

# Annual Report 2003



32 federations  
in 25 countries.



European  
Construction Industry  
Federation

## FIEC

### Created in 1905

Legal personality of French law

**25 countries** (17 EU & EFTA, Cyprus, the Czech Republic, Hungary, Poland, Romania, Slovakia, Turkey and Bulgaria)

### 32 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 member:

EFFC European Federation of Foundation Contractors

### Cooperation Agreements with:

ACBI Association of Contractors and Builders in Israel



Recognised by the European Commission as "sectoral social partner" in the European social dialogue, [COM(93)600 14/12/1993]



The European founding member of CICA (Confederation of International Contractors' Associations)



Associate member of CEN the European Standardisation Committee



Member of ECCREDI the European Council for Construction Research, Development and Innovation



Associate member Euro-Info-Centre network of the European Commission, DG Enterprise



Close cooperation with EIC (European International Contractors)



Participant in the ECF (European Construction Forum)



Member of ESF (European Services Forum)

Visit the official website of the European Year of People with Disabilities: [www.eypd2003.org](http://www.eypd2003.org)



## The Sector

Total construction in 2002 (EU15):  
905 billion €

9,9% of GDP, 49,6% of Gross Fixed Capital Formation

2,3 million enterprises, of which 97% are SMEs with fewer than 20 and 93% with fewer than 10 operatives

11,8 million operatives (EU15):

- 7,0% of Europe's total employment
- biggest industrial employer in Europe (28,1% of industrial employment)

- 26 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 sectors\*

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

### Council of Ministers "Industry" Meeting 7/5/1998 Conclusions on the Competitiveness of the construction industry

#### "The Council

*... III. recognises that the European construction industry is a key economic sector in Europe not only in terms of the level of production and employment, but also in its capacity to generate indirect employment and in its effect on the competitiveness of other industrial sectors, users of the buildings and transport infrastructure that construction realises; ..."*

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President : Wilhelm Küchler, D

I am pleased to present the new annual FIEC report in which – halfway through my term of office as FIEC President – the activities of FIEC are described from the time of the 2002 General Assembly in Rome to the 2003 General Assembly which was held in Helsinki.

During this period, the economic environment was not a favourable one either for the economy in general or the construction industry as a whole. Political developments occurred with long-term consequences which we cannot currently foresee. Against this background, I consider it important to point to three questions on which speedy and consistent practical action is important for the future of our sector.

#### **Public-private partnerships (PPPs) in building and civil engineering activities**

In view of the alarming state of public finances in nearly all countries and at all levels, it is becoming increasingly urgent to push ahead with very close cooperation between the public and private sectors. While there is no standard solution for the many cases in which they could be used, the flexibility offered by PPPs makes it possible to develop tailor-made solutions for nearly every case through joint efforts and cooperation based on trust. One essential requirement, however, is that the PPP concept should be accepted as a matter of principle by governments and administrative authorities. Overt or internal blockades and resistance on the part of public authorities must end. Practical experience with PPPs in some countries over many years in building and civil engineering activities clearly shows the potential which exists. This also applies to the links between construction works and upstream and downstream services.

Economic reality indicates that, in the absence of greater use of PPPs, the implementation of urgently needed projects would be a long time in coming. The quality of life of Europe's citizens and economic development would suffer accordingly. FIEC and its member federations will continue with their efforts to convince the public authorities of the necessity and also the economic and social value of public-private partnerships.

#### **EU enlargement**

A major role will also be played by EU enlargement, especially in connection with appropriate use of the Structural and Cohesion Funds whose exceptionally

positive impact on infrastructure and economic development is there for all to see in the case of the countries involved in the previous enlargement of the EU.

In addition, the enlargement of the EU will lead to a number of additional developments in our sector for which we have to be prepared. In FIEC, we began these preparations as early as nearly 10 years ago when the first federations from Central and Eastern Europe became members of FIEC. Since then, many discussions and events have taken place. A lively exchange of experience and opinions led to a constant increase in the integration of these federations and brought them at a very early stage into contact with everything that is described in the EU as the *acquis communautaire*.

With the signing of the accession treaties in April 2003, the first wave of enlargement has now entered its final formal phase. However, the future Member States can even now participate in the institutional life of Europe. As a result our members in these countries will, in particular, be able to participate right away with official status in the European social dialogue in the construction sector. This framework will prove to be very helpful in the difficult discussions concerning freedom of movement, market access, working conditions, training, safety etc.

FIEC is setting a clear example by having the 2004 General Assembly take place in Prague a few weeks after accession takes place.

