russia (Moscow), scheduled for 17-18/6/2013 is being prepared. Future growth missions are likely to go to China and India.

## FIEC / EIC joint position on the European Commission's « Market Access » draft Regulation (COM(2012)124)

27/7/2012 (The following are extracts. The full version can be found on the FIEC web site : [www.fiec.eu](http://www.fiec.eu))

### 1. FIEC and EIC welcome the Commission's proposal for a draft Regulation,

as it represents a good first step in the right direction. Indeed, reciprocity and fairness/ level playing field between EU and non-EU companies clearly need to be enhanced. In order to meet its objectives, the draft Regulation however needs **further improvements**.

### 2. Openness of EU public procurement market:

- a) FIEC and EIC disagree with the Commission's statement that the EU public procurement markets are in principle fully open, because there is no legal basis for such a statement in primary or secondary law. Namely, the reference to article 58 of Directive 2004/17/EC is too weak in this respect. Moreover, this article only refers to "supply contracts" and hence, does not apply to service or works contracts.
- b) If the EU public procurement markets were in principle fully open (which FIEC and EIC contest), then there is no legal basis for procedures giving the Commission the exclusive right to decide in an almost discretionary manner and without any recourse system if, when and under which specific conditions certain parts of this market can be closed.
- c) FIEC and EIC regret that the legal opinion used by the Commission (orally mentioned on several occasions) as a basis for this aspect of their proposal has not been made publicly available, because it is very difficult to assess the validity of an unknown opinion. Consequently, FIEC and EIC consider that no case has been made for applying the EU Common Commercial Policy to public procurement matters, for which GPA provides an exception to the general WTO policies, as well as a special regime.
- d) Finally, FIEC and EIC do not understand why the Internal Market should be fully open below the 5 million Euro threshold, **even in cases in which GPA reservations exist!**

- ### 3. Scope:
- FIEC and EIC understand the Commission's objective to avoid too much administrative burden for both contracting authorities and EU companies by setting a 5 million Euros threshold, but regrets that the scope is so narrow. Only 7% of contracts (in number) and 61% of contracts (in value) will be concerned, which means that about 40% of contracts (in value) are left "for free" to third-country companies!... **Even when GPA reservations exist.**

First, **it should be clearly stated that GPA derogations and exceptions are "non-covered"**. Second, the 5 million Euros threshold should be deleted in order not to expose in particular SMEs to unfair competition from third country enterprises and to the consequences of unbalanced reciprocity.

- ### 4. Rules of origin (art. 3):
- FIEC and EIC believe that common EU guidelines would be needed for the proper implementation of these provisions (also see below: "Need for clarifications").

### 5. Decentralised procedure (art. 6):

- For the time being, the rules how contracting authorities will run their procedures under this article seem quite impractical.
- There is, for instance, no mention of the contracting authority actually requesting exclusion, but only information and notification.
- On the other hand, the Commission can only decide on the basis of a request, but not on the notification to submit a request.
- In general, it would result in uncertainty regarding the procedure itself – as the decisions regarding selection and award might have to be provisional, pending the Commission's decision – the number of tenders and have a knock-on impact on the credibility of the process, as well as on the market interest in the process, including the interest of potential funders. Clarification and simplification of this procedure is therefore highly needed.

- **No legal neutrality:** FIEC and EIC notice that there is an imbalance regarding the Commission's neutrality on contracting authorities' choices. While the Commission considers that it has "nothing to say" when a contracting authority wants to accept cheap products/services from a third-country company, it has to agree when the same contracting authority wants to close this possibility.
- In order to oblige the Commission to get mobilised, if the Commission does not react within the given time period to the contracting authority/entity's notification, the decision to reject the tender should be deemed to be "validated".

**6. ALTs (art. 7):** FIEC and EIC consider that this provision is highly insufficient and believes that it would be better to have a general transversal strengthened rule for this purpose (in the public procurement directives).

**7. Centralised procedure (art. 8 to 10):** FIEC and EIC consider that this centralised procedure is very interesting and might represent a useful and efficient leverage instrument, provided that the conditions to trigger the procedure, that is, to undertake an investigation and implement restrictive measures are strengthened. The Commission should not be left too much room for manoeuvre in this respect but be "forced" to become active if and when necessary.

**8. Need for clarifications:** The wording used is sometimes too vague and needs to be clarified in common EU guidelines (e.g. "substantial reciprocity", "substantive business operations"...).

**9. Shortening delays:** The time frame of the two procedures needs to be shortened somewhat in order to ensure efficiency and leverage effect.

**10. Need for remedies procedure:** This Regulation needs to be covered by a procedure of remedy regarding the decisions taken by contracting authorities and the European Commission in the course of the centralised and decentralised procedures.

## 11. Complementary instruments to be taken into account:

- Anti-dumping rules => to be extended to services!
- Anti-subsidies rules => to be applied to EU and non-EU companies working in the EU, including control and reciprocity for direct investment.
- EU rules related to State aid (for the tender or for its financing), to social and environmental legislation, to investment and to intellectual property rights must apply to all bidders (including those from third-countries bidding in the EU).

The burden of proof for compliance with these rules should be on the companies, and if they do not or cannot provide such proof, there should be an obligation to exclude them from accessing the European Internal Market.



### **Press release**

22/11/2012

#### **Contractors worried about public procurement practice in Poland**

"We have never ever heard such outspoken criticism about procurement practice and contracting authorities in a single country by so many contractors from so many different enterprises and countries" says Ulrich Paetzold, Director General of FIEC, the European Construction Industry Federation coming out of a meeting organized in Brussels on 21/11/2012. "And all of these companies have decades of worldwide experience with public procurement and FIDIC standard forms of contract," adds Frank Kehlenbach, Director of EIC, the European International Contractors, on the same occasion, "but this experience does not help them in Poland, given the reluctance of public clients to perform their part of the job."

Contractors active in public works contracts in Poland are profoundly worried about the severe deterioration of public procurement rules and practice over the last years. In fact, for some time already, various changes of both the Public Procurement Law and the internationally recognised FIDIC contract conditions have led to a situation which is being considered as grossly unfair, counter-productive and unacceptable by the contractors.

The combination of poorly prepared tenders, a generally unfair attitude towards contractors and the non-respect of contractual obligations by public clients not only raises the question of professionalism on the demand side but also leads to a number of concerns regarding Internal Market issues, such as lack of transparency and proportionality, as well as discrimination and freedom to provide services. If this development cannot be stopped and reversed, then there is real danger that this inefficiency in spending European funds, will lead the EU to reviewing its funding and lending policies which have provided Poland with almost 68 billion € in the current period and which are in legislative procedures at this very moment.

FIEC and EIC, with its partners in Poland, would like to contribute constructively to avoiding a further deterioration of the situation which would have dramatic consequences not only for Polish contractors, but also for Poland as such, a country whose achievements in the European Union so far have to be applauded.

It is also interesting to note that currently at least 2 billion € are "blocked" by litigation in front of Polish courts and that this amount is rapidly increasing.

**FIEC** – the European Construction Industry Federation – represents via its 33 national Member Federations in 29 countries the European interests of construction enterprises of all sizes, i.e. craftsmen, SMEs and "global players", performing all kinds of building and civil engineering activities

**EIC** – associated with FIEC – represents the international interests of contractors' associations from Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Italy, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey and United Kingdom

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Temporary Working Groups:

International Accounting Rules



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PPPs and Concessions



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Chairman

*Marie Eiller-Chapeaux, FR  
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EU Contract Law



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Chairman

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Rapporteur*

Public Procurement



Jan Wierenga, NL

Chairman

*Dick Van Werven, NL  
Rapporteur*

## 1. Public procurement

After a long preparatory process to which the TWG "Public procurement", chaired by Jan Wierenga (NL-BOUWEND NEDERLAND), contributed with position papers and specific proposals, the European Commission finally unveiled in December 2011 a legislative package aimed at "modernising" the existing legislative framework and consisting of the following proposals:

- Directive on public procurement (replacing Directive 2004/18/EC – "classic");
- Directive on procurement by entities operating in the water, energy, transport and postal services sectors (replacing Directive 2004/17/EC – "utilities");
- Directive on the award of concession contracts (see point 2).

Our analysis revealed that Commission's proposal corresponded to some of FIEC's key points:

- stable thresholds,
- promotion of open and restricted procedures,
- mandatory accessibility criterion in the technical specifications,
- proportionality principle strengthened on requirements,
- mandatory acceptance of self-declarations and original documents requested to the winning bidder only,
- promotion of the MEAT criterion
- as well as some improvements regarding the provisions on abnormally low tenders, although not sufficient.

At the same time, several issues were identified to which improvements were considered necessary:

- too weak safeguards to ensure the confidentiality of tenders,
- contra-productive shortening of minimum time limits,
- broadening of the possibility to recourse to negotiation in the award procedures,
- weakening of the link with the subject-matter of the contract,
- no progress regarding the acceptance of variants,

- confusion regarding specific technical specifications' and award criteria (i.e. "production process"),
- "apply or explain" principle for the division of contracts into lots,
- additional provisions regarding the contract performance (i.e. subcontracting).

On the basis of this preliminary work, FIEC finally came out on 25/6/2012 with a comprehensive position paper – listing about 20 key issues – which was presented to rapporteur Marc Tarabella (S&D-BE) and shadow rapporteurs and circulated within the Parliament's Internal Market Committee.

In view of the imminent vote of the European Parliament in Plenary session in December 2012, FIEC undertook two more actions and participated in a third collective action.

- In a letter dated 14/11/2012 to the Cypriot Presidency of the Council, FIEC stressed that the principles of equal treatment of all tenderers and transparency of procedures were endangered due to a series of abuses (i.e. extreme shortening of the time limits, loosening of the link between award criteria and subject-matter of the contract, specification of the weighting attached to the subheadings after the submission of tenders).
- In its "core messages" sent to the European Parliament on 14/11/2012, FIEC pointed out the need to improve confidentiality, promote variants, restrict the concept of "production process", strongly reinforce the identification and rejection of abnormally low tenders and delete the additional contract performance conditions introduced, namely on subcontracting (i.e. direct payment to subcontractors and chain liability).
- In a further collective appeal from a dozen of European and national business associations on the issue of "public-public cooperation", dated 26/11/2012, FIEC shared the views that transparency and fair and equal treatment between operators irrespective of their legal status should be ensured. Hence, "in-house" and inter-municipal cooperation, which are exceptions to the internal market and public procurement principles, need to remain as limited as possible.

In December 2012, the EP Internal Market Committee adopted its report and the Council adopted a general approach. Negotiations in trilogue,

with Commission, Parliament and Council, started early March. At this stage of the process, FIEC has a mixed feeling of the outcomes. Some of the points promoted by the sector have been taken on board either by the Parliament (e.g. acceptance of variants), or by the Council (e.g. deletion of additional provisions on subcontracting).

However, the major problem of abnormally low tenders has not been tackled at all. For this reason, FIEC published a joint position with EFBWW on 21/2/2013. The sectoral social partners stress the negative consequences for both the public and the private sectors of not addressing this matter and call for objective pre-defined criteria for identifying abnormally low tenders and mandatory rejection of any low tender for which no acceptable justification has been provided.

All over this process, FIEC and its member federations have continued to inform the EU institutions of these positions and possible compromises. Obviously, the result of this legislative procedure will also be influenced by the fact that it concerns a very high number of stakeholders with many different, partially contradictory, interests.

The issue of abnormally low tenders plays an important role also in the legislative procedure concerning the draft Regulation "market access/reciprocity". This is addressed in the chapter on joint FIEC/EIC activities (Page 18).

Depending on the progress of the negotiations, adoption of these draft directives is foreseen by summer 2013.

## 2. PPPs and concessions

While currently some basic provisions on works concessions are included in the "classical" public procurement Directive and services concessions are not addressed at all, the Commission came out in December 2011 with a stand-alone Directive on both works and services concessions, including a number of provisions which were simple copies of the "classic" public procurement draft directive.

The TWG "PPPs & concessions", chaired by Vincent Piron (FR-FNTP), adopted a position paper dated

20/4/2012 including a general statement and concrete amendment proposals. Clarifications, improvements and/or deletions were namely requested regarding the overall simplification of the proposal, the definition of concessions, their duration and modification during their term, procedural guarantees for tenderers, as well as – again – the problem of the codification of "in-house" and inter-municipal cooperation cases. A further mailing recalling FIEC's key messages was sent to the EP Internal Market Committee on 1/10/2012. Also, regular contacts with the EU institutions – in particular with rapporteur Philippe Juvin (EPP-FR) – were maintained.

In December 2012, the Council adopted its general approach and in January 2013, the European Parliament (Internal Market Committee) adopted its report. Negotiations in trilogue, with Commission, Parliament and Council, started mid-March.

At this stage of the process, the objective of overall simplification of the draft Directive has clearly been achieved by the rapporteur, which has been welcomed by FIEC. On the more technical points, some improvements have also been achieved, namely regarding the duration of the contract, linked to the possibility of at least a partial recoupment of both initial and subsequent investment, as well as the greater flexibility introduced regarding the modification of the contract during its term. However, uncertainties remain regarding the treatment of public-public cooperation, definitions, confidentiality and award criteria...

Adoption of this draft directive is also foreseen by summer 2013.

## EPEC Private Sector Forum

In parallel to this exercise, FIEC continues to participate in the activities of the "Private Sector Forum" of the European PPP Expertise Centre (EPEC) – which concentrates on a more economic approach of PPPs – and to contribute with the specific experience of the construction industry.

As the usual second bi-annual meeting of the "Private Sector Forum" was postponed to Spring 2013, FIEC recalled to the EPEC the importance of maintaining a continuous dialogue between public and private stakeholders. This appeal was perfectly understood by

the organisation team who invited FIEC to present the current concerns of the sector at the occasion of the next meeting, to take place in April 2013.

### 3. International accounting rules

#### a. IFRIC12 Service Concession Arrangements – Presentation of cash flows for construction or upgrading services

In a letter to the IASB (International Accounting Standard Board) dated 21/5/2012, FIEC reacted to a negative development concerning the presentation of cash flows for construction or upgrading services in the standard "IFRIC 12 – Service Concession Arrangements". The Interpretation Committee had recommended an amendment to the Board in order to clarify that an operator which provides construction or upgrading services in a service concession arrangement should present all of the cash flows relating to this activity as **operating** cash flows. Contrary to this interpretation, FIEC insisted in its letter that such cash flow rather represent **investing** cash flow. This analysis was built on two aspects: the nature of the business and the technicality of IAS 7.

In March 2013, the Interpretations Committee of the IASB discussed this specific issue but without coming to a definitive solution. Apparently, the Interpretations Committee has limited competency to address this issue and it appears that most stakeholders do not consider clarifying the classification of cash flows in IAS 7 to be a priority for the IASB. FIEC therefore continues monitoring the developments.

#### b. Revision of the Transparency and Accounting Directives

Another issue regarding accounting matters came out of the revision of the Transparency and Accounting Directives. In October 2011, the European Commission made a proposal to revise the existing Transparency and Accounting Directives in order to encourage responsible business by increasing transparency to the payments made by the extractive and logging industries to governments all over the world through a country-by-country reporting (CBCR). This revision also aimed at cutting red

tape for SMEs in this field. During the legislative process, one of the two co-rapporteurs in the European Parliament proposed to extend the scope of the Accounting Directive to several other sectors, including construction. According to this amendment, in particular construction companies listed at the stock exchange would have to face considerably increased administrative burden.

Such unexpected extension of the scope of proposed legislation, introduced without any prior impact assessment nor consultation of the stakeholders concerned, is a negative example in relation to transparency and efficiency, otherwise high on the agenda of the EU institutions.

In a letter dated 25/2/2013 addressed to the EU institutions, FIEC stressed that the extension of the scope of the Accounting Directive would burden listed construction companies with additional reporting obligations, without significantly helping to increase transparency within the initially targeted extractive industries. Far from achieving the goal of cutting red tape for the business, this extension would on the contrary burden the competitiveness of EU construction companies in comparison with non-EU companies. FIEC therefore concluded that a cost-effective reporting scheme that balances transparency with the competitiveness needs of industry and the security of energy and resource supplies should be the joint ambition of the business and EU institutions.

As we are drawing up this report, the final outcome of the trilogue negotiations is still unknown.

### 4. EU Contract Law – draft Regulation for a Common European Sales Law (CESL)

While the European Commission had long mooted the possible creation of a European Contract Law instrument, it was finally unveiled in October 2011, with a proposed Regulation on a "Common European Sales Law", that is, restricted to sales aspects. This Regulation, if adopted, would allow the creation of an optional legislative instrument which parties to a cross-border sales contract could freely choose to apply.

This instrument targets above all cross-border on-line sales of goods, with a view to boosting them within the internal market, but it is expected that it would also have collateral effects on other types of contracts, and possibly construction contracts. Moreover, this initiative of the European Commission is only a first step towards a European contract law, so that the sector has to get prepared to this eventuality anyway.

The European Parliamentarians have mixed views regarding the development of such an optional instrument and both consumers' and business associations have pointed out the weaknesses and loopholes of the proposal. They have put forward, first and foremost, that such an optional instrument was not needed and would therefore bring no added-value to the market.

**Contacts were undertaken with the EU institutions and the TWG "EU contract law", chaired by Dr. Wolfgang Bayer (DE-HDB), adopted a position dated 20/12/2012. FIEC highlighted some of the many loopholes of the draft Regulation (i.e. terminology, unfair terms, right of redress, payment, prescription periods, producer guarantee) and insisted again on the fact that there was no specific need for EU wide harmonised contract rules for the construction sector, which is a local business above all.**

## 5. Fiscal matters – the question of VAT reduced rates

For quite some years, the European Commission has been claiming that the current legislative framework for VAT (Value Added Tax) is overly complex and subject to massive fraud estimated at more than €100 billion each year.

Building on this fact, the Commission started working, in 2010, on the overall revision of the VAT strategy. For this purpose, it commissioned several studies and undertook a series of public consultations. Beyond the need for clarification and simplification of the system for businesses, the key issue for the construction sector concerned the revision of the numerous existing derogations to the minimum standard rate of 15%.

The latest public consultation, launched in October 2012, specifically addressed the matter of reduced VAT rates, namely in housing, questioning whether it would not be more efficient to focus reduced rates on resource efficient products and services.

In its contribution of 3/1/2013, FIEC pointed out that the current reduced VAT rates applicable in the sector – for the *"provision, construction, renovation and alteration of housing, as part of a social policy"* and the *"renovation and repairing of private dwellings, excluding materials which account for a significant part of the value of the service supplied"* – **already provides for resource efficient solutions in housing**, do not lead to distortion of competition, decrease the "Do-it-yourself" market, as well as the black economy in the construction sector. It should therefore be kept as they are. Moreover, the shift of reduced rates to energy efficient products only (i.e. without installation services and proper invoices) would – on the contrary – lead to a series of perverse effects, such as increasing black economy, the distortion of the Internal Market and major difficulties in defining energy efficient products in an objective way and keeping an updated list of those!

The European Commission is expected to come out with a legislative proposal by the end of 2013, building on the outcome of these recent studies and consultations. For now, it is not expected that the application of reduced VAT rates in social housing and R&M be endangered.

## 6. Infrastructure challenges

### a) "Connecting Europe": a growth package for integrated European infrastructure

In October 2011, the European Commission adopted a package called "Connecting Europe", including the following proposals:

- a Regulation establishing the Connecting Europe Facility (CEF), that is, a new budgetary instrument for transport, energy and telecommunication infrastructure;
- a Regulation on guidelines for the trans-European transport network (point b);

- a Regulation on guidelines for the trans-European energy network;
- a Regulation on guidelines for the trans-European telecommunication network.

Knowing the considerable needs for financing European infrastructure networks – estimated at €500 billion for transport, €200 billion for energy and €270 billion for telecommunication by 2020 – the Commission's proposal to establish this global budgetary instrument amounting €50 billion for the period 2014-2020 was welcome news, but still, represented the least of what is necessary to play a real leverage role.

The CEF is aimed at supporting projects with EU added-value which must be implemented by 2020 and serve as a lever to attract private investment to complement financing needs. According to the European Commission, the budget was to be divided as follows: €31.7 billion for transport (incl. €10 billion from the Cohesion Fund), €9.1 billion for energy and €9.2 billion for telecommunication.

In a first position paper, dated 28/3/2012, FIEC gave its full support this Facility and insisted on safeguarding the foreseen amounts throughout the negotiations. FIEC also pressed for concentrating the available money on a short-list of projects of EU interest with binding timetables for their completion. Finally, it recalled the necessary balance between public and private long-term investment.

Contacts took place with the European Parliament, i.e. with the three co-rapporteurs – Ines Ayala Sender (S&D-ES), Dominique Riquet (EPP-FR) and Adina-Ioana Valean (ALDE-RO).

In a further position paper, dated 27/9/2012, FIEC recalled its support to a common funding framework for infrastructure, to the concentration of limited funds on high EU-added value projects and to the realisation of socio-economic cost-benefit analysis of the projects. But, together with its sister organisation EIC (European International Contractors), FIEC also raised the issue that when EU funds are allocated for infrastructure projects, there should be a guarantee that the awarded contracts respect fair contract conditions.

Indeed, construction companies active in various Member States of the EU have drawn our attention

to the fact that tenders, co-financed by EU funds, are based on manifestly unfair contract conditions which discourage contractors from participating in such tenders. Also, the risk is apparent that unfair contract conditions might lead to reduced and less transparent competition, poor construction quality, delays, claims, disputes and even unethical behaviour.

The Parliament's report was adopted (by the Transport and Industrial Committees) in December 2012, namely including some new elements on fair contract conditions and the trilogue negotiations involving Commission, Parliament and Council started in March 2013, with the view of achieving an agreement by summer 2013.

In the meantime however, the Council adopted a decision on the pending multi-annual framework foreseen for the period 2014-2020, on which the amounts dedicated to the CEF depend. As expected, Member States requested severe cuts in the €50 billion proposed by the European Commission. According to the Council's decision of 7/2/2013, the CEF would only receive €29.9 billion overall: €23.1 billion (incl. €10 billion from the Cohesion Fund) for transport, €5.1 billion for energy and solely €1 billion for telecommunication.

Of course, FIEC expressed its major disappointment regarding these cuts in the budget towards the European Parliament which strongly supported the CEF, but the European Parliament, although rejecting the Council's decision in its current state in a resolution of 13/3/2013, does not seem to be ready to fight on the amounts, but rather on some other technical aspects (i.e. flexibility of the budget, review clause and EU own resources).

#### **b) Revision of the TEN-T Guidelines:**

In October 2011, the European Commission presented the EU guidelines for the development of the trans-European transport network. According to the proposal, the TEN-T network will consist of two layers: a core network to be completed by 2030 and a comprehensive network feeding into this, to be completed by 2050, ensuring full coverage of the EU and accessibility of all regions. The core network will prioritize the most important links and nodes of the TEN-T and implementation will be facilitated using a corridor approach.

FIEC gave all its support to the initial Commission's proposal and, in a position dated 24/9/2012, it gave further support to a series of improvements proposed by the EP Transport Committee. FIEC namely welcomed the proposed common objective methodology assessing the projects of European interest, as well as the ex-ante socio-economic analysis of the projects. FIEC also supported that clear deadlines for implementation of the projects be set and that information on the projects' realisation be disseminated.

All these points have been adopted in the Parliament's report in December 2012. On a less positive side, the Parliament also introduced a new concept of "climate impact assessment" to be undertaken in the framework of the socio-economic analysis of the projects. FIEC expressed concerns about the vagueness of this new concept and the probable additional administrative burden it would imply.

Another trend observed both at the Parliament and Council level was that Parliamentarians and Member States tended to introduce additional national projects in the lists of pre-identified eligible projects, while everybody agreed that the available EU funds should be concentrated on a limited number of projects of European interest!...

As trilogue negotiations are now on-going between Commission, Parliament and Council, with the view of achieving an agreement by summer 2013, FIEC will keep following up the developments.

### **c) Towards a legislative initiative on road tolls**

Building on the difficulties in implementing the so-called "Eurovignette" Directive (2011/76/EU – in its 3rd revised version), the European Commission launched a public consultation in the autumn 2012 on the charging of the use of road infrastructure.

The aim of this consultation was to consult on the ways to ensure that the necessary investment in transport (i.e. road) infrastructure is made, while public spending in transport infrastructure has continuously fallen in Europe since the 1970s.

In its contribution to the Commission's questionnaire, dated 31/10/2012, FIEC advocated that it is necessary that users/polluters of the transport

infrastructure cover the costs related to the maintenance as well as external costs of the transport infrastructure (so-called "user pays" and "polluter pays" principles). The introduction of new tolling schemes should be coordinated within and between Member States in order to avoid the diversion of traffic to parallel, uncharged routes. FIEC also strongly supported the mandatory earmarking of the revenues from road charges for: a) developing and/or maintaining national road infrastructure; and b) developing a sustainable transport system. Finally, regarding infrastructure charging (including external costs), an equal treatment should be ensured among all transport modes, in order to increase their global sustainability (i.e. rail infrastructure), which is not yet the case nowadays.

On the basis of the results of this public consultation, Commissioner Sim Kallas, in charge of transport matters, announced on 5/12/2012 that a legislative package on road tolls is being prepared for June 2013. This initiative will be aimed at tackling the deficit in public infrastructure funding in all modes of transport and the Commissioner envisages benefits in road tolls, including funding for infrastructure maintenance, tackling road congestion and encouraging more sustainable mobility.

### **d) Draft "Tachograph" Regulation**

In July 2011, the European Commission undertook the revision of the two legislative texts dealing with the tachograph, that is, the recording equipment used in road transport implemented as defined by the Regulation on the harmonisation of certain social legislation relating to road transport (Regulation 3821/85/EEC and Regulation 561/2006/EC). The aim of this revision was amongst others to adapt the rules to the technical modernisation of tachographs into digital tachographs.

Problem is that this legislation, although initially created for recording the driving and resting times of road freight hauliers, can also apply to non-professional drivers and namely to construction companies driving to their construction sites. This represents a high burden in terms of cost and time for construction companies, as the recording equipment itself is very expensive and its use causes additional administrative burden.

According to the existing legislation, derogation is however foreseen for vehicles or combination of vehicles with a maximum weight of 7.5 tonnes used for carrying materials, equipment or machinery for the driver's use in the course of his work. Moreover, these vehicles should be used only within a 50 km radius from the base of the undertaking, and on condition that driving the vehicles does not constitute de driver's main activity (art. 13 par. 1 (d) of Regulation 561/2006/EC).

The definition of this current derogation suits the specific situation of construction companies driving to their construction sites. However, the conditions foreseen are quite restrictive and the revision of the legislation was therefore the opportunity for the sector to have more flexible derogations introduced in order to better suit the specificities of construction activities.

In its initial proposal, the Commission simply required that the 50 km radius derogation should be extended to a 100 km radius. Thanks to a strong lobbying of the sector, further positive amendments were adopted by the European Parliament in its resolution of 3/7/2012:

- **A mandatory derogation to the overall regulation** for *"vehicles or combination of vehicles used for carrying materials, equipment or machinery for the driver's use in the course of his work and which are used **only within a 100 kilometre radius** from the base of the undertaking and only on the condition that driving the vehicle does not constitute the driver's main activity."*
- **A voluntary derogation to part of the regulation** for *"vehicles used in connection with [...] road construction, maintenance and control [...]."*
- **A voluntary derogation to part of the regulation** for *"vehicles used in construction traffic for the supply and delivery of building materials".*

However, while introducing these very useful derogations, the European Parliament also extended the scope of the entire Regulation to vehicles weighting between 2.8 and 3.5 tonnes – while the scope of the current Regulation does not include such light vehicles. This extension would mean that outside the criteria of the proposed derogations (i.e. beyond a 100 km radius), all light vehicles from 2.8 tonnes would have to apply the costly and burdensome Regulation.

FIEC reacted to this resolution in a position dated 10/9/2012 both to support the derogations introduced and to criticise the extension to lighter vehicles. Once the trilogue negotiations (between Commission, Parliament and Council) started early 2013, FIEC recalled its support and concerns in letters sent to the three institutions on 4/3/2013.

At the time where we write this report, the final outcomes of the trilogue negotiations are not know yet. However, it is said that the Council would refuse the overall extension of the scope of the Regulation to lighter vehicles... and would also refuse any additional derogations, except for the one initially proposed by the European Commission (i.e. extension of existing derogation radius from 50 km to 100 km).

## 7. Construction activity

This issue is developed in depth in the FIEC annual statistical report (R56, edition of June 2013).

For a short general overview, please refer to the FIEC "Key figures – activity 2012" (edition of June 2013).

**Here are just a few examples of what the Economic and Legal Commission has delivered over the past year:**

- It reiterated in all relevant position papers and press releases throughout the year that economic growth cannot be achieved without investment in construction.
- It served as a platform for exchanging information about construction activity and sectoral measures implemented in the various Member States throughout the year.
- It actively participated in the legislative procedure on the modernisation of public procurement all over the year and made the voice of the construction sector heard on a series of issues.
- It actively took part in the debates about the revision of the transport policy and the financing of infrastructure through the Connecting Europe Facility, with encouraging results within the European Parliament.

### Position Papers

FIEC letter to EU institutions on the draft "tachograph" regulation (4/3/2013)

FIEC letter on the revision of the transparency and accounting directives (25/2/2013)

FIEC/EFBWW joint position on abnormally low tenders in public procurement (21/2/2013)

FIEC position on the draft regulation for a Common European Sales Law (20/12/2012)

FIEC letter to the Council on public procurement (14/11/2012)

FIEC core messages on public procurement to the European Parliament (14/11/2012)

FIEC mailing to the European Parliament on amendments' proposals on the draft concessions directive (1/10/2012)

FIEC position on the Connecting Europe Facility – TRAN/ITRE draft report (27/9/2012)

FIEC position on the TEN-T Guidelines – TRAN draft report (24/9/2012)

FIEC position on the European Parliament's legislative resolution on the draft "tachograph" regulation (10/9/2012)

FIEC/EIC joint position on the draft "market access" regulation (27/7/2012)

FIEC voting recommendations to the European Parliament (Plenary) on the draft "tachograph" regulation (28/6/2012)

FIEC consolidated position on the draft directive on public procurement ("classical") (25/6/2012)

FIEC letter to IASB on IFRIC 12 – Service Concession Arrangements (21/5/2012)

FIEC preliminary position on the draft directive on concessions (20/4/2012)

FIEC preliminary position on the draft directive on public procurement (4/4/2012)

### Press Releases

FIEC press release – EP vote on MFF 2014-2020: Construction urges EP to support investment in growth and jobs (11/3/2013)

FIEC press release – FIEC conference 2012 on public procurement (8/6/2012)

FIEC press release – FIEC support to enlarging the scope of ERDF programmes (29/5/2012)

FIEC/CECE joint press release – Infrastructure investment for growth and jobs in Europe (16/5/2012)

FIEC press release – Sustainable growth and jobs need infrastructure investments (23/4/2012)

### Answers to (public) consultations

FIEC contribution to the public consultation on VAT reduced rates (3/1/2013)

FIEC contribution to the public consultation on road charging (31/10/2012)

FIEC letter to Commissioner De Gucht in reaction to the public consultation on the modernization of trade defense instruments (2/7/2012)

FIEC answer to the questionnaire on the Entrepreneurship Action Plan (27/7/2012)

### Others

FIEC letter to the European PPP Expertise Center (17/1/2013)

Presentation by C. Le Forestier – EC Action Plan on the Sustainable Competitiveness of the Construction sector (7/11/2012, FOCOPE Hearing)

FIEC support to the Declaration to support the Connecting Europe Facility (31/10/2012)

Speech by V. Piron, Chair of TWG "PPPs & concessions" at the European Forum for Manufacturing (15/5/2012, FIEC/CECE joint event)

*All these documents are available on FIEC website [www.fiec.eu](http://www.fiec.eu)*



**Joint position of FIEC and EFBWW on  
Fighting against Abnormally Low Tenders (ALTs) in public procurement  
21/02/2013**

**BACKGROUND:**

The widespread practice of awarding public contracts on the basis of the "lowest price" and of accepting "Abnormally Low Tenders" (ALTs) are at the source of various forms of unfair competition and social fraud, which are strongly condemned by FIEC and the EFBWW, the EU social partners for the construction industry. Furthermore, in the end ALTs very often result in higher final costs for the client and significantly affect the level of quality provided.

In its proposal of 20/12/2011 for a Directive on public procurement, the Commission therefore proposed to strengthen the framework for handling ALTs by setting 3 cumulative "identification criteria" according to which contracting authorities shall require economic operators to explain the price or costs charged<sup>1</sup>. The Commission also proposed to introduce a mandatory rejection of ALTs in case of non-respect of social, labour or environmental laws.

FIEC and the EFBWW supported very much these proposals in the sense that they were aimed at fighting against the award of public contracts to ALTs, which creates unfair competition between those contractors who respect social, labour and environmental rules and provide best value for money, and those who don't and just provide cheap works in poor conditions.

**For FIEC and the EFBWW the Commission's proposals could have been further strengthened by narrowing the % of identification proposed<sup>2</sup>. In addition, they share the view that as soon as a tender appears to be abnormally low, and whatever the reason is, contracting authorities shall be obliged to request explanations. This is a matter of coherency and efficiency. Moreover, the same mandatory rejection should be applied to ALTs based on illegal State aid: it is neither coherent, nor acceptable that ALTs because of illegal State Aid be not treated in the same way as ALTs because of the non-respect of social, labour and environmental laws. Finally, these rules must apply to bids submitted by both EU or non-EU companies.**

**PROBLEM => MISSED OPPORTUNITY:**

However, in spite of all reasonable arguments in favour of stricter provisions in this regard, both the European Parliament and the Council dropped the "identification criteria" proposed by the Commission and did not extend the mandatory rejection of ALTs to illegal State aid cases. This is not acceptable, as it does not improve the existing situation where contracting authorities have all discretion for defining what an ALT is and which has proven being very unsatisfactory and leading to a large number of Court cases. In the Council's version, contracting authorities are even no longer obliged to require economic operators to explain the price or costs proposed in their tender when this one appears to be abnormally low in relations to the works!

<sup>1</sup> (a) the price or cost charged is more than 50% lower than the average price or costs of the remaining tenders; (b) the price or cost charged is more than 20% lower than the price or costs of the second lowest tender; (c) at least five tenders have been submitted.

<sup>2</sup> In its position of 25/06/2012, FIEC advocated for even stricter identification criteria: (a) the price or cost charged is more than 20% lower than the average price or costs of the remaining tenders; or (b) the price or cost charged is more than 20% lower than the price or costs of the second lowest tender. With no reference to a specific minimum number of tenders.



**SOLUTION:**

The large number of cases before the European Court of Justice and the Public Contracts Appeals Board clearly show that the above mentioned concerns are fully justified.