#### **2003 – European Year of People with Disabilities ([www.eypd2003.org](http://www.eypd2003.org))**

As happens each year, the year 2003 bears an official EU title. The aim of the "European Year for People with Disabilities" is to make progress with the achievement of equal rights for people with disabilities. In this connection, the term "accessibility" covers a broad spectrum ranging from physical access to a building or to individual rooms within a building up to use of the Internet by cognitively challenged people. The term, "disabilities", relates to every type of physical or mental disability whether of a temporary or lasting nature. In the preparations and discussions it became clear that some of the biggest obstacles to progress are a lack of understanding of the importance of disabilities and a lack of knowledge concerning the number of persons affected. In other words: widespread thoughtlessness has led to a situation in which many improvements have not been carried out even though these would have been possible without great additional cost if they had been taken into account at an earlier stage.

**I am therefore appealing to all colleagues in construction firms and the federations and likewise to our partners in the design professions and to our clients, to integrate the "accessibility" dimension into all their ideas relating to construction, urban planning etc. We can change the future for disabled people.**



Wilhelm Küchler, D

President



Daniel Tardy, F

Vice-President  
(ECO)



Peter Andrews, UK

Vice-President  
(SOC)



Giandomenico Ghella, I

Vice-President  
(TEC)



Elco Brinkman, NL

Vice-President  
(Communication and Image)



Johannes Lahofer, A

Treasurer



José Luis Vega, E

Vice-President  
(EIC)



Joaquim C. Fortunato, P

Vice-President  
(MEDA)



Helmut Hubert, D

Vice-President  
(SME)



Eero Makkonen, FIN

Vice-President  
(CEEC)



Ioannis Papaioannou, GR

Vice-President  
(ECF)

**GENERAL ASSEMBLY****COUNCIL****STEERING COMMITTEE**

President  
**Wilhelm Kuchler, D**

Treasurer  
**Johannes Lahofer, A**

Vice-President (CEEC)  
**Eero Makkonen, FIN**

Vice-President (SME)  
**Helmut Hubert, D**

Vice-President (ECO)  
**Daniel Tardy, F**

Vice-President (Communication)  
**Elco Brinkman, NL**

Vice-President (ECF)  
**Ioannis Papaioannou, GR**

Vice-President (MEDA)  
**Joaquim Fortunato, P**

Vice-President (TEC)  
**Giandomenico Ghella, I**

**Economic and Legal Commission (ECO)**

President:  
*Vice-President Daniel Tardy, F*  
Rapporteur:  
*Domenico Campogrande, FIEC*

**ECO-JURI:**  
**"Legal Affairs"**  
Chairman: *Heinz A. Schüssler, D*

**ECO-DEV:**  
**"Economic Development"**  
Chairman: *Jean Schellenberger, F*

**Temporary Working Group**  
**"Subcontracting"**  
Chairman: *Jacques De Meester, B*

**Temporary Working Group**  
**"Reduced VAT"**  
Chairman: *Alain Sionneau, F*

**Working Group**  
**"Statistics"**

**Social Commission (SOC)**

President:  
*Vice-President Peter Andrews, GB*  
Executive President:  
*John Stanion, GB*  
Rapporteur:  
*Laetitia Passot, FIEC*

**SOC-1:**  
**Vocational Training**  
Chairman:  
*Alfonso Perri, I*

**SOC-2:**  
**Health and Safety**  
Chairman:  
*José Gascon y Marin, E*

**SOC-3:**  
**Economic and Social Aspects of Employment**  
Chairman:  
*Jacques Laurent, F (-03/2003)*  
*André Clappier, F (03/2003-)*

**Technical Commission (TEC)**

President:  
*Vice-President Giandomenico Ghella, I*  
Rapporteur:  
*John Goodall, FIEC*

**TEC-1:**  
**Directives, Standards and Quality Assurance**  
Chairman:  
*Rob Lenaers, B*

**TEC-2:**  
**Innovation and Processes**  
Chairman:  
*Vincent Cousin, F*

**TEC-3:**  
**Environment**  
Chairman:  
*Terry Penketh, GB*

**Ad Hoc Group "CEEC"**  
**Central and Eastern Europe**  
Chairman:  
*Eero Makkonen, FIN*  
Rapporteur:  
*Hasso von Pogrell, EIC*