**FIEC and the EFBW therefore call the Council and the European Parliament for strengthening the provisions aimed at fighting against the award of public contracts to abnormally low tenders.**

**This is possible through applying strict mandatory predefined criteria based on mathematic rules for identifying what is considered to be an abnormally low tender and by systematically rejecting the identified abnormally low tenders, whatever the underlying reasons are (i.e. infringement to social, labour, environmental, State aid rules, etc.).**



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President

*Domenico Campogrande, FIEC  
Rapporteur*

Sub-Commission SOC-1

"Vocational Training"



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*Rossella Martino, IT  
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Jacques Lair, FR

Executive Chairman

*Odette Repellin, FR  
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Sub-Commission SOC-2

"Health and Safety"



Cristina García Herguedas, ES

Chairman

*Ricardo Cortes, ES  
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Sub-Commission SOC-3

"Economic and Social  
Aspects of Employment"



François Jacquel, FR

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Jean Cerutti, FR

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## A. INVESTING IN VOCATIONAL TRAINING AND EDUCATION: THE WAY OUT OF THE CRISIS

The global economic crisis has strongly affected the construction industry, although with a different degree of intensity between countries.

Many jobs have been lost in several Member States and despite the high levels of unemployment across the EU the construction industry in some countries continues to suffer from a shortage of skilled workers. Within this framework there is a significant need to increase investments in training, to facilitate access to training, in particular for SMEs, to better anticipate the skills needed and to adapt the training schemes accordingly.

In contrast to other industrial sectors, in construction it is not the “final product” that moves within the single market, but rather the enterprises and their workforces that have to move to where the “product” is to be constructed. Such mobility plays a crucial role in the competitiveness of the sector and should therefore not be hindered by training and education policies, which are national competences, and which – due to the specificities of each country – sometimes differ significantly one from another. For these reasons, FIEC also concentrates its efforts for more transparency and a better mutual recognition of qualifications.

### 1. EU Sector Skills Council: a platform for better anticipating the skills needs

Sector skills councils are platforms at sector level where stakeholders seek to gain insight into the likely developments in employment and skills needs, through analysis of developments on the sectoral labour market, with the aim of assisting policy making within or for this sector. They are therefore intended to function as a platform in which, in addition to the social partners, several other stakeholders are involved (governmental bodies, training-related bodies, universities and schools, etc.) and work in a structured and continuous way.

These Sector Councils can be councils for initial vocational education and training and/or for

continuing vocational training and all these bodies have one common objective, namely to improve the match on the labour market between demand and supply in quantitative (jobs) and/or qualitative (skills and competencies) terms.

FIEC and EFBWW (the European Federation of Building and Wood Workers; our counterpart, representing the workers, in the EU Sectoral Social Dialogue) have therefore decided to launch a feasibility study, with the financial support of the European Commission (DG EMPL), for the possible setting up of such an EU sector skills council for the construction industry (ESSC), which has recently been finalised.

The main objectives of this study were, on the one hand, to map the existing sectoral bodies at national level, as well as their quantitative and qualitative outcomes, and, on the other hand, to assess the willingness and the feasibility of setting up such a body at the EU level.

The first evidence that came out of this study is that the existing sectoral councils/observatories have structures and areas of competences which may differ significantly one from another, but this would not constitute a major obstacle for a possible EU platform. Furthermore, most of their representatives would see a clear added value in creating some form of coordination at the EU level, under the responsibility of the EU sectoral social partners, FIEC and the EFBWW.

Several topics that could be included in the working programme of such an ESSC have been identified, such as : the mutual recognition of qualifications, the “greening” of construction jobs, technical developments, particular developments at national level, how is the development of the construction process transferred into training, etc.

One source of difficulty could result in trying to consolidate at the EU level the qualitative and quantitative outcomes of the existing councils/observatories. The study has shown that such outcomes, when they exist, range from very detailed and practical data to more academic analysis, and are very closely linked to national/local specificities. Furthermore, there seems to be only very few information regarding anticipation or forecast of skills needs.

Beside the structural and organisational aspects, the financing and the long term sustainability of such an ESSC appeared to be the most problematic element. The feasibility study does not show whether or not the identified possible stakeholders would be willing to finance such an ESSC, nor to which extent. As regards a possible EU financing, at present it is linked to requirements in terms of activity and outcome which FIEC and the EFBWW, as well as their affiliates, are not in position to fulfill.

The outcome of this feasibility study will now be discussed by FIEC and the EFBWW in their internal bodies, as well as in their Social Dialogue Committee. What is clear for both organisations is that the decision on whether or not to set up a possible ESSC will finally be taken according to the added value that it can provide to the sector and to its stakeholders.

## 2. Attracting and maintaining young people in the construction industry: a key challenge for the future

Despite what the EU and its member countries are doing, employment prospects for young people in the EU are bleak. One in five under 25 years old who is looking for work cannot find a job. 7.5 million young people between 15 and 24 are neither working, nor in education or training.

In addition, in most member States the construction industry still suffers from a negative image which affects its attractiveness and which, to some extent, explains the difficulties in hiring and in keeping young people as well as skilled workers.

A focus on this topic is therefore a priority for FIEC and for the social dialogue agenda.

It is, amongst others, for this reason that FIEC has become an associate partner of "WorldSkills Europe" ([www.euroskills.org](http://www.euroskills.org)), an organisation which promotes excellence in the field of skills and competence development across the EU.

"WorldSkills Europe" organises the "EuroSkills" events once every 2 years in one of the EU member States. It is a spectacular competition centred on

the professional performance of hundreds of young talents selected in their home countries. The main objective is, on the one hand, to use this competition to help the EU and its member States to raise skills standards whilst, on the other, to increase awareness of the importance of skills and vocational education/training for EU economies and societies.

"EuroSkills 2012" took place in Spa-Francorchamps (BE) on 4-6 October 2012 and more than 400 young competitors from 23 different countries have competed in 44 trades to become the best of Europe, in front of over 40.000 visitors.

But "EuroSkills" is not just about competing. It is also about discovering and trying out trades, getting information about training programs and meeting tomorrow's highly qualified young European professionals. It is the place where the European leaders of industry, education and training come together at seminars, conferences and meetings. Finally "EuroSkills" events aim at raising the image, the quality and the attractiveness of the European vocational education and training systems and gives an opportunity to politically address this.

For these reasons FIEC will continue its partnership with "WorldSkills Europe" in the future, in particular in view of the next competition that will take place in October 2014 in Lille (FR).

## 3. "Install-RES" project: towards a qualified workforce for renewable energy systems installations in Europe

The "Install+RES" project, in which FIEC is participating, aims at establishing high quality training courses for trainers and installers of small-scale renewable energy systems (photovoltaic, solar thermal, heat pumps and biomass systems) for buildings in several European member States (Germany, Bulgaria, Greece, Italy, Poland and Slovenia) and all the training course material is developed in line with the requirements mentioned in Directive 2009/28/EC (Art.14, Annex IV) on the promotion of use of energy from renewable energy sources.

The high quality of the courses offered within the “Install+RES” project is ensured, amongst others, by the “train the trainers” courses. During these courses, the trainers, who will implement the training courses for installers, acquire practical and theoretical knowledge to properly implement the training courses in their respective countries.

All the training material has been finalised in German and English during the first part of the project and the content and methodology has then been translated and adapted for each of the other participating countries. In the second part, the training focussed on the installers, in their national languages, for the renewable energy systems most relevant for their specific national needs according to the National Action Plans (NAP).

Further information on this project, including all the training material, which is available for free on the basis of the “Creative Commons” rights, can be obtained on the following website: [www.resinstaller.eu](http://www.resinstaller.eu).

## **B. IMPROVING HEALTH & SAFETY (H&S) : FOR THE BENEFIT OF ENTERPRISES AND THEIR WORKERS**

Despite the overall reduction in the number of work related accidents and illnesses, improving health and safety in the workplace continues to be an important field of action for construction sector and therefore one of FIEC’s main priorities.

The improvement of health and safety can also be achieved through promoting the development of a real culture of health and safety within each company, with the involvement of all the concerned stakeholders.

### **1. Information modules on asbestos: an awareness raising initiative**

Over the last few decades, the European Union has progressively banned the manufacture, distribution and trading of asbestos and has regulated activities related to the destruction of this material. However, asbestos remains a deadly material and despite an extensive ban and intensive efforts for eliminating it,

it can still be found in many different places, such as, for example, in public and private buildings.

The companies specialised in removing asbestos are covered by a very strict legislative framework, with stringent requirements in terms of training and qualifications needed, of protective measures, of process monitoring, etc.

But also those workers who are faced with asbestos only occasionally, such as for example young workers who do not have any experience with the old materials, need to be provided with specific information and knowledge about asbestos containing materials, i.e. where and when they can be found, how to identify them, how to proceed with these materials, etc.

Against this background, the European Social Partners for the construction industry, FIEC and the EFBWW, decided to use the opportunity of the Bilbao Agency’s campaign on “Safe maintenance” to launch a specific project on this issue.

Therefore, the main objective of this project was, on the one hand, to develop information modules for different professions and activities in construction and, on the other hand, to facilitate the exchange of best practices across the EU.

The main practical outcome has been the elaboration of easily understandable information modules, which will help the employers and workers understand possible risk situations and about the appropriate measures to be undertaken for safe working. These information modules, which have been translated into various EU languages and which can be downloaded from the FIEC website ([www.fiec.eu](http://www.fiec.eu)) describe different risk situations by means of a “traffic light” model. Each of the three “traffic light” colours, green, orange and red, would be associated with specific situations/materials and to the respective appropriate measures to be undertaken.

## 2. Respirable Crystalline Silica (RCS): which legislative framework?

Crystalline silica is a basic component of soil, sand, granite, and many other minerals. It is found in almost every type of rock and as a consequence, it is everywhere in our daily environment: on beaches and roads, in the fields, etc.

Crystalline silica is an essential component of materials which have an abundance of uses in industry and are a vital component in many things used in the construction industry such as bricks for houses, mortar for windows, roads or other transport infrastructures.

Respirable Crystalline Silica (RCS) enters the body when dust containing a proportion of crystalline silica is inhaled. This can be of concern to health of human beings and for this reason national occupational exposure limit values have been set at national level in all the Member States.

Exposure to RCS can occur anywhere where fine particles of silica dust are present into the air. Everyone is therefore exposed to very low levels of RCS dust on a day to day basis because this naturally occurring substance is so abundant on the planet. However, although experience indicates that environmental exposures to silica dust (even for people living in the vicinity of quarries) are not sufficiently high to cause any disease, the European Commission decided to address the issue of exposure to RCS at the workplace.

The main reason is that as RCS dust can penetrate deep into the lungs. The body's natural defence mechanisms may eliminate much of the respirable dust inhaled, but in case of prolonged exposure to excessive levels of this dust, an accumulation of such dust can, in the long term, lead to irreversible health effects. The most known type of lung damage due to RCS is called silicosis, which indirectly can cause lung cancer.

For this reason the European Commission's initiative aims at assessing whether or not RCS should be included within the scope of the "Carcinogens" Directive (90/394/EEC) or whether there may be another legislative framework which would

adequately take into account the hazards due prolonged exposure to RCS at the workplace.

In its position paper FIEC asked the EU "Advisory Committee on Safety and Health" to consider a more appropriate regulatory framework for RCS, such as the one of the "Chemical Agents" Directive (98/24/EC), which would also allow the employer to assess any risk to the safety and health arising from the presence of RCS in the work place and to lay down the measures to be taken.

FIEC strongly criticised the methodology used by the authors of the "impact assessment study" undertaken on behalf of the European Commission, which has finally lead to significant inaccuracies and misinterpretations both as regards the data presented and the exposure levels in the construction industry.

The inappropriate methodology used in the "impact assessment study" leads for example to the conclusion that construction is a sector with the highest average exposure to RCS, whilst most of the construction workers are only occasionally exposed to RCS during their activity. Therefore it would be important in the discussions to distinguish between those workers who are long term exposed to RCS from those who are only short term or occasionally exposed.

Furthermore, FIEC also highlighted that in the "impact assessment study" neither the number of workers potentially exposed nor the number of workers actually exposed or the percentages indicated do correspond to the reality of at least 2 of the 3 countries that have been used for extrapolating the overall data.

At the moment of finishing this report the considerations and requests of FIEC have been taken into account and a new impact assessment study should soon be launched by the European Commission and the option of including RCS in the "Chemical Agents" Directive instead of the "Carcinogens" Directive should now seriously be examined.

### 3. Musculo-Skeletal Disorders (MSDs)

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Statistics indicate that within the EU at least 11 million workers suffer from work-related MSDs.

Currently, in addition to the so-called "Framework Directive" (89/391/EC) on health and safety, which obliges employers to act to identify and address workplace risks, another specific EU Directive address the problem of MSDs by regulating exposure to risks occurring in specific working situations in construction, namely the Directive on "Manual handling of loads" (90/269/EC).

However, ergonomic risk factors can be present in different working situations and they can affect workers carrying out tasks that do not just involve manual handling of loads. For instance, repetitive movements are the most prevalent risk factor in the EU27, with more than half of workers reporting that their work involves repetitive hand or arm movements and tiring and painful conditions are the second most prevalent risk factor.

After two rounds of consultations of the various stakeholders concerned, the European Commission launched a study to analyse and evaluate the socio-economic impact of possible Community initiatives in the area of MSDs.

In a joint letter addressed to Commissioners Tajani and Andor, together with several other employers' organisations, FIEC clearly indicated that a new comprehensive legislative initiative would not be appropriate. Firstly because MSDs have many causes, not necessarily work-related, and because each sector has its own specificities. Secondly, FIEC considers that prevention of MSDs would be better organised in a very practical way at the level of each individual sector, with the use of guides to be implemented on a voluntary basis.

The outcome of the impact assessment study highlights that the option of a new comprehensive legislative intervention would imply additional costs for the concerned companies for a total estimated amount of 3.7 billion EUR, 90% of which would be borne by SMEs. The study also clearly mentions that *"this option would impose disproportionate costs on SMEs and thus fail the SME-test"*.

FIEC considers that MSDs have to be taken in consideration with attention by employers within their companies and in their day to day business. However, FIEC also considers that before changing the existing legislative framework and in order to avoid unnecessary additional burdens it has first to be proven that the current framework is inadequate and that any extension of the existing legislation or any new EU legislative initiative would provide an effective added value.

FIEC will closely follow the developments of this issue.

### C. EMPLOYMENT AND MOBILITY: AT THE HEART OF THE POLITICAL DEBATE

#### 1. "Posting" Directive: ensuring a better application and enforcement

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The issue of workers' mobility in Europe illustrates the tensions between establishing the conditions of the development and the proper functioning of the Single Market on the one hand, and, on the other hand, the conditions that guarantee workers' protection.

In this respect, the "Posting" Directive (96/71/EC) aims at ensuring an adequate protection of the rights of workers by setting certain parameters, which define a "hard core" of minimum protective employment and working conditions during the posting and which must be respected by the service provider in the host country.

The "Posting" Directive is therefore a centrepiece of EU legislation for a sector such as construction, which is characterised, amongst others, by the high level of mobility of its workforce. Its effective application and enforcement in all the Member States plays a crucial role in preventing social dumping and therefore in the competitiveness of our industry. Mobility is vital to addressing labour shortages and in the Internal Market companies should not be confronted with unnecessary barriers when providing services by means of posted workers. At the same time, host countries must be able to use proportionate and adequate control

measures to fight illegal employment and social dumping.

Several judgments of the European Court of Justice (ECJ), namely the “Laval” (C-341/2005), “Rüffert” (C-346/2006) and “Luxembourg” (C-319/2006) cases have led some stakeholders to question the efficiency of the “Posting” Directive and to lobby for its revision.

On this matter FIEC’s position has remained unchanged: the “Posting” Directive does not need to be amended. There are however improvements that can be achieved through a better application and enforcement and for this reason the European Commission presented in March 2012 a proposal for a new Directive on the enforcement of Directive 96/71/EC, without modifying the “Posting” Directive itself.

Despite the positive initial intentions of the European Commission the proposal raised a number of concerns, which have been at the centre of FIEC’s lobbying initiatives towards the European Parliament.

The main concern regards the proposal of setting an exhaustive list of possible administrative requirements and control measures, which would considerably reduce the possibilities of controls by the competent national authorities. Such a limitation would not allow a proper application and enforcement of the “Posting” Directive and would therefore go against the objectives of the proposed new Directive. FIEC is therefore of the opinion that the list of possible administrative requirements and control measures should be indicative and non-exhaustive.

With the aim of strengthening the lobbying on this specific topic FIEC and the EFBWW elaborated some common proposals for amendments, which have been jointly presented and discussed with several MEPs.

The proposed Directive also introduces provisions regarding the “joint and several liability” of the main contractor towards its sub-contractor(s) and as regards this issue, FIEC considers that it is up to each Member State to decide, as it is already the case today, whether or not to introduce such a “joint liability” system at its national level or whether alternative measures are more appropriate.

These two politically sensitive issues are now at the core of the debates within the European Parliament and the Council of Ministers.

Also on the issue of “Posting” FIEC is participating as partner in a European project, co-financed by the European Commission (DG EMPL) and coordinated by a French public institute called INTEFP, aiming at improving the collaboration between Social Partners and the authorities in charge of controls.

The project focuses on:

- Improving access to information on working and employment conditions for companies and employees: the knowledge of the national legislation applicable in the workplace is vital for companies that post workers, trade unions and government authorities in charge of ensuring their respect.
- Better understanding the underlying structures and the complex nature of posting situations through a dialogue between the various stakeholders.
- Improving transnational collaboration on the part of social partners and government authorities, on the basis of practical cases, so as to pinpoint difficulties and stumbling blocks, highlight good practices and leverage effects.

## 2. EU migration policy and its impact on the construction industry

The European Commission presented in 2010 two proposals for Directives in the framework of its overall migration policy. Both proposals aim at facilitating the procedures for obtaining work and residence permits for non-EU nationals. The first one concerns “seasonal workers”, whilst the second one regards “intra-corporate transfers” (ICT).