**SME Coordination Group**  
Chairman:  
*Helmut Hubert, D*  
Rapporteurs:  
*Elmar Esser, D / Ulrich Paetzold, FIEC*

**EIC – European International Contractors e.V.**  
President: *Jose Luis Vega, E*  
Director: *Frank Kehlenbach, EIC*



**Ulrich Paetzold**  
Director General



**Domenico Campogrande**  
Rapporteur

Economic and Legal Commission



**Laetitia Passot**  
Rapporteur

Social Commission



**John William Goodall**  
Rapporteur

Technical Commission



**Joëlle Caucheteur**

Secretariat



**Maxime Wotquenne**

Documentalist



**Yasmina Koeune**

Secretariat



**Sylvie Masula**

Secretariat

**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).

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- A**
- BIB – Bundesinnung Bau
  - FVBI – Fachverband der Bauindustrie
- B**
- Confédération Construction  
Confederatie Bouw
- BG**
- BBCC – Bulgarian Building and Construction Chamber
- CH**
- SBV – Schweizerischer Baumeisterverband  
SSE – Société Suisse des Entrepreneurs
- CZ**
- SVAZ – Podnikatelú ve Stavebnictví v České Republice
- CY**
- OSEOK – Federation of the Building Contractors Associations of Cyprus
- D**
- HDB – Hauptverband der Deutschen Bauindustrie
  - ZDB – Zentralverband des Deutschen Baugewerbes
- DK**
- Dansk Byggeri
- E**
- SEOPAN – Asociación de Empresas Constructoras de Ambito Nacional
  - ANCOPI – Agrupación Nacional de Constructores de Obras Publicas
- F**
- FFB – Fédération Française du Bâtiment
  - FNTP – Fédération Nationale des Travaux Publics
- FIN**
- RT – Confederation of Finnish Construction Industries
- GB**
- The CC – The Construction Confederation
- GR**
- PEDMEDE – Association Panhellenique des Ingénieurs Diplômés Entrepreneurs de Travaux Publics
- H**
- EVOSZ – National Association of Building Entrepreneurs of Hungary
- I**
- AGI – Associazione Imprese Generali
  - ANCE – Associazione Nazionale Costruttori Edili
- IRL**
- CIF – The Construction Industry Federation
- L**
- GEBTP – Groupement des Entrepreneurs du Bâtiment et des Travaux Publics
- N**
- EBA – Entreprenørforeningen – Bygg og Anlegg
- NL**
- AVBB – Algemeen Verbond Bouwbedrijf
- P**
- AECOPS – Associação de Empresas de Construção e Obras Publicas
  - AICCOPN – Associação dos Industriais da Construção Civil e Obras Publicas
- PL**
- UNI-BUD – Korporacja Przedsiębiorców Budowlanych
  - KZPB – Krajowy Związek Pracodawców Budownictwa
- RO**
- ARACO – Asociația Română a Antreprenorilor de Construcții
- S**
- BI – Sveriges Bygginstitut
- SK**
- ZSPS – Zväz stavebných podnikateľov Slovenska
- TR**
- TCA – Turkish Contractors Association

### Associate Member

- EFFC  
European Federation of Foundation Contractors

### COOPERATION AGREEMENT with

- ACBI  
Association of Contractors and Builders in Israel



### **Building and Infrastructure for urban<sup>1</sup> regeneration in Europe**

*FIEC recalls its "3 Brussels messages" and appended proposals adopted during the 1996 Congress, based on the observation that urban renewal is essential and the tasks, challenges and problems involved are immense:*

- 1. The construction industry is a sector of the economy which in collaboration with public authorities, can make a decisive contribution to providing solutions through innovative approaches in planning, design, construction and management.*
- 2. Financing requires a major effort at all levels in the public and private sectors.*
- 3. Cities are centres of habitation to be linked by the trans-European Networks.*

Today, it's a matter of following up the earlier commitment that FIEC took on this important subject.

#### **The need for a policy of urban renovation in the various European States is largely recognized.**

The construction of large high density complexes for the purpose of grouping together on the one hand social housing zones, and on the other, office and commercial zones has turned out to be a failure.

In order to address economic, social and environmental expectations, as well as security and more generally the quality of life of the population, most of which lives in urban areas, a policy of urban renovation in a perspective of sustainable development is today absolutely essential.

#### **Construction policies are at the heart of actions to be taken**

In a perspective of economic and social cohesion, districts striking a balance between dwellings on a human scale; nearby shopping facilities consisting of small scale supermarkets, together with public services and leisure facilities (cultural, sport, social, etc) should replace today's large isolated complexes of social housing and commercial and office districts.

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<sup>1</sup> Irrespective of various uses, the expression "urban regeneration" used in this document includes both the modernisation of existing building stock as well as demolition-reconstruction.

Structured re-development projects – in particular transport infrastructure whether for a specific purpose – such as completely independent cycle tracks – or collective ones – such as pedestrian zones and parks –assembled in a logical and balanced manner fully inclusive of surrounding urban and rural areas, should be provided simultaneously.

**The European construction industry is aware of the need for long term initiatives in terms of urban renovation in order to respond to the objective of sustainable development in economic, social and environmental terms, and in particular an evolution able to respond to the needs of future generations.**

It wishes to make available its experience and competence to local and national political actors in the context of carrying out comprehensive re-development projects in urban environments as much from an urbanistic and technical, as from a financial point of view. Moreover, it involves the integration of an urban dimension in community policy, in particular in terms of regional development and transport.