According to the Commission, these intra-corporate transfers of key personnel result in new skills and knowledge, innovation and enhanced economic opportunities for the host companies, thus advancing the knowledge-based economy in Europe while fostering investment flows across the EU.

If the proposal for a Directive on “Seasonal workers” has not been too problematic because its scope of

application should be limited to those activities that have a real seasonal character, which is not the case of construction activities, the one on ICT has proved much more controversial, in particular because some of the proposed provisions could seriously affect the smooth functioning of construction activities in the EU. For this reason FIEC and EFBWW asked that construction activities be excluded from the scope of application of the proposed Directive.

More than two years later, the legislative process on ICT is not yet concluded and at the moment of elaborating this report the negotiations between the EP and the Council of Ministers are deadlocked.

### 3. Promoting the development of “paritarian funds” in Central and Eastern EU countries

The construction industry is characterised by specific elements by which the sector distinguishes itself from other sectors, such as for example:

- the fact that it is not the “final product” that moves within the single market, but rather the enterprises and their workforces that have to move to where the “product” is to be constructed;
- it is a labour intensive activity;
- it has a highly mobile workforce;
- it is linked to local traditions, climatic and cultural factors.

Due to these particularities, the social partners in the construction industry have a specific pro-active role and task in organising and regulating the construction sector via industrial relations.

This is achieved, amongst others through the setting up of “paritarian funds”, which are bodies established, funded and managed by the social partners themselves and often fulfill a complementary role to existing governmental structures, mainly in the area of vocational training, health and safety, sectoral pensions and paid holiday schemes. Besides collective agreements these “paritarian funds” also play an important role in bringing the social partners together.

In most of the western European Member States, such bodies exist, whilst in the Central and Eastern EU countries only very few have been set up so far.

In order to promote the development of such “paritarian funds” in those countries where they do not yet exist, FIEC and EFBWW, in collaboration with AEIP, the European Association of Paritarian Institutions of Social Protection, and with the financial support of the European Commission (DG EMPL), have undertaken several joint initiatives and in particular they launched in March 2011 a website presenting detailed information on the existing paritarian funds in the various Member States ([www.paritarian-funds-construction.eu](http://www.paritarian-funds-construction.eu)).

As a follow-up to these initiatives and at the request of the Social Partners of Bulgaria, Poland and Romania, a new project was run throughout 2012 aiming at organising specific “capacity-building workshops”.

With the support of representatives of “paritarian funds” of Germany, France and Spain, the project aimed at providing bilateral technical expertise to the Social Partners of the countries concerned on specific topics or issues of concern, in order to allow them to undertake the necessary initiatives at their national level for establishing such “paritarian funds”.

FIEC is also partner in another project entitled “Post-crisis social dialogue in the construction industry” ([www.sodico.gzs.si](http://www.sodico.gzs.si)), coordinated by our Slovenian member CCBMIS (Chamber of Construction and Building Materials Industry), which focuses on :

- the anticipation, preparation and management of change and restructuring in the construction sector;
- the adaptation of social dialogue in the construction industry to changes in employment and work;
- strengthening the role of social partners in the construction sector, amongst other through the setting up of “paritarian funds”.

The project partners will especially assess the feasibility of establishing “paritarian funds” to manage restructuring in construction companies in Slovenia, Croatia, Hungary and Bulgaria, with the aim of building a positive perspective for the post-crisis period by developing structures that will help safeguarding existing jobs and fostering the creation of new jobs.

**Here are just a few examples of what the Social Commission has delivered over the past year, on its own or jointly with EFBWW (European Federation of Building and Wood Workers) within the sectoral European social dialogue:**

- Partner of the OSHA (European Agency for Safety and health at work) campaign on "Working together for risk prevention".
- Partner of "WorldSkills Europe" who organises the Euroskills events (biannual international skills competitions among young people, with the aim of improving the quality, the results and the attractiveness and promotion of vocational education and vocational skills: [www.euroskills.org](http://www.euroskills.org)).
- Partner in the "Install-RES" project aiming at developing trainings for trainers and installers of small-scale renewable energy systems (biomass, solar, PV and heat pumps) for buildings in several European member States ([www.resinstaller.eu](http://www.resinstaller.eu)).
- Partner in the SODICO project on "Post-Crisis Social Dialogue in the Construction Industry" aiming at: anticipating, preparing and managing change and restructuring in the construction sector in the post-crisis; strengthening the role of social partners and their cooperation. ([www.sodico.gzs.si](http://www.sodico.gzs.si))
- Partner in a project on "Posting of workers: Improving collaboration between Social Partners and Government authorities in Europe".

### Position Papers

FIEC position paper on "Setting an adequate regulatory EU framework for Respirable Crystalline Silica" (29/5/2012)

FIEC position on the proposed Directive on the "Enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services [COM(2012) 131] (11/7/2012)

FIEC position paper Communication from the Commission « Towards a job-rich economy », the so-called "Employment package" [COM(2012) 173] (15/10/2012)

Joint FIEC-EFBWW proposed amendments on the proposal for a Directive on the "Enforcement of Posting" (29/11/2012)

FIEC comments on the "IOM SHE Can report" on Respirable Crystalline Silica (3/12/2012)

FIEC and EFBWW "joint opinion" on the New community strategy on health and safety for 2013-2020 (17/12/2012)

### Press Releases

FIEC-EFBWW press release presenting the joint "Guide on Health and Safety: a tool for construction companies of all sizes" (21/6/2012)

FIEC press release on the occasion of the Tripartite Social Summit on 14/3/2013 : "Investment in training and a fair competitive framework will allow the construction industry to play its role as a growth and jobs machine"

FIEC press release on "Posting of workers : Construction employers support workers' in their refusal of proposed EU restrictions on national control measures" (24/1/2013)

*All these documents are available on FIEC website [www.fiec.eu](http://www.fiec.eu)*

### Initiatives financially supported by the European Community

FIEC-EFBWW project "Capacity building for setting up paritarian funds in Central and Eastern European Countries" (Ref. VS/2011/0390)

FIEC-EFBWW project "Information Modules for the Safer Handling of Asbestos" (VS/2011/0398)

FIEC-EFBWW project "EU Sector skills council for construction: Feasibility study" (Ref. VS/2011/0530)

## **FIEC position paper Communication from the Commission « Towards a job-rich economy » COM(2012) 173**

15/10/2012 (The following are extracts. The full version can be found on the FIEC web site: [www.fiec.eu](http://www.fiec.eu))

### **FIEC main messages:**

- 1. Wage policies must remain a national competence, without any EU interference.**
- 2. The diversity of labour contractual arrangements, as a complement to open-ended contracts, is crucial for addressing the diversity of needs of companies and individuals, as well as the developments and changes on the labour markets.**
- 3. It is crucial to provide people with the appropriate tools (training, regulatory framework, etc.), in order to allow them to shift from a “job security” approach towards “employment security” throughout their career paths.**

### **A. General considerations**

[...]

5. In this respect, FIEC welcomes the recognition of the Commission of the important role that Social Partners can play both at the EU and at the national level in developing such policies and measures. This becomes even more important when the specificities of each sector need to be taken into account.

### **B. Issues welcomed by FIEC**

[...]

7. FIEC therefore welcomes the need to intensify the fight against informal and undeclared work, in order to ensure a level playing field for genuine companies. The motivations behind informal and undeclared work are complex and can therefore only be tackled by a combination of preventive, punitive and regulatory measures, as well as by a close coordination between the concerned public authorities. As indicated by the Commission, improved coordination and cooperation between Member States are also needed in this respect, in particular for tackling the problem in cross-border situations.

[...]

### **C. Issues of concern for FIEC**

13. FIEC is of the opinion that it can be misleading to speak about the need to move towards a “European labour market”, as the Commission is stating. The achievement of such an ideal “European labour market” would require the complete harmonisation of issues such as labour law, social security, taxation, pensions, etc. which are very closely linked to national specificities and which must therefore remain under the responsibility of the Member States. The Commission however rightly underlines, and FIEC shares these views, that labour mobility across the EU must be promoted and facilitated, amongst others through a better recognition of skills and qualifications, as well as by removing legal and practical obstacles to the free movement of workers.
14. FIEC is strongly against any initiative opening doors towards a “Europeanisation” of wage policies, such as for example the proposal of setting up an EU tripartite forum for monitoring and exchanging views on wage developments. Only the sectoral social partners in the different Member States are able to ensure an appropriate and adequate wage development in their sector, taking into account the specific economic conditions and the regulatory framework. The same arguments apply to any tendency to impose EU standards for minimum wages.

[...]

**FIEC position****on the proposed Directive on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services [COM(2012) 131]**

11/7/2012 (The following are extracts. The full version can be found on the FIEC web site: [www.fiec.eu](http://www.fiec.eu))

**FIEC main requests:**

1. **The decision of whether or not to introduce a system of “joint liability” should be left up to each Member State. There is no evidence of the need or of the added value of a EU intervention in this respect.**
2. **A proper application and enforcement of the “Posting” Directive (PWD) can only be ensured if appropriate control measures can effectively take place. The current proposal would limit such possibilities of controls and would therefore be counterproductive.**
3. **Facilitating the availability of and access to information, for companies, workers and between public administrations, about the provisions to be applied is a key element for an effective enforcement of the PWD.**

**A. General considerations**

[...]

3. FIEC however recognises the need for improving the application and enforcement of the PWD, in order to ensure a level playing field for companies and the appropriate social protection for workers.

**B. Issues of concern for FIEC****Preventing abuse and circumvention (Art. 3)**

[...]

11. FIEC considers that the proposed Directive should explicitly indicate that in cases of “false posting” (i.e. the listed criteria are not fulfilled) the whole working conditions of the host country must be applied to the concerned workers.

[...]

**National control measures (Art. 9)**

[...]

14. Such a limitation would not allow a proper application and enforcement of the PWD and would therefore go against the objectives of the proposed Directive.
15. The list of possible administrative requirements and control measures should therefore be indicative and non-exhaustive.
16. Furthermore, in order to allow effective controls, the competent authorities of a country must be informed, in due course before the posting effectively starts, that a foreign service provider will come on its territory.

[...]

**Subcontracting – Joint and several liability (Art. 12)**

28. On these bases, FIEC considers that it is up to each Member State to decide, as it is already the case today, whether or not to introduce such a joint liability system at its national level or whether alternative measures are more appropriate.

[...]

## **FIEC position paper Setting an adequate regulatory EU framework for Respirable Crystalline Silica (RCS)**

29/5/2012 (The following are extracts. The full version can be found on the FIEC web site: [www.fiec.eu](http://www.fiec.eu))

### **Introduction**

The employers of the construction industry are aware of the fact that respirable crystalline silica (RCS) is present in some specific construction activities and they are therefore committed to put in place the most appropriate control and protective measures for the benefit of their workers.

[...]

In this respect, FIEC considers that:

- 1. The inclusion of RCS in the scope of the Carcinogens Directive is not appropriate because on the one hand it would not solve the health prevention problems for workers and, on the other hand, the technical implementation measures required would be almost impossible to apply. Furthermore, the economic impact for the companies in the construction sector, in particular the SMEs, would be extremely high.**

[...]

- 2. Nevertheless, including the RSC in the Chemical agents Directive with an European OEL of no less than 0,1 mg/m<sup>3</sup> would adequately address the issues of health protection of workers, technical capability for implementation measures and affordable economic cost.**

[...]

### **Conclusions**

**FIEC asks the Commission and its Committees to consider a more appropriate regulatory framework than the Carcinogens Directive for this very common substance used by a wide variety of industries and whose hazard is variable and carcinogenicity expressed through a secondary mechanism.**

**The setting of an OEL in the Chemical Agents Directive would better address the RCS health effects, i.e. both the secondary mechanism of action and the variable hazard.**

**In terms of combined socio-economic and health impact, as well as technical feasibility, any European OEL for RCS should not be set below 0.1 mg/m<sup>3</sup>.**



Kjetil Tønning, NO

**President**

*Frank Faraday, FIEC  
Rapporteur (-06/2013)*

*Sue Arundale, FIEC  
Rapporteur (06/2013-)*

Sub-Commission TEC-1

**"Directives, Standards  
and Quality Assurance"**



Jan Coumans, BE

**Chairman**

*Eric Winnepeninckx, BE  
Rapporteur*

Sub-Commission TEC-3

**"Environment"**



Jan Wardenaar, NL

**Chairman**

*Paul Schumacher, NL  
Rapporteur*

Sub-Commission TEC-2

**"Research, Development  
and Innovation"**



Bernard Raspaud, FR

**Chairman**

*Pascal Lemoine, FR  
Rapporteur*

## 0. Introduction

FIEC's Technical Commission is currently split into three sub-commissions dealing with different themes. These are listed on page 48 but cover a range of construction related issues from innovation, standardisation and CE marking of construction products through to the energy efficiency of buildings and infrastructure and the sustainable management of the planet's resources. In addition, two working groups were established in 2009 to look at construction and demolition waste and energy networks. Due to limited space, it is not possible to list all the activities of the Technical Commission in this Annual Report. Rather what follows is an overview of progress achieved on a number of important themes that were singled out by the current President of FIEC's Technical Commission, Kjetil Tønning at the start of his second mandate in June 2012. For a detailed account of work ongoing in the Technical Commission, please refer to the Working Programme available on the FIEC website.

## 1. Forging a Sustainable Construction Sector

Whether in meeting the challenge of climate change mitigation and adaptation, contributing to a resource efficient economy or in ensuring future housing needs for a changing demography, the construction sector's role is crucial. The promotion of sustainable development is at the heart of the work of FIEC's Technical Commission. Independently of other initiatives promoted through international and European standardisation committees or through European Commission initiatives such as the upcoming communication on sustainable buildings, **FIEC is defining its own vision of how the construction sector can best contribute to sustainability.** The aim is to ensure that construction enterprises fully grasp the market opportunities that will be created through new drivers for change such as more stringent environmental regulation and carbon reduction measures (from both European and national legislators) as well as increased market demand for environmental and carbon footprinting and energy efficiency measures among both public and private-sector clients. Work on sustainability is related to all of FIEC's commissions and working

groups but is the main focus of the Technical Commission's Environment Sub-Commission chaired by Jan Wardenaar (NL).

### Progress in 2012

Following the successful 2010 conference on sustainability, which showcased success stories from a broad spectrum of construction companies, FIEC has sought to maintain the momentum of that conference despite the ongoing economic downturn and sovereign debt crisis that has drastically curtailed lending in many countries. FIEC was involved in the organisation committee of the European Commission sponsored Eco-Innovation Forum in Amsterdam<sup>1</sup>, a two day long workshop held in April 2012 involving high level speakers which debated how sustainability can be mainstreamed more effectively into both the design and execution of construction projects. Speaking on behalf of FIEC, Sigrid Strand-Hanssen from Norwegian construction company NCC, highlighted the role of effective collaboration among all the actors in the value chain involved in a construction project at an early stage, in order to ensure the efficient execution of the project, avoid wastage and reduce the potential for litigation.

### Looking forward

Having already committed to increasing the visibility of sustainability in the FIEC Steering Committee, **FIEC is now looking to develop a more detailed vision of how the construction sector can best contribute to the creation of a sustainable, low carbon economy.** To this end a small working group was created within TEC-3 in December 2012 and is currently working on updating the FIEC Principles for Sustainability that were first published in 2005. Among other objectives, the chief aim of the exercise is to enable FIEC to provide a useful contribution to preparations for the future communication on Sustainable Buildings that is expected to be unveiled by the European Commission's Environment DG by the end of 2013.

<sup>1</sup> Website: [http://ec.europa.eu/environment/ecoinnovation2012/1st\\_forum/](http://ec.europa.eu/environment/ecoinnovation2012/1st_forum/).

## 2. The Essential Role of Construction in building the Low Carbon Economy

### Energy Savings in Buildings

No effort to bring down greenhouse gas emissions linked to climate change and to reduce the EU's dependence on imported fossil energy will succeed without a parallel reduction in demand for energy. The role of buildings in this context is crucial as they account for 40% of final energy consumption and over a third of greenhouse gas emissions. Policymakers have been aware for some time of the benefits of taking action to save energy in the building stock as studies have shown that the most cost-effective way to save energy is to act on buildings. In the new buildings sector the recast of the Energy Performance of Buildings Directive (EPBD) that entered into force in July 2010 sets the end of 2020 as the deadline for nearly zero energy new buildings (public buildings are earlier), though their precise definition is left to the individual Member States with the help of a comparative European methodology.

### Grasping the energy saving potential of existing buildings

Given that the replenishment rate of the building stock does not exceed 1% in many cases, FIEC continues to emphasize that **the most cost-effective solution for saving energy in buildings is taking action when they undergo major renovation**. FIEC therefore is satisfied with the new Directive as it recognizes the need for a solid financial framework to encourage renovation works for energy efficiency especially in privately owned homes. In this regard, the role of **reduced VAT**, among other instruments, for renovation works as it is practiced by some countries cannot be underestimated. FIEC is however concerned that, for budgetary reasons, many countries have foregone this and other effective financial tools to promote energy saving measures and ensure skilled employment in the building sector. Together with the Housing Working Group, the Environment sub-commission published in September 2011 a detailed set of proposals for financing energy savings in housing under the title of **"Financing Solutions in Housing – A view from the construction industry"**<sup>2</sup>. The paper identified the main barriers to renovation activity in the housing stock as inertia,

low awareness of the benefits of investment and pay-back periods, difficult access to credit and split incentives between owner and tenant. The EU can best help by making better use of existing funding for energy efficiency and streamlining programmes. Further leveraging of private financing can be facilitated by establishing risk sharing facilities in cooperation with the European Investment Bank. A report on financial support for energy savings in buildings is expected imminently from the European Commission's Directorate General for Energy.

**On a technical level**, a systematic and methodological approach is required when addressing existing buildings. Such an approach should seek first to reduce the building's demand for heating or cooling by, for example, sufficient insulation and glazing before new technical systems and micro-renewables such as solar panels and ground/air source heat pumps are promoted.

### Energy Efficiency Directive

November 2012 saw the publication in the Official Journal of the **Energy Efficiency Directive**<sup>3</sup>. The proposal unveiled 18 months earlier was the first time the European Union had sought to enact specific legislation on cross-sectoral energy efficiency and the proposal proved to be extremely controversial in many of the binding measures put forward, including the energy savings obligations placed on energy providers and an obligation on public authorities to renovate a certain percentage of their building stock each year. The political agreement reached in April 2012 between the European Parliament and Member States saw a final text that was more ambitious in some areas but one that had been watered down in others, most notably regarding the renovation of public buildings which was narrowed to merely "central government" buildings. More promisingly however, the Directive also contains provision for medium term roadmaps for the renovation of the building stock that Member States will need to report to the Commission together with their Energy Efficiency Action Plans. The first of such reports will be delivered in 2014.

### Looking forward

With the adoption of the recast EPBD and the EED, the focus of pushing for financial and fiscal support for activities surrounding improving the energy performance of existing buildings has shifted

<sup>2</sup> **Financing Solutions in Housing – A view from the construction industry**; available on FIEC website under Publications and Position Papers. Date 16/09/2011.

<sup>3</sup> **Directive 2012/27/EU dated 25<sup>th</sup> October 2012 on Energy Efficiency**. Official Journal L315/1 dated 14<sup>th</sup> November 2012.

back to national capitals. It is for this reason that FIEC, in September 2012, joined the Renovate Europe Campaign. The Renovate Europe Campaign, composed of major international companies and trade associations, calls for an ambitious roadmap to be drawn up on how to triple the annual renovation rate of the EU building stock from the current rate of 1% to 3% by 2020 and to ensure that the aggregate result of those renovations leads to an 80% reduction of the energy demand of the building stock by 2050 as compared to 2005. In order to reach this objective, the Campaign's major focus is on finance ministries at national level and in February 2013, the Campaign wrote to all 27 EU finance ministers in order to raise their awareness of the economic benefits of investment in energy savings in buildings and present the results of a study<sup>4</sup> by Copenhagen Economics on the economic and social benefits of investing in energy efficiency. The letters will be followed up by meetings with a few of the ministries. FIEC's members will be invited to take part in such delegations.

### Expanding the EU's Energy Networks

FIEC's working group on Energy Networks under the aegis of the Environment sub-commission is now four years old and, through the work of Daniel Boscarri (FR) and his team, produced in June 2010 a detailed position paper on what is needed to secure the **vital investment in new electricity and gas grid infrastructure** in order to reduce Europe's demand for imported energy and to prepare the grid for the coming on stream of large scale low carbon generation. Investment needs for new energy infrastructure in the EU are estimated by the European Commission to amount to €200 billion over the next decade. **Barriers to the transformation of the EU's grid remain however in over-zealous planning rules and in a lack of large scale financing.**

In order to begin to resolve these difficulties, the European Commission put forward proposals at the end of November 2011 to set priority corridors for the expansion of energy infrastructure in the **Connecting Europe Facility (CEF)** which sees over €9 billion given over to energy infrastructure. At the same time as unveiling the Facility, the Commission also adopted a proposal for overhauling the way in which priority cross-border infrastructure projects are approved. Currently a myriad of permit procedures slows down projects and has prevented the completion of cross-border inter-connection projects.

In its revised **Guidelines for Trans European Energy Networks**, the Commission proposed to streamline permit procedures with a single planning authority responsible for the entire length of the project of strategic projects of European interest. Negotiations on the proposal culminated on 21<sup>st</sup> March 2013 with agreement in the Council of Ministers. The new regulation will give priority to 12 strategic infrastructure corridors and will seek to identify projects of common interest needed to implement them. **This includes provisions on the granting of swifter and more transparent authorisations for which the duration will generally not exceed a period of three and a half years.** The text also establishes rules for possible cost sharing for the construction of infrastructure projects of common interest and includes eligibility conditions for EU project funding. The Commission will adopt its initial list of projects of common interest for the whole of the EU on the basis of regional lists before 31<sup>st</sup> July next year. The EU list will subsequently be established every two years.

Meanwhile, negotiations between Member States on the Multi-Annual Financial Framework from 2014 to 2020 have seen **the amount for energy infrastructure in the CEF reduced quite drastically** from the €9 billion proposed by the Commission to just €5.1 billion. FIEC reacted to this cut in a press release<sup>5</sup> issued on 11<sup>th</sup> March 2013 in advance of the adoption of a resolution by the European Parliament on this matter, by restating the view of the construction industry that investment is necessary to ensure the EU's long term growth, employment and international competitiveness.

### 3. Contributing to a Resource Efficient Society

The footprint of construction activities on the environment is well known both in terms of energy consumption and carbon emissions. However the use of essential resources such as water in construction activities and the management of construction and demolition waste cannot be ignored. It is estimated that debris from construction and demolition activities represents the second largest waste stream and the European Union in the new **Waste Framework Directive, set out a 70% recycling target to be met for construction and demolition waste**

<sup>4</sup> Multiple Benefits of Investing in the Energy Efficient Renovation of Buildings. Copenhagen Economics. Date: 05/10/2012.

<sup>5</sup> European Parliament Plenary Vote on MFF Resolution: Construction Sector urges the European Parliament to support investment in growth and jobs. FIEC Press Release. Date: 11/03/2013. Available on FIEC website under Publications and Position Papers.

by 2020. Having met with the European Commission's Environment DG at the end of June 2011, FIEC is committed to meeting the 70% target and is working, together with FIEC associate member, the European Quality Association for Recycling (EQAR), to exchange best practice in this area. FIEC participated in **EQAR's Workshop on construction materials recycling** held in Brussels in late May 2011 which called for more rapid progress in defining end of waste criteria for certain categories of waste such as construction and demolition waste and recycled aggregates. The Workshop also showcased countries that had already adopted ambitious regulatory requirements on the recycling of construction and demolition waste and other voluntary initiatives such as WRAP in the UK where over 670 signatory organisations signed up to halving the amount of waste going to landfill by 2012.

The European Commission, in September 2011, presented its long awaited **Resource Efficiency Roadmap**<sup>6</sup>. The Communication on a Resource Efficient Europe is one of seven initiatives taken under the Europe 2020 Strategy for growth and jobs (successor to the Lisbon Strategy). The Commission is currently preparing a **communication for this year (2013) on sustainable buildings** though it is unclear as at the end of March 2013 what will be included in the communication.

#### 4. Towards a truly Innovative Construction Sector

FIEC's activities in the field of research and development have long taken place within the Research, Development and Innovation sub-commission chaired by Bernard Raspaud (FR). FIEC's work in this area is based on strong cooperation with the European Council for Construction Research, Development and Innovation (ECCREDI) which has as its mandate to represent the interests of European construction sector associations with regards to EU research and development and seeks to bring the results of research in the field to the vast majority of "technology followers" in the industry. FIEC is also a member of the European Construction Technology Platform which aims to guide the European Commission in choosing themes for research calls for proposals under the Seventh Framework Programme (FP7). Both ECCREDI and the ECTP joined forces to clearly voice the needs of the construction sector

with a view to the next framework programme, "Horizon 2020" that will replace the current framework programme from 2014.

#### Horizon 2020 – The New Framework Programme for Research

The Commission unveiled its proposal for the new research framework programme in late November 2011. Worth a proposed €80 billion over seven years, the programme will be focused around three main pillars: excellence in the science base, industrial competitiveness and better society. The latter will look at a number of themes of interest to construction such as research and innovation in energy efficiency and renewable energy technologies, climate change and research to meet the challenges of a changing demography. FIEC welcomes the fact that the Horizon 2020 Regulation proposal will see a simplification of the application process and reporting obligations for those participatory organisations.

FIEC published its comments on Horizon 2020 in May 2012<sup>7</sup> and followed this up with the submission of a number of amendments to the Horizon 2020 proposal through the Rapporteur in the European Parliament, Mrs Teresa Madurell (ES-S&D). One of the main pillars of FIEC's comments on the new programme was that dissemination of the results of research sponsored by the European Union to SMEs should be better organised through the construction value chain so that SMEs can more quickly and effectively benefit from innovation. A number of these amendments were taken on board by the rapporteur and appear in Mrs Madurell's report.

#### Latest Developments

Following agreement in the European Parliament ITRE Committee (Industry, Research and Energy) of the six legislative proposals relating to Horizon 2020, research ministers gathered in the Council reached agreement on the specific objectives and general activities of the next framework programme. They also reached a partial agreement on the rules for participation which is largely consistent with the original much simplified rules proposed by the European Commission. In a similar way to energy and transport infrastructure, the fate of the Horizon 2020 Programme hinges very much on agreement on the Multi-Annual Financial Framework. As this report is drafted, the Member States have cut €10bn from

<sup>6</sup> Communication: **Roadmap to a Resource Efficient Europe**; 20/09/2011 COM(2011) 571 Final.

<sup>7</sup> **FIEC Comments and Draft Amendments to the proposed Regulation of the Parliament and the Council establishing the "Horizon 2020" Framework Programme and the proposed decision of the Council establishing the specific programme for the implementation of "Horizon 2020"**. Dated 21/05/2012: Available on FIEC website.

the programme. Meanwhile the European Parliament has set its sights on a financial envelope totalling €100bn for the seven years.

### FIEC Innovation Forum

To provide better input to the discussions with ECCREDI and the European Commission as to the challenges facing member companies wishing to become involved with European research projects, the secretariat continues to facilitate the establishment of an "Innovation Forum". The purpose of the forum is primarily to ensure a swifter response from FIEC on research, development and innovation questions. FIEC Member federations are currently being asked to nominate entrepreneurs to participate in the forum. A meeting of FIEC's Research, Development and Innovation was held in mid-April 2013 in order to discuss how the Forum can be set up in practice.

## 5. CE marking: Defending the interests of construction product users

Matters related to CE marking and to the Construction Products Regulation are dealt with by the TEC-1 sub-commission chaired by Jan Coumans (BE).

### The Construction Products Regulation

The Construction Products Regulation entered into force in April 2011<sup>8</sup> though many of its provisions will not become law until July 2013. The goal of the Commission in drafting this regulation is to complete the internal market in construction products. While FIEC supports this aim, it is essential that simplification of conformity assessment procedures for manufacturers should not lead to the undermining of the CE marking. During the two readings of the legislation, FIEC intensely advocated for obligatory CE marking for manufacturers, a credible testing regime for safety critical products and a CE label that would continue to feature useful technical information for contractors.

### A CE marking of use to construction products users

FIEC was successful, during the second reading of the Construction Products Regulation (CPR), in ensuring that the **content of the CE marking label** remains of use to contractors faced with pressure during the debate in the European Parliament to replace technical information with a simple barcode and website link. Thanks to the work of FIEC's members, the CE label will continue to give information linked to the intended use of the product as well as key technical characteristics of the product.

FIEC's message was heeded that the contractor must be able to identify the exact product arriving on site without referring to internet-based information and that essential regulatory information linked to the product's intended use should continue to be delivered with the product itself though given the CPR review expected in 2016, FIEC and its Member Federations will need to remain vigilant.

### Receiving the Declaration of Performance in the right format

In addition to the CE marking, the new regulation also introduces a Declaration of Performance (DoP) that must, by law, accompany each product and that details all declared technical characteristics of the product when it is placed on the market. Questions surrounding the format in which the DoP is delivered and the use of website storage have long been raised by representatives of manufacturers who are lobbying to replace the paper copy of the DoP with a link to a website. Whilst recognising the need to avoid needless paper documentation on site and the opportunities brought by Internet storage, FIEC is mindful to ensure that contractors can always request a paper copy from a manufacturer or distributor should they need. Moreover, reduced burdens for manufacturers should not lead to increased burdens for contractors. Lastly, FIEC is concerned to ensure the reliability and full traceability of DoPs stored on the Internet for a time-period that exceeds the ten year period that is referred to in the CPR.

The regulatory framework for the use of websites will be resolved in a Delegated Act from the European Commission that will be adopted in the summer of 2013 once the relevant provision of the Regulation has entered into force and following the preliminary results of a detailed study.

<sup>8</sup> Regulation: N°305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonized conditions for the marketing of Construction Products. Official Journal L88/5 dated 04/04/2011.

The study was contracted to a Belgian law-firm, DBB, in November 2012 and a first stakeholder meeting was organized in January 2013. The rather narrow remit of the study is to look at the legal and regulatory barriers to the legal admissibility of a DoP provided on the Internet. Both FIEC and manufacturers' representatives regret the fact that the study will not look into more business related practice and issues facing construction product users. The Delegated Act will be based, partially on the preliminary findings of this study that will be presented to stakeholders and Member States in May 2013. In the meantime FIEC will seek to reach, in advance of the Delegated Act, an agreement with manufacturers' representatives on the conditions under which the DoP can be provided on the Internet.

#### **Contractor's Guide to CE marking under the CPR**

In order to provide support to contractors in the transition to the Construction Products Regulation, FIEC completed a handy guide<sup>9</sup> at the end of June 2012 to CE marking for construction product users. The guide explains in simple terms what CE marking is and isn't, what information should accompany the product and importantly makes clear that contractors are not legally obliged to affix the CE marking themselves under this regulation unless they are acting as a manufacturer and placing a product on the market. An abridged version of the guide is featured at the end of this Report.

## **6. Getting Standardisation Right for Construction**

### **Construction and Standardisation**

As of the end of March 2013, building and civil engineering works represented the second largest sector in terms of the volume of documents published by the European Committee for Standardisation (CEN). FIEC has been an associate member of CEN since 1992 and is involved in a number of Technical Committees (TCs) of interest to member contractors. FIEC's member federations are active in national mirror committees.

Given the significant share of construction in the volume of standards CEN produces, both through

construction product standards and through design standards such as the Eurocodes, it is vital that construction enterprises are aware of how standardisation affects their work. By the same token, it is also crucial that the voice of construction enterprises is heard in CEN Technical Committees. Construction enterprises are, for the most part, small and medium sized companies and have specific needs in the development of product standards. Their needs are very different to those of SME product manufacturers for example. One of the key problems expressed by companies and especially SMEs is the way in which standards are written and the need to cross reference what can amount to dozens of standards to apply one correctly. In this regard some kind of guidance document for standards use describing how to apply test methods in a step by step manner could be of use, in particular, to SMEs.

#### **Reform of the European Standardisation System**

The Regulation on the European Standardisation System was adopted and subsequently published in the Official Journal in November 2012<sup>10</sup> with the stated aim of streamlining and accelerating the standardisation process so that standardisation can better serve innovation in products and services. The underlying political aim of the Commission is to boost the competitiveness of the European economy faced with international competition in research and development. Another aim of the Commission is to increase the rate of standardisation in services which remains far behind that for products.

TEC-1 Chairman Jan Coumans used the occasion of the Commission sponsored Conference on the Construction Products Regulation in June 2012 to present the view of contractors on the role of standardisation in the sector. FIEC's members have long held the position that, in most cases, standardisation at European level of services linked to construction is unwarranted due to the differing regulatory frameworks in force across the Member States. Given the reality of different legal traditions and liability rules, **FIEC urges the Commission and CEN to exercise the utmost caution when considering increased standardisation of services and processes linked to the construction sector.**

<sup>9</sup> The Rules on CE marking are changing: What Contractors need to know! Date: 20/06/2012. Available on FIEC website.

<sup>10</sup> Regulation N°1025/2012 on European Standardisation. Date: 25/10/2012. Official Journal L316/12 dated 14/11/2012.

**FIEC partnership – Projects and Campaigns:**

Partner of "BUILD UP" ("The European Portal for Energy Efficiency in Buildings")  
[www.buildup.eu](http://www.buildup.eu)



ChemXchange – web-based database for SME users of chemicals in the construction sector  
[www.chemxchange.com](http://www.chemxchange.com)



Renovate Europe Campaign  
[www.renovate-europe.eu](http://www.renovate-europe.eu)

### Here are just a few examples of what the Technical Commission has delivered over the past year:

- Set up a working group to update the FIEC Principles for Sustainability in order to better respond to the future Commission Communication on Sustainable Buildings expected during the course of 2013.
- Joined the Renovate Europe Campaign in September 2012 with a view to press national governments in the EU into action on the renovation of existing buildings. The campaign has already secured a number of meetings with national governments.
- Tabled draft amendments to the regulation enacting the Horizon 2020 programme for European Research to the European Parliament rapporteur in order for the future programme to better take into account the needs of construction enterprises.
- Completed a guide to CE marking for contractors explaining the changes brought about by the Construction Products Regulation that will apply from 1<sup>st</sup> July 2013.
- Clearly conveyed the views of contractors to the European Commission and European Parliament on the subject of the future Internet provision of the Declaration of Performance under the Construction Products Regulation.

#### Position Papers

FIEC Comments on Horizon 2020 and Draft amendments to the proposed Regulation of the Parliament and the Council establishing the "Horizon 2020" Framework Programme and the proposed decision of the Council establishing the specific programme for the implementation of "Horizon 2020" (21/5/2012)

FIEC Position on Implementing the Eurocodes Suite "Gain experience in practice before mandating wholesale expansion" (26/6/2012)

FIEC Position on the TRAN/ITRE draft report on the Connecting Europe Facility (27/9/2012)

#### Press Releases

Communication on Construction Sector Sustainable Competitiveness: putting investment and jobs first (31/7/2012)

"Time for a strong impetus for renovation: FIEC welcomes European Parliament adoption of Energy Efficiency Directive" (11/9/2012)

"Time to seize the potential of saving energy in Europe's buildings: FIEC joins the Renovate Europe Campaign" (11/10/2012)

#### Other

"The Rules on the CE marking of Construction Products are Changing. What Contractors need to know!" (7/7/2013)

#### From EU-FP7 financed projects

##### ChemXChange Project:

"Europe-wide launch of the ChemXchange system" Press Release. (10/10/2012)

*All these documents are available on FIEC website [www.fiec.eu](http://www.fiec.eu)*

## Rules on CE Marking – brochure:

### INTRODUCTION:

On the 1<sup>st</sup> July 2013 the rules on how construction products are put on the market in the European Union change. This change will affect the information provided with a construction product.

### WHAT IS CE MARKING?

The CE marking is a label that is affixed to products so they can be traded freely within the EU internal market. By drawing up a Declaration of Performance and affixing the CE marking, manufacturers give specific information about a construction product.

### WHY DOES THIS CONCERN ME?

The fact that a product bears the CE marking does not mean that product can be used in works. Contractors need to read and understand the Declaration of Performance accompanying the CE marking and verify it with requirements for the works including national building regulations. CE marking on a product may not cover all requirements set for works at national level as it only covers certain regulatory requirements on products.

### DO ALL CONSTRUCTION PRODUCTS BEAR THE CE MARKING?

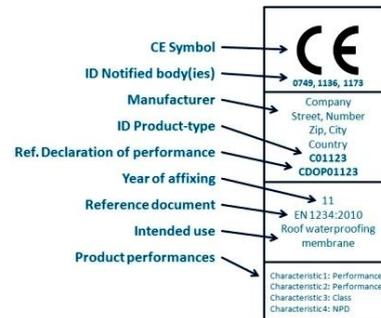
Most do but products that are not covered by harmonized European standards or European Technical Assessments (ETAs) do not carry the CE marking. One example is site mixed concrete.

### WHERE DO I FIND THE CE MARKING?

The CE marking may be found on the product, on a label attached to the product, on the packaging or on documents accompanying the product.

### WHAT INFORMATION COMES WITH THE CE MARKING?

Information accompanying the CE marking, for which solely the manufacturer assumes responsibility, depends on the harmonized product standard or ETA and on the characteristics for which the manufacturer wants to declare performances and is illustrated below.



### WHAT DO I DO IF I SUSPECT SOMETHING IS WRONG WITH THE CE MARKING?

Every country has its own competent authority in charge of market surveillance.

Please refer to the contact details page for further information.

### DO I HAVE TO CE MARK IF I MAKE PRODUCTS FOR MY OWN USE?

No you don't. CE marking for construction products is principally a task for manufacturers. If a contractor makes a product (e.g. a prefabricated concrete beam) for use in his own works, he does not need to CE mark.

However if the contractor places that same product on the market for sale to another contractor, he effectively becomes a manufacturer and will have to affix the CE marking.

If the contractor sub-contracts the manufacturing of a product to another company, the CE marking becomes the responsibility of the sub-contractor.

Be aware that CE marking may be necessary under other legislation, for example for installed power operated equipment such as a garage door. If in doubt check with your competent local authority.

### Where can I get more information?

For further information on EU legislation on construction products, visit the European Commission website:  
[http://ec.europa.eu/enterprise/sectors/construction/legislation/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/construction/legislation/index_en.htm)

If you are have a specific query about CE marking, please refer to your national competent ministry.

Market Surveillance Authorities:

Federation address:

Contact details to be filled in by national federations

Created in 1905, **FIEC** is the European Construction Industry Federation, representing via its 33 national Member Federations in 29 countries (27 EU & EFTA, Croatia and Turkey) construction enterprises of all sizes, i.e. small and medium-sized enterprises as well as "global players", carrying out all forms of building and civil engineering activities.



[www.fiec.eu](http://www.fiec.eu)

### The Rules on CE marking construction products are changing What contractors need to know !



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Final 11/09/2012

## PRESS RELEASE

**Time for a strong impetus for renovation:  
FIEC welcomes European Parliament adoption  
of Energy Efficiency Directive**

FIEC warmly welcomes the European Parliament's adoption of the Energy Efficiency Directive and especially applauds the directive's **provision for long-term national roadmaps for the renovation of Europe's building stock**. Commenting on the adoption, FIEC President Thomas Schleicher said, "given the low replenishment rate of the building stock, **the key to reducing Europe's demand for energy whilst maintaining skilled employment lies in Europe's existing buildings which account for 40% of final energy demand and over a third of greenhouse gas emissions**. The directive provides a much needed impetus to national governments in driving up renovation rates but none of this can be achieved without the necessary investment and financing mechanisms" Schleicher continued.

Whilst the exemplary role given to public buildings and central government procurement in the directive are welcome, **such measures cannot distract from the main objective which must be to transform the market to one that prioritizes energy savings**; both in order to meet the EU's targets for reduced greenhouse gas emissions but also to reduce the EU's expensive reliance on imported fossil energy thus keeping more money in Europe's economy. Furthermore **the economies of scale associated with the development of a real market around energy savings in buildings will fuel the capacities and skills in the construction sector**.

In order to really seize the potential of renovating Europe's ageing building stock, **overcoming the huge financial barrier to investment is essential**. This can come through large scale financing such as revolving funds or pay-as-you-save schemes that reimburse the cost of the works through savings in energy bills. Fiscal incentives such as reduced VAT for services linked to renovation that leads to demonstrable energy savings have also proven to stimulate the market. **FIEC therefore calls on those countries that use reduced rates of VAT for renovation works to continue to do so**.

FIEC also calls for the **EPC or Energy Performance Certificate to be transformed into a real and reliable gauge of a building's energy consumption**, more than just a box ticking exercise as is so often the case today. Fiscal incentives should be linked to certified improvements in the building's performance in order to create confidence and foster quality in the market.

Finally FIEC underscores the **benefit of renovation works to the economy as a whole**, as underlined by a recent impact study on energy efficiency investments in Germany carried out on behalf of the German Development Bank (KfW). This study found that for every euro invested in energy efficient renovation an extra five euros net accrued to the German exchequer through increased tax receipts and lower unemployment benefit payments. Schleicher commented that "such figures show that whether economically or environmentally, **taking up the challenge of renovating Europe's building stock makes sense**. Now that the directive is in place Member States must act to turn good intentions into reality".

*FIEC is the European Construction Industry Federation, representing via its 33 national Member Federations in 29 countries (27 EU & EFTA, Croatia and Turkey) construction enterprises of all sizes, i.e. craftsmen, small and medium-sized enterprises as well as "global players", carrying out all forms of building and civil engineering activities.*

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**The SME-Envoy**

*Ulrich Paetzold, FIEC  
Rapporteur*

### **Micro, small, medium-sized and large enterprises: A full representativeness**

The European construction industry is, overwhelmingly made up of craftsmen, SMEs and family-owned businesses. This reality is also reflected in the membership of FIEC's member federations. This broad membership base ensures FIEC's comprehensive representativeness within the European construction industry, i.e. enterprises executing all kind of building and civil engineering specialities, whether operating as general contractors or as sub-contractors.

Without any discrimination, FIEC represents the interests of construction enterprises of all sizes:

- craftsmen, builders and micro enterprises
- small and medium-sized enterprises
- larger and very large companies

These enterprises may be family owned or capital stock companies, they may be family run or managed externally, but they are all construction firms and, as such, they have much more in common than they have conflicting interests.

The unmatched strength of FIEC's initiatives and positions are rooted in the fact that they are based on the views and experience of such a wide variety of enterprises from so many countries.

In addition to this permanent general consideration given to the interests of SMEs in each individual issue addressed by FIEC commissions, sub-commissions and working groups, FIEC created, in 2002, a specific Vice-Presidency for SME issues under the title of "SME Envoy".

The FIEC SME Envoy double-checks - in each and every case - that FIEC position papers and initiatives adequately take into account the interests of SMEs and family owned businesses.

### **Full involvement of SME organisations in the sectoral social dialogue**

The FIEC/ EFBWW construction social dialogue committee is generally recognized as one of only a few sectoral social dialogue committees, in which SMEs are not practically excluded.

In fact, FIEC's comprehensive representativeness ensures the full respect of SME interests in the work of the sectoral social dialogue committee and its specialised working groups. FIEC and its Social Partner EFBWW, are very committed to this fully representative, strong, successful and autonomous Sectoral Social Dialogue which they commenced many years prior to it becoming institutionalised by the European Commission.

### **Enterprise Europe Network (EEN)**

The EU Commission, DG ENTR, set up this network on the basis of previous experience with the two networks, Euro Info-Centre (EIC) and Innovation Relay Centre (IRC). According to their website, "helping small companies make the most of the business opportunities in the European Union is the Enterprise Europe Network's mission". EEN is composed of close to 600 member organisations offering a broad range of free services, for example in the areas of helping to find international business partners, source new technologies, receive EU funding or finance and advice on issues so diverse as intellectual property, going international, or EU law and standards.

As with the Euro-Info-Centre network, FIEC has been accepted by the European Commission as an "Associate Member" of EEN. This means that FIEC does not provide any of the EEN's services directly to those seeking advice, but provides the EEN's full members with sectoral advice/ information and cooperate in joint events, training sessions or projects.

For more information, please go to the specific website [www.enterprise-europe-network.ec.europa.eu](http://www.enterprise-europe-network.ec.europa.eu)



President

*Maria Angeles Asenjo, ES  
Rapporteur*

FIEC MEDA Vice-Presidency continued in 2012 with its task of informing member federations mainly on relevant aspects on the EU Institutions' activity with regard to Mediterranean partner countries.

The following themes were given special attention:

- **The new European Neighbourhood Policy (ENP).** This is a key element in the action of the EU in relation to the Mediterranean countries. In March 2013, the European Commission published its reports on the progress of the ENP in 2012, including: a Joint Communication by the European Commission and the High Representative of the European Union for Foreign Affairs and Security Policy entitled "European Neighbourhood Policy: Working towards a Stronger Partnership", a Joint Staff working document on the implementation of the ENP in 2012 -statistical annex-, country progress reports (Israel, Egypt, Jordan, Lebanon, Morocco, Palestine and Tunisia) and information on Syria, Libya and Algeria.

The European Commission has highlighted that two years after the launch of the new approach to the ENP, achievements are encouraging in many areas of cooperation, although 2012 was a difficult year due to political instability and socio-economic aspects, nevertheless political reforms and steps towards deep and sustainable democracy are still uneven in partner countries and much remains to be done. Given the diverse pace and direction of reforms, the European Commission insists on the need for bigger differentiation in the EU response to individual country needs, according to specific commitments and progress towards reforms in each country.

Syria remained a very specific case. The EU suspended all bilateral cooperation with the government but is engaged in helping the citizens.

- **Supporting closer cooperation and regional integration in the Maghreb.** The European Commission and the High Representative of the European Union for Foreign Affairs and Security Policy, issued in December 2012 a Joint Communication setting out proposals to support the five countries of the Maghreb (Algeria, Libya, Mauritania, Morocco and Tunisia) in their efforts towards closer cooperation and deeper regional integration. The Communication explains that the Maghreb is a region with a very rich development potential, but this zone remains one of the least integrated regions in the world. The document refers to the main challenges that the region is facing (democratic reforms, socio-economic reforms, global threats -terrorism and international crime issues-, environment and climate change) and it proposes different EU support actions to help these countries to deal with them. Specific attention is given to infrastructure and network sectors, since they are essential for economic development.
- **The Neighbourhood Investment Facility (NIF).** The NIF was officially launched in May 2008. It was designed to finance important infrastructure projects -transport, energy, environment and social- in partner countries covered by the (ENP), and to support their private sector. The NIF brings together grants from the European Commission and the EU Member States, with loans from European public finance institutions and contributions from partner countries. In that way, it plays an essential role in coordination and in achieving better efficiency of the financial support, creating competitive financing structures to carry out large projects in these partner countries. For the period of 2007-2013, an amount of €745 million has been earmarked by the European Commission. To benefit from this facility, a project has to be submitted by one of European public finance institutions recognised by the NIF Board.
- **Missions for Growth<sup>1</sup>.** EC Vice-President Antonio Tajani visited Egypt on 13 and 14 November 2012 accompanied by a large business delegation. The business delegation joined the EU High Representative Catherine Ashton and Vice-President Tajani in the framework of the EU-Egypt Task Force. Vice-President Tajani also travelled to

<sup>1</sup> See also the chapter « International issues on the Internal Market », page 20.

Morocco and Tunisia in November last year with a business delegation.

The objective of the series of "Missions for Growth" that Vice-President Tajani is organising is to help European companies, in particular small and medium sized enterprises, to better profit from fast growing emerging international markets.

- **European Investment Bank (EIB).** The European Investment Bank's activity in relation to the Southern Mediterranean partners -loan activities and publications- is another important area of attention of this FIEC Vice-Presidency. In 2002 the Facility for the Euro-Mediterranean Investment and Partnership (FEMIP) was created. Last year, 10 years since its creation, an assessment with key figures of its specific actions was presented. It is also worth highlighting the Memorandum of Understanding signed by the EIB and the Islamic Development Bank (IsdB) in February 2012 to give a new impetus to the cooperation and collaboration between the two institutions.
- **Union for the Mediterranean (UfM).** This Vice-Presidency is also involved in the activities developed by the UfM Secretariat. The role of the Secretariat is of technical character in order to identify, process, brand, promote and coordinate projects within and among the UfM Member States. The work of the Secretariat is organised in different divisions, among them one devoted to transport and urban development, another one related to environment and water and another one related to energy.
- **MEDA Newsletters.** Throughout the year, these newsletters are produced, containing updated relevant information and they are available for FIEC member federations on the FIEC website.





Martin Lemke, DE

Chairman

Andreas Beulich, BFW  
Rapporteur

As a result of the financial crisis, the Working Group "Housing" dealt primarily with the increased regulation of financial markets and the resulting impact on building and infrastructure projects.

In the recent years, the international and European institutions started proposing stricter regulations in order to prevent a repeat of such disorders on the financial markets. The reaction of most public authorities consisted in requesting structural reforms in the banking and insurance sectors, including strengthened supervision as well as new or tightened capital requirements. This has namely been the case with the Solvency II Directive, regulating the insurance sector; as well as the recently proposed Capital Requirements package – including a Directive and a Regulation, so-called "CRD IV" – regulating the bank sector by transposing the Basel III agreements adopted by the G20 in May 2010. Both initiatives impose stricter capital charges on the concerned financial institutions, which might entail, cumulatively, a very negative impact on project finance in Europe. The content and the impact of the upcoming regulation have been of major interest for the Working Group "Housing" in the last year. Therefore we worked on different position papers and highlighted consistently the cumulative impacts of the proposed regulations.

Another important topic for the Working Group Housing is the stimulation of Investments in Energy Efficiency especially in the residential sector. In this field, the Working Group "Housing" also works together with the Technical Commission (TEC-3) of FIEC.

*Other topics of the FIEC Working Group "Housing":*

#### **Future developments in housing**

- Future challenges for housing companies, allocation of land for the housing sector
- Demographic change and the impact in residential (Living for elderly people)
- Effects of energetic requirements in housing

#### **EU-Policy**

- European funding opportunities in housing (energy efficiency in the housing sector)
- Observation and representation of political events / decisions

#### **Legal and Tax framework:**

- Impact of the financial crisis in housing
- Regulation of the bank sector and corporate finance
- Property Investments abroad

To expand the networks of the FIEC Working Group "Housing" and represent the property sector interests of the FIEC more intensively, FIEC has just become a member of the "European Housing Forum", a discussion platform on European policy topics influencing the housing market. The Working Group "Housing" has an active part in the forum. Members include, amongst others, the International Tenants' Federation, IUT, the European Federation of Public and Cooperative Housing Associations, CECODHAS, the European Union of Developers and House Builders, UEPC, and the European Council of Real Estate Professions, CEPI.



Duccio Astaldi, IT

President



Frank Kehlenbach, EIC

Director

### Organisation

European International Contractors (EIC) was founded in 1970 and is registered since 1984 as a legally independent business association under German law in Berlin, Germany. EIC has as its members construction industry federations from 15 countries which are directly or indirectly affiliated to FIEC.

EIC's mandate is to represent the international interests of the European construction industry and thus the federation maintains close relations with all international and other important organisations whose policies are of relevance for the international construction business, for instance with the European Commission, the European Investment Bank (EIB), the Organisation of Economic Co-Operation and Development (OECD) and the World Bank.

EIC's International Contracts Statistics records for the year 2011 a total international turnover of 156 billion €, the best result since records started. This excellent result was confirmed by the latest survey on the "Top 225 International Contractors", as published in the magazine Engineering News-Record, which illustrates that the market share of European contractors on the international construction market amounted to more than 50%.

In 2012, the Members of the EIC Board were the following:

Duccio Astaldi	(Condotte d'Acqua)	Italy	President
George Demetriou	(J&P Avax)	Greece	Vice-President
Jules Janssen	(Besix)	Belgium	Treasurer
Svend Erik Clemmensen	(E.Pihl & Søn)	Denmark	
Juha Höyhtiä	(Lemminkäinen)	Finland	
Colin Loughran	(Lagan Construction)	United Kingdom	
António Mota	(Mota-Engil)	Portugal	
Per Nielsen	(NCC)	Sweden	
Peter de Ridder	(van Oord)	The Netherlands	
Juan Antonio Santos de Paz	(Acciona Concesiones)	Spain	
Stefan Roth	(Bilfinger)	Germany	
Emin Sazak	(Yüksel Holding)	Turkey	
Karl-Heinz Strauss	(Porr)	Austria	

President Duccio Astaldi represented EIC as Vice-President on the FIEC Steering Committee.

### Tasks and Objectives

The three main objectives of EIC are the following:

1. To lobby for a **bigger market**, e.g. by convincing the international financing institutions and especially European donor agencies to allocate more funds to the infrastructure sector, in particular to transport infrastructure, and by promoting the concept of Private-Public-Partnerships (PPP) on a global level.

2. To lobby for a **better market**, e.g. by advocating fair and innovative forms of procurement and contracts and by calling for a level playing field for European contractors worldwide with respect to international environmental, ethical, social and corporate standards.
3. To provide for **better networking**, e.g. by offering European contractors a unique forum to exchange experiences on all matters relating to the international construction business.

Within the broad range of operating conditions influencing the work of European international contractors abroad, the following topics had the highest priority in EIC's activities in 2012:

### **I. EIC reviews FIDIC standard forms of contract**

**For many decades, FIDIC consults EIC as “a friendly reviewer” for its newly published or updated standard forms of contract. Both contractors and clients agree that the FIDIC forms are a good starting point to facilitate the tendering and negotiation of international construction contracts. Over the past years, EIC has published five Contractor's Guides to the FIDIC standard forms.**

Following the publication of the EIC Contractor's Guide to the FIDIC 2010 MDB Harmonised Construction Contract (“*Pink Book*”) in 2011, the focus in 2012 was on the envisaged updates of the FIDIC 1999 suite of contracts, especially on the new edition of the FIDIC 1999 Conditions of Contract for Plant and Design-Build (“*Yellow Book*”).

In 2012, EIC's Working Group “Contract Conditions” met twice with the FIDIC Updates Task Group and advocated that the improvements inserted in the “*Pink Book*” should also be incorporated in the second edition of the “*Yellow Book*”. Other topics discussed were the Fitness for Purpose obligation, possibilities to develop the Programme into an effective management tool, the introduction of an early warning clause and the possibilities to distinguish more clearly between the claims and the dispute provisions. As regards the Fitness for Purpose obligation, EIC and FIDIC came to the common understanding that the scope of the Works should be described as precisely as possible in the Employer's Requirements and that the Employer should not

benefit from its own negligence when omitting certain information.

Apart from the informal discussions with FIDIC, EIC speakers presented the EIC Contractor's Guides at public FIDIC conferences. Past President Michel Démarre emphasised at the FIDIC MDB Harmonised Construction Contract Conference in June 2012 the importance of four key issues: The independence of the Engineer, the proper functioning of Dispute Boards, the need for effective international arbitration and a balanced anti-corruption clause. He also called upon the European Commission to apply the FIDIC MDB Harmonised Edition in the context of the European Development Fund.

In December, EIC presented its views at the FIDIC International Contract Users' Conference in London which gathered some 200 engineering and construction law professionals from more than 30 countries. At the conference, Ian Nightingale, the World Bank's lead procurement expert, acknowledged the EIC Contractor's Guides as balanced commentaries which provided a good overview on the most important contractual issues to users.

### **II. EIC proposes modifications for EU-financed construction contracts in Africa**

**More than 70 representatives from EIC, the Federation of Engineering Consultancy Associations (EFCA) as well as from the European Commission's Directorate-General for Development and Co-Operation (DG DEVCO) met in February 2012 for a second Roundtable to discuss the execution and financing of infrastructure works in developing countries. Further participants came from the European Investment Bank (EIB) and from EU bilateral financing institutions. In his opening address, Kristian Schmidt, Director for Sustainable Growth and Development at DG DEVCO, expressed the Commission's wish to advance the partnership with EIC from the traditional focus on contractual rules to developing new ways of engaging with the private sector.**

In June 2012, EIC participated in DG DEVCO's public consultation on a revision of the “Practical Guide to contract procedures for EU external actions” (PRAG). The PRAG explains the contracting procedures applicable to all EU external aid contracts financed

from the EU general budget and the European Development Fund. Following the submission of its comments in the consultation, EIC was invited by DG DEVCO's legal unit in July 2012 to an exclusive discussion on the General Contract Conditions for EDF-financed works contracts. The publication of the revised PRAG in January 2013 confirmed that several of the EIC recommendations, e.g. the ones on conditions precedent in relation to commencement order and the contractor's entitlement to suspend and/ or reduce the rate of the works in case of delayed payments by the client – had been accepted and integrated in the General Contract Conditions.

The Working Group "Africa" also continued its conceptual work to elaborate a concept for an EU Blending Facility for infrastructure works in Africa. In its "Agenda for Change of EU Development Policy" adopted in October 2011 the European Commission had stated its readiness to develop *"new ways of engaging with the private sector, notably with a view to catalyse public-private partnerships and private investment"*. *To follow-up on this policy, the European Commission would be prepared to deploy "a higher share of EU development resources... through existing or new financial instruments, such as blending grants and loans and other risk-sharing mechanisms, in order to leverage further resources"*. In response, EIC proposes modifying the EU-Africa Infrastructure Trust Fund (ITF) to allow for mixing development and commercial finance by blending EU Official Development Assistance (ODA) with ECA-covered commercial finance for transport infrastructure projects carried out in Africa by the European construction industry. Such an instrument would have two advantages: Firstly, it would present a possibility to multiply or leverage EU Development Aid for the infrastructure sector; secondly, it would be implicitly tied to OECD bidders because only these export credit agencies comply with the high standards relating to EU funds. The Working Group "Africa" was invited by DG DEVCO for an informal workshop on 6 February 2013 to Brussels where it received a very positive feedback.

### III. EIC represents the European construction industry in the global debate on the future of Development Policy

**In 2013, a UN special event will follow-up on the efforts made in the past decade towards achieving the Millennium Development Goals (MDG) and will raise the issue of what might follow after the target year of 2015. In 2012, the European Commission prepared the EU's initial contribution for the forthcoming international discussions and launched a public consultation which ran from June to September. EIC was among the stakeholders that submitted their comments.**

EIC has called upon the EU and the international development community to complement the existing MDG Goals with clear and achievable targets and indicators related to the transport infrastructure sector. EIC also brought forward its view that a modern and effective development policy is aligned first and foremost with the political objective of "Wealth Creation" rather than "Poverty Reduction". This in turn leads to the conclusion that private capital for development must be mobilised and the private sector welcomed as a development actor. In this context, EIC also proposes to recognise guarantees provided by donors (Development Guarantees) as ODA in order to help leverage private financing and mitigate risks.

In the international context, EIC contributed actively to the Development Task Force established by the Business and Industry Advisory Committee to the OECD (BIAC). In February 2013, BIAC submitted its "Preliminary Perspectives for the Post-2015 Development Agenda" through the private sector representative in the UN High Level Panel of Eminent Persons. BIAC accepted the EIC proposals to address the topics Transport Infrastructure and Development Finance: Goal 3 now calls for a strengthening of development financing given that Official Development Assistance (ODA) cannot deliver long-term development alone and, therefore, the mobilisation of private financing is essential in order to realise growth and development. BIAC proposes to recognise guarantees provided by donors (Development Guarantees) as ODA in order to help leverage private financing and mitigate against risks. Under Goal 8, BIAC points out the importance of improving transport infrastructure as "adequate and efficient transport infrastructure is key to achieving all the MDGs".

#### **IV. EIC takes part in World Bank Consultation on Procurement Policy Review**

2012 marks the year in which the World Bank launched the most comprehensive review of its procurement policies and procedures in its history. In a respective policy paper the Bank acknowledged that its own business and the global market place have changed dramatically over the years. Those procurement policies that were designed for infrastructure investments have become less well tuned to the Bank's involvement in all sectors and to new ways of doing business such as Public-Private Partnerships (PPPs) and sector-wide approaches (SWAPs).

The purpose of the review is to lay the ground for changing the overall framework regarding policies and procedures on procurement. The review is conducted in two phases and to be concluded at the end of 2014. The first phase – completed at the end of 2012 – comprised consultation meetings in 85 countries with more than 1.900 stakeholders from governments, the private sector, academia and civil society. Additionally, a series of studies and benchmarking exercises were launched in regard to capacity building, professionalization, innovation, international comparisons, country systems, sustainability/green procurement and PPP among other things.

The second phase will comprise the drafting of the revised statement of policies and procedures. The World Bank has set up an International Advisory Group on Procurement (IAGP) to undertake additional analyses on trends in public procurement and benchmarking of the Bank's processes. Data on incidences of fraud and corruption and domestic preferences are also to be examined. EIC is represented in IAGP, which held its first meeting in June 2012, through its former Treasurer Uwe Krenz. The Group received summaries of all issues raised in the consultations and in 2013 will review drafts of the new framework and give its proposals to the World Bank Board of Executive Directors.

EIC has set up a new Working Group "World Bank Procurement Review" which prepared the federation's position on a number of questions raised by the Bank. The EIC comments were submitted in September and included a broad range of recommendations, such as quick and effective dispute settlement and mandatory international

arbitration, award on the basis of the most economically advantageous tender (MEAT) instead of the lowest price, the possibility to reject abnormally low bids, a more rigid pre-qualification procedure including sustainability criteria and, last but not least, an anti-corruption policy that is applied also towards or against the Borrower.

#### **V. EIC calls for expansion of WTO Government Procurement Agreement (GPA)**

The Agreement on Government Procurement (GPA) is the only legally binding agreement within the WTO with a focus on government procurement. It is a plurilateral treaty under which member countries have a number of obligations and rights including the right to bid for public contracts in each other's markets.

On 30 March 2012, parties to the GPA formally adopted the results of the renegotiation. The revised GPA text is based on the same principles as the existing Agreement but has been extensively streamlined and re-written to make it easier to implement. It now takes into account the widespread use by GPA Parties and other WTO Members of electronic procurement tools.

EIC follows the evolution of the GPA very closely and upholds its call for an expansion of the agreement to include the largest public procurement markets in emerging economies such as China, India and Brazil. In this context, EIC criticised China's third revised offer for entry to the GPA, presented in December 2012, five years after negotiations were launched in 2007. Although containing minor improvements, notably the inclusion of additional provinces and lower threshold levels, the latest offer remains unacceptable in EIC's view.

The main points of criticism concern the threshold values for inviting foreign competition, which continue to be a multiple of the EU thresholds, in particular with respect to the construction sector. Furthermore, China still excludes those construction segments that are of largest interest for foreign contractors, such as civil engineering works. This comprises highways and streets, railways and airfield runways, bridges and tunnels, waterways and harbours, dams, pipelines, communication and power lines, mining and manufacturing plants, and stadia and sports grounds.

China's continuing refusal to present a serious offer to open its procurement market for international competition is also the reason for EIC and FIEC to request that the EU step up its legislation on the reciprocity principle in the field of public procurement.

### EIC General Assemblies

Every six months, EIC holds its General Assembly on invitation of one of its member federations in a different European country. In connection with these conferences, business workshops are organised on issues related to the international construction business which are traditionally attended by senior international managers from the leading European contractors as well as related industries.

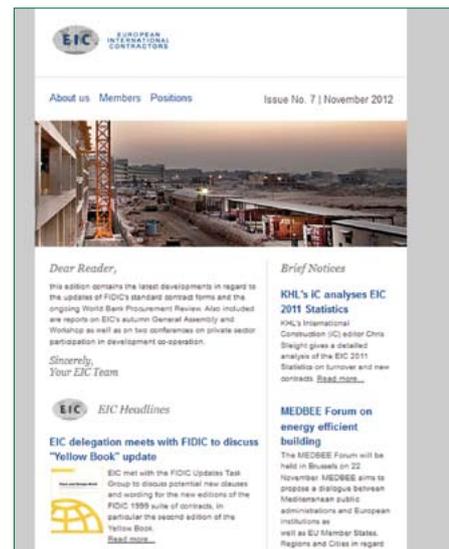
On 27 April 2012, the Turkish member federation hosted an EIC conference in Istanbul with a workshop on "Emerging market opportunities in the aftermath of the Arab spring". Speakers analysed the effects from different angles, presenting legal developments, effects on banking and financing as well as possible scenarios for future economic development in the region.

The EIC conference on 19 October 2012 was hosted by the Austrian member federation in Vienna. The workshop was entitled "Challenging construction markets in Central and South Eastern Europe: Can we do better and what does it take?". High-ranking speakers from the Romanian government, the EU Commission and the EIB pointed out opportunities and risks for contractors in the region and outlined possible key drivers for infrastructure investments in the coming years.

### International issues on the EU Internal Market

are jointly addressed by EIC and FIEC (see page 18).

More information is available on the EIC website:  
<http://www.eic-dederation.eu>



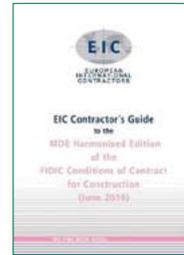
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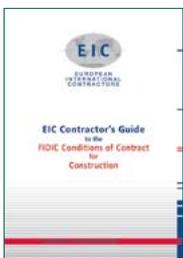
EIC Turnkey Contract, 1994



EIC Contractor's Guide to the FIDIC Conditions of Contract for EPC Turnkey Projects, 2003



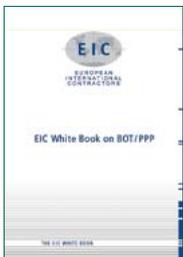
EIC Contractor's Guide to the MDB Harmonised Edition of the FIDIC Conditions of Contract for Construction (June 2010), "The Pink Book Guide", 2011



EIC Contractor's Guide to the FIDIC Conditions of Contract for Construction, 2002



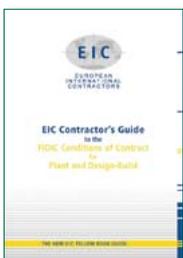
EIC Blue Book on Sustainable Procurement, 2004



EIC White Book on BOT/PPP, 2003



EIC/FIEC Memorandum on Frequently Asked Questions on Public-Private Partnerships (PPP), 2006

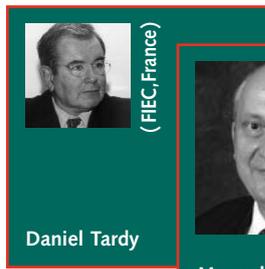


EIC Contractor's Guide to the FIDIC Conditions of Contract for Plant and Design-Build, 2003



EIC Contractor's Guide to the FIDIC Conditions of Contract for Design, Build and Operate Projects, 2009

For FIEC publications, please refer to p. 77



Daniel Tardy

**President**  
(02/2010 -  
10/2012)



Manuel R. Vallarino

**President** (10/2012-)



Emre Aykar

**CICA Senior Vice-President**



Roger Fiszelson

**Director General**

## CICA Events

- **The CICA at the third CHINCA International Infrastructure Investment and Construction Forum (III&CF, Macao – 24<sup>th</sup> and 25<sup>th</sup> April 2012)**  
*Participant: Daniel Tardy, CICA Chairman.*

Only 800 participants attended the forum, 211 of whom came from abroad. The number of African participants was up from 22 in 2011 to 91 in 2012.

The most noteworthy points raised by this Forum included the following:

- public contracting authorities do not prepare sufficiently for projects;
- a presentation on the identification of sustainable infrastructure projects given by the CEO of the Global Energy Basel Foundation.
- The 2012 turnover of the 1,300 CHINCA members was USD 103.4 thousand million, which is up 12.2% on the previous year. There were new orders worth a total of USD 143 thousand million, up 5.9%.

- **CICA-OCAJI meeting. (Tokyo, 7<sup>th</sup> May 2012)**  
*Participant: Roger Fiszelson, CICA DG.*

Presentation of both the CICA's activities and the work on the Well Prepared Project (WPP) to OCAJI members.

The OCAJI became a member of the Friends of the CICA on 1<sup>st</sup> July 2012.

- **Participation by the CICA in the meeting of the OECD's Steel Committee. (Paris, 1<sup>st</sup> June 2012)**  
*Participant: Roger Fiszelson, CICA DG.*

Presentation of a paper on the use of steel in the construction sector. The CICA was invited to take part in the work which the committee will be doing in the future.

- **The CICA at the World Stadium Congress. (Qatar, 3<sup>rd</sup>-7<sup>th</sup> June 2012)**  
*Participant: Daniel Tardy, CICA Chairman.*

Presentation of the Well Prepared Project.

- **Participation by the CICA in the World Bank's International Advisory Group on Procurement – IAGP. (Washington DC – 4<sup>th</sup>-5<sup>th</sup> June and 12<sup>th</sup>-13<sup>th</sup> November 2012)**  
*Participants: Philippe Lacoste, CICA ADG; Roger Fiszelson, CICA DG.*

The CICA was invited to take part in the work of the IAGP, whose remit involves giving the World Bank an opinion on the reforming of its procurement policy. The review will take place over a period of two years. The work of the first phase has led to a report which was presented to the Bank's board on 12<sup>th</sup> April 2013.

The profession's position papers and proposals are correctly included in this report, including the World Bank's involvement throughout the project's cycle, the emphasis on quality and the WPP, awarding contracts to the most economically advantageous tender (MEAT), the handling of any abnormally low bids, etc. Some of them are welcomed, e.g. the fact that an obligation for the lender to abide by the World Bank's Anti-Corruption Guide will appear in the loan agreement.

The most worrying point is still the use of countries' own procurement systems for projects financed by the Bank. There are contradictory positions within the World Bank, including advocates of a use of country systems (UCS) provided that a reference, however distant, can be found to international standards (UNCITRAL model law, WTO/GPA, EU, etc.), those within the procurement department want to use the World Bank's own rules if the local systems are not in line with them (compliance

with its statute, its fiduciary mission, monitoring of performance, etc.) Although it does not oppose the principle of UCS, the CICA firmly supports the second position.

- **Participation by the CICA in the annual meeting of the Infrastructure Consortium for Africa (ICA). (Tunis, 11<sup>th</sup>-13<sup>th</sup> June 2012)**

*Participants: Marc Frilet, CICA PPP WG, Roger Fiszelson, CICA DG.*

Presentation of the CICA's position paper on the use of PPPs for the financing of renewable energies in Africa, drawing on an improved institutional and legal framework. Dissemination of the summary of the CICA *vade-mecum* on PPPs.

- **Participation by the CICA in the RIO+20 parallel meetings. (Rio de Janeiro, 17<sup>th</sup> June 2012)**

*Participant: Paolo Simao, CICA Vice-Chairman.*

This meeting discussed the construction sector's proposals on Sustainable Development. It drew a wide audience (140 participants), and should lead to the setting up of a working group jointly with a UN agency (UNEP) on proposals for the adoption of Sustainable Development in construction industries.

- **Participation by the CICA in the joint World Bank-FIDIC conference on the "MDB harmonized major works contract". (Brussels, 25<sup>th</sup>-26<sup>th</sup> June 2012)**

*Participants: Michel Démarre, head of the WPP WG, Philippe Lacoste, CICA ADG; Roger Fiszelson, CICA DG.*

The "MDB harmonized major works contract" is one of the key documents designed to ensure that projects are implemented in an environmentally and socially responsible way. It is being used increasingly frequently by banks and development aid agencies, and the CICA was involved in drawing it up. Once again the conference helped to underline the pressing need for balanced, simple and operational contractual conditions.

- **CICA-World Bank consultation on the reforming of the institution's procurement policy. (Paris, 3<sup>rd</sup> July 2012)**

*Participants: Daniel Tardy, CICA Chairman; Michel Démarre, head of the WPP WG; Philippe Lacoste, CICA ADG; Roger Fiszelson, CICA DG.*

Exchange of views on the work of the IAGP, presentation of the preliminary version of the phase 1 report.

- **Participation by the CICA in the Polish Chamber of Commerce in Germany's conference. (Bad Saarow, 15<sup>th</sup>-16<sup>th</sup> November 2012)**

*Participant: Roger Fiszelson, CICA DG, standing in for Daniel Tardy, CICA Chairman.*

Presentation of the activities of the CICA to the Polish Chamber of Commerce in Germany at the request of J. Kalisky (Krakbau), a Friend of the CICA. The meeting provided an opportunity to draw the participants' attention to the necessary improvement to the institutional and legal framework for PPPs in order to increase security for businesses and a wider use by public contracting authorities.

- **Participation by the CICA in the UNECE's PPP days. (Geneva 4<sup>th</sup>-6<sup>th</sup> February 2013)**

*Participants: Marc Frilet, CICA PPP WG, Roger Fiszelson, CICA DG.*

Meeting of the UNCITRAL working group on the review of the UNCITRAL PPP model law. The CICA will be taking part in the work of this group on a regular basis.

At this meeting the CICA and the IFEJI, together with the UNECE, signed a letter of intent on the creation, under the latter's aegis, of a Centre of Excellence on PPPs. It will be made up of a knowledge centre and a training body and involved in the institutional and legal aspects of PPPs and Concessions. Broken down by geographical zones, it will call upon the services of colleges of volunteer experts.

- **Participation by the CICA in the joint BA<sub>3</sub>D, ICC and OECD meeting on the National Infrastructure Information Systems (NIIS) programme. (Paris, 7<sup>th</sup>-8<sup>th</sup> February 2013)**

*Participant: Roger Fiszelson, CICA DG.*

There were three main topics under discussion:

- Identification of obstacles in infrastructure project cycles;
- Lessons learned from experience of eliminating them;
- Preparation of bankable projects: the contribution made by PPPs.

Main conclusions:

- The need for an integrated approach to the preparation of PPP projects;
- The creation of a foundation governed by Swiss law in order to continue the dialogue between all of the stakeholders;
- The need to strengthen dialogue between the private sector and development banks in order to achieve the goals set by the G20 High Level Panel.

• **Participation by the CICA in the World Bank's meeting with Medef International and West African Chambers of Commerce.**

(Washington D.C., 20<sup>th</sup>-22<sup>nd</sup> March 2013)

*Participants: Marc Frilet, CICA PPP WG, Michel Démarre Delegate-General of the SEFI, Vice-Chairman of the FNTF's Europe-International Commission, Roger Fiszelson, CICA DG.*

A meeting with the heads of various departments of the World Bank, essentially discussing:

- PPPs, presentation of experience of PPPs in the rail sector in West and Central Africa, the role of engineering firms in preparing for these projects. Presentation of the PPP Centre of Excellence project;
- The reforming of the World Bank's procurement and the reaffirmation of the use of the World Bank's rules when the countries' own systems do not offer the same security as the World Bank's.

• **Participation by the CICA in the sixth OECD Annual Meeting of senior PPP officials**

(Paris, 15<sup>th</sup>-16<sup>th</sup> April 2013)

*Participant: Roger Fiszelson, CICA DG.*

The presentations made by the EPEC and the heads of the main PPP units show:

- The will to improve the monitoring of the public debt generated by PPPs and project companies by the public partner;
- A noticeable change to the financial framework and a clear tendency to increase public funding.)

**CICA Working Groups**

• **PPP working group (PPP WG)**

*Headed by: Vincent Piron, ex-development director – VINCI Concessions.*

Publication of a policy note on "Conditions for development of international concessions and other PPPs".

Compilation and analysis of the laws and other legislation on concessions and PPPs in the main countries of Latin America, on the initiative of the Federación Interamericana de la Industria de la Construcción (FIIC).

• **Well Prepared Project Working Group (WPP WG)**

The new chairman of the World Road Association confirmed his support for this project. The working group involving construction companies, the world's public road authorities and the engineering industry is currently being set up.

• **Legal matters working group**

Following the meetings with the CICA working group, the World Bank has completed updating the civil law version of its Standard Bidding Document (SBD).

• **External relations.**

The CICA will be taking part in the fourth International Infrastructure Investment & Construction Forum to be held in Macao on 5<sup>th</sup> to 7<sup>th</sup> June 2013 by the China International Contractors Association (CHINCA). This forum, in which many construction federations from Asia and Africa will be taking part, will offer an opportunity to forge or strengthen the CICA's links with their heads.

**Latest news at [www.cica.net](http://www.cica.net)?**

The CICA regularly uploads studies and articles dealing with the international activities of construction companies for members and Friends of the CICA. The next CICA News will include the following articles and studies:

- EBRD: Regional Economic Perspectives (January 2013)
- Construction opportunities in Canada. (UK Trade & Investment – March 2013).
- USA. Department of Transport (DoT): key issues and management challenges 2013; (GAO – March 2013).
- Review of the European PPP market in 2012. (European PPP expertise center – March 2013)
- Poland. Monthly report BRE bank Securities on the construction sector (March 2013)
- Hong-Kong: report on the quarterly survey of construction output, 4<sup>th</sup> quarter 2012. (March 2013)
- Mexico. Transport infrastructure plan 2013/2018. (Ministry of transport – February 2013).
- Australia. Slowest decline in construction since mid-2010. (Australian Industry group – February 2013)
- Central Asia. Brief transport sector (Central Asia Regional Economic Cooperation – CAREC – February 2013)
- China. High-speed rail, regional economics and urban development (World Bank - January 2013)
- Megaprojects, with a special feature on Africa's infrastructure market. ("Insight" KPMG – January 2013)
- Singapore. Public sector projects to boost construction demand in 2013. (Building and Construction Authority – January 2013)
- United Arab Emirates. Growth and confidence is returning to more UAE construction market. (EC Harris – December 2012).



### "Friends of CICA"

CICA has recorded the memberships of the following Friends:

- **Turkish Contractors Association (TCA)**  
Türkiye Mühendisler Birliği  
[www.tmb.org.tr](http://www.tmb.org.tr)
- **DOĞUŞ İNŞAAT ve TİCARET A.Ş.**  
[www.dogusinsaat.com.tr](http://www.dogusinsaat.com.tr)
- **SUMMA INTERNATIONAL CONSTRUCTION CO. INC**  
[www.summa.com.tr](http://www.summa.com.tr)
- **Câmara Brasileira da Indústria da Construção (CBIC)**  
[www.cbic.org.br](http://www.cbic.org.br)

Companies and organizations related to contractors' activities are welcome to be a "Friend of CICA" in order to make networking and new contacts with fellow contractors from other countries and international investors.

The "Friends of CICA" are invited to attend CICA Council Meetings and participate in specific CICA contacts with leading representatives (Presidents/ DGs) of International Financial Institutions, the United Nations, OECD, ICC, Government Agencies, etc.

The "Friends of CICA" are also invited to participate in special events which take place all over the world, and to attend a yearly meeting which will be held in Paris at the end of each calendar year and where individual accompanying persons are invited.

Moreover, please note that important information related to the activities of CICA is in the section of our website [www.cica.net](http://www.cica.net) reserved for the Members and the Friends of CICA. You will be able to access this restricted area with a login and password to consult the internal documentation.

In addition, the Friends of CICA are able to advertise their logo on the new CICA website with a link to their own website.

Who will be eligible to be a "Friend of CICA"?

- Individual contractors who are interested by international activities and / or local federations of contractors
- Institutions related to contractors' activities, i.e. insurance companies, banks, construction fairs/ exhibition organizers
- Oil & gas companies
- All related industries, equipment manufacturers and dealers

Subscribe and be a "Friend of CICA" by contacting CICA Management at [cica@cica.net](mailto:cica@cica.net).



Venelin Terziev, BG

Vice-President in charge of ECF matters

Ulrich Paetzold, FIEC  
Rapporteur

representing key players in the construction sector and participating on a voluntary basis.

**What are the aims of ECF?**

- The principal aim of the ECF is the establishment and recognition of a single comprehensive policy approach for the European construction sector through raising the awareness of decision makers at European level to the specific issues affecting the sector as a whole. To this end, the participating organisations strive to arrive at consensual views on issues of common interest.
- This should lead over time to:
  - an increase of the construction sector’s direct involvement in the preparation of all EU legislative acts, programmes and actions that have a bearing on the sector
  - a more coherent and coordinated approach by the European institutions towards the sector. ECF will develop specific actions on the basis of this Manifesto and the EU agenda.

**What is the European Construction Forum (ECF)?**

The ECF is a platform for cooperation on issues of common interest between independent organisations

**Building Prosperity for the Future of Europe – A Manifesto for Action from the European Construction Forum** (revised version 28/1/2013)

*This Manifesto was presented to the EU High Level Forum “Competitiveness Communication” on 29/1/2013 on behalf of the ECF participants by FIEC Vice-President Paolo Astaldi.*

What the construction sector can offer	Decisions EU policymakers should take
<p><b>Economic growth and jobs creation</b></p> <ul style="list-style-type: none"> <li>• Benefits to the economy as a whole through the multiplier effect thanks to the sector’s large share of EU GDP</li> <li>• Well designed, sustainable buildings and infrastructure essential for Europe’s future growth</li> <li>• Green jobs based on a comprehensive understanding of techniques and materials fully embracing a culture of health and safety</li> <li>• Identification and anticipation of the skills needs of workers in order to guide policy.</li> </ul>	<p><b>Integrated policy framework</b></p> <ul style="list-style-type: none"> <li>• Provide a long-term, coordinated, and stable regulatory framework to ensure competitive sustainable growth</li> <li>• Implement policies based on impact assessments that put the three pillars of sustainability at the same level</li> <li>• Support renovation and new innovative, efficient solutions in buildings and infrastructure, leading to cost-effective nearly zero-energy new and existing buildings</li> <li>• Prioritise upgrading of infrastructure, including smart grids for energy distribution and sustainable transport networks</li> <li>• Adopt a whole life-cycle assessment approach to buildings</li> <li>• Invest in training, education and skills for workers, going beyond information and best practice exchange.</li> </ul>
<p><b>Commitment to innovation</b></p> <ul style="list-style-type: none"> <li>• Strong commitment to innovation in daily business practice</li> <li>• Support for increased R &amp; D through pro-active participation in EU research programmes and industry platforms</li> <li>• Identification of technological gaps along the construction value chain in response to the Commission’s drive for innovation.</li> </ul>	<p><b>Boost investment in research and innovation</b></p> <ul style="list-style-type: none"> <li>• Take full account of the strategic role of the construction sector in the proposed Horizon 2020 budget</li> <li>• Endorse the use of Structural and Cohesion Funds to leverage investments in efficient buildings and infrastructure</li> <li>• Support effective technology transfer.</li> </ul>

What the construction sector can offer	Decisions EU policymakers should take
<p><b>Care for the environment</b></p> <ul style="list-style-type: none"> <li>• Improvements in resource use and energy efficiency</li> <li>• Contribution to energy and transport infrastructure.</li> </ul>	<p><b>Drive coherent environmental policy</b></p> <ul style="list-style-type: none"> <li>• Ensure coherence and integration between environmental policy and policies to foster growth in industry</li> <li>• Strong focus on upgrading buildings' energy and environmental performance</li> <li>• Set appropriate frameworks for recycling and waste-management.</li> </ul>
<p><b>Responding to social needs</b></p> <ul style="list-style-type: none"> <li>• Engagement towards a quality and safe built environment, adapted to demographic and social challenges</li> <li>• Solutions for affordable housing</li> <li>• Resilient construction for adaptation to climate change.</li> </ul>	<p><b>Develop a sustainable housing policy</b></p> <ul style="list-style-type: none"> <li>• Design planning and permit systems that facilitate new development (EU should benchmark different regional planning systems)</li> <li>• Facilitate access to credit for investment in affordable housing</li> <li>• Allow for measured and proportionate fiscal incentives for construction and renovation of dwellings.</li> </ul>
<p>The construction sector calls upon the European Commission, European Parliament and the Member States to coordinate efforts at all levels of government in order to implement coherent and balanced policies and legislation based on a level playing field between public and private actors as well as between the EU and third countries.</p> <p>More specifically, European and national policy makers should ensure coherence between their policy decisions and consequent investment decisions, even if this requires punctual exemptions from stability pact principles.</p>	

ECF will develop specific actions on the basis of this Manifesto and the EU agenda.

website:  
[www.ecf.be](http://www.ecf.be)



**www.fiec.eu**

The brand new FIEC Website offers more user friendly access in order to better meet the expectations of both Member Federations and the public.



- The public website presents FIEC activities and the concerns of the European construction industry.

It is aimed at an external audience and contains thematic issues, news and positions papers

- The “members only” part has protected access and contains the communication tool connecting FIEC and its Member Federations.

**FIEC Periodical Publications**

- **Construction Activity in Europe** (1/year)



FIEC publishes a document giving information about construction activity in Europe. Each country is analysed individually and Europe as a whole under the following headings: Overview (General economic situation, General economic policy, Government policies in relation to the construction industry), Overall construction activity, Housebuilding, Non-residential building, Civil engineering, Rehabilitation and maintenance of residential buildings, Construction abroad, Employment. The data are given over a period of 10 years. Forecasts are made for up to one year.

- **Article in Construction Europe** (12/year)



For many years FIEC has worked together with the magazine “Construction Europe”, publishing a monthly article on EU currents affairs.

- **Construction in Europe – Key Figures** (1/year)



This publication, in practical pocket format, provides the reader with a brief survey of the essential key figures of construction activity in Europe and in the world as well as a brief presentation of FIEC and the sector.

- **Construction in Europe** (1/2 years)



This pocket-sized leaflet gives an overview of FIEC (the voice of construction in Europe), its members and its mission as well as key information on construction industry.

- **Annual Report** (1/year)



This document constitutes a complete survey of the FIEC issues and positions between two General Assemblies.

	<p><b>Construction in Europe: 100 years of FIEC (2005)</b></p>		<p><b>The FIEC Principles for Sustainability (2005)</b></p>		<p><b>FIEC Declaration: Urban Development: a major challenge for the competitiveness of the EU (2006)</b></p>		<p><b>FIEC/EIC Statement on Corruption Prevention in the Construction Industry (2009)</b></p>
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For EIC publications, please refer to p. 69

**All these publications and further information can be obtained from the FIEC office in Brussels.**

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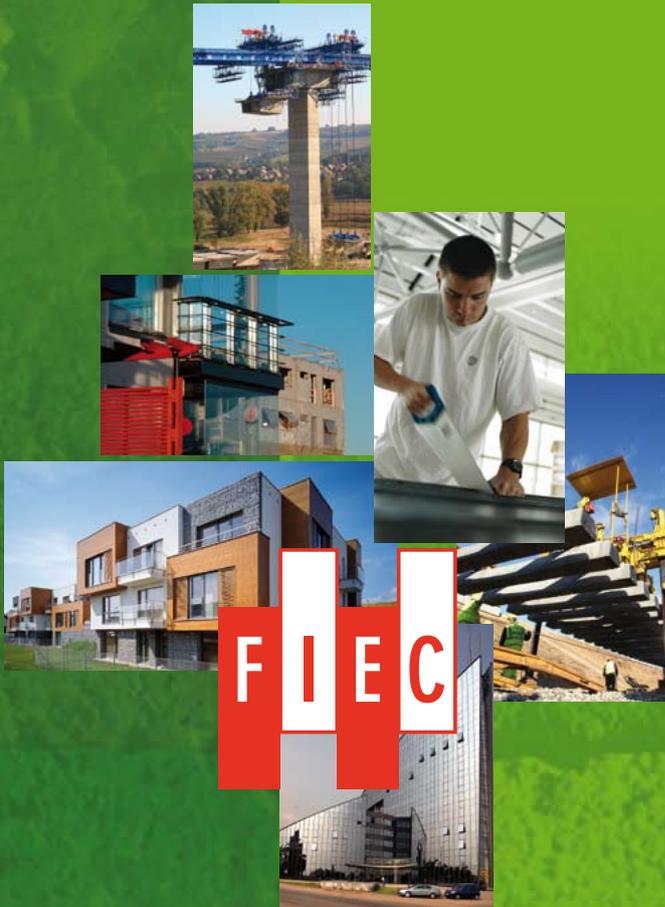
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