In order to attenuate the high costs of urban renovation and restructuring in conformity with sustainable development principles in economic, social and environmental terms for private and public owners, fiscal incentives, in particular a reduced rate of VAT should be applicable, and other financial and credit incentives made available.



Opening ceremony (Hotel Sheraton)



Conference, 8<sup>th</sup> June 2002: “Building and Infrastructure for urban regeneration in Europe”



Welcome evening (Castello Odascalchi): Honorary Presidency awarded to FIEC past Presidents Niels Frandsen, Thomas Rogge and Philippe Levaux.



Gala evening (Villa Medici): change of Presidency, warmest thanks from the newly elected FIEC President Wilhelm Küchler to his predecessor Franco Nobili.

Thank you, Presidents!





**President:**  
Mr. Daniel Tardy, F

**Rapporteur:**  
Mr. Domenico Campogrande, FIEC

**Sub-commission ECO-JURI**

**"Legal Affairs"**



**Chairman:**  
Mr. Heinz A. Schüssler, D

**Rapporteur:**  
Mr. Martin Freitag, D

**Sub-commission ECO-DEV**

**"Economic Development"**



**Chairman:**  
Mr. Jean Schellenberger, F

**Rapporteur:**  
Mr. Roger Fiszelson, F

**Temporary Working Group**

**"Subcontracting"**



**Chairman:**  
Mr. Jacques De Meester, B

**Rapporteur:**  
Mr. Baudoin van Lierde, B

**Temporary Working Group**

**"Reduced VAT"**



**Chairman:**  
Mr. Alain Sionneau, F

**Rapporteur:**  
Mr. Bernard Coloos, F

### 1. Construction activity in Europe: After 2002, 2003 will also be marked by stagnation

In 2002, construction activity within the 15 Member States was worth a total of around €900 thousand million, which is almost 10% of the EU's GDP and it employed more than 11 million people, i.e. almost 7% of the total number in employment. This figure does not include the jobs generated by a knock-on effect in the various sectors upstream or downstream.

The figures for construction activity as a whole in 2002 confirm the growth rate of +0.6% which we projected at the end of 2001. Although in certain countries activity was sustained (+8.1% in the United Kingdom, thanks to considerable intervention from the public sector; +4.6% in Spain, mainly thanks to investments in infrastructures), Germany did have a particularly difficult year (-5.5%): Unfortunately there were 4,500 bankruptcies in the first 6 months of 2002 alone and employment in the sector dropped by 10%.

As far as the sub-sectors are concerned, the slowdown (+1.4% in 2002; +2.5% in 2001) recorded in the civil engineering sector, which largely depends on public investments, and in the private non-residential sector (-0.7% in 2002; +2.3% in 2001) was only partially compensated for by a slight recovery in the residential sector (+0.5% in 2002).

As far as 2003 is concerned, we can expect a stable level of activity, which is not likely to grow by more than +0.5% in comparison with 2002.

However, this figure hides situations which vary widely from one country to another. The most significant changes can be seen in 2 countries where the construction activity has been one of the main driving forces in the economy over the last few years, regularly achieving 2-figure growth rates: Portugal and Ireland. In Portugal, for 2003 we expect a -2.2% drop in activity, due to a drop in public investments as well as the removal of certain credit supporting tax measures. Nevertheless improvements are expected thanks to investments connected with the "EURO 2004" football championships. In Ireland (-5.4%), this is due to a sharp drop in the private non-residential sector and various infrastructure projects which are taking a while to get started.

For the various sub-sectors, in 2003 we can expect to see another slowdown in building (+0.0% in 2003, +0.4% in 2002), in new housing (-0.8% in 2003, +0.6% in 2002), and in the private non-residential sector (-1.5% in 2003, -0.7% in 2002). On the other hand, thanks to more sustained intervention from

the public sector in a number of countries, we can look forward to an improvement in the public non-residential sector (+2.8% in 2003, +2.6% in 2002) and in civil engineering (+3.1% in 2003, +1.4% in 2002).

Further details are available in our statistical reports N° 46 (March 2003) and N° 47 (2004).

### 2. Statistics: within the framework of the revision of the NACE Rev.1 classification, FIEC is calling for a clear distinction between "building" and "civil engineering" activities

The NACE Rev.1 is the official statistical classification system for economic activities in the European Union (EU). It was established in 1990 by Council Regulation No. 3037/90. The objective of this Regulation was to establish a common statistical classification system, in order to ensure comparability between national and Community classifications and hence national and Community statistics. This system is also directly linked to the United Nations International Standard Industrial Classification (ISIC).

Section F (also known by its class number: 45) relates to construction.

It is divided into 5 main classes (official NACE terminology) :

Class 45.1	Site preparation	Vorbereitende Baustellenarbeiten	Construction
Class 45.2	Building of complete constructions or parts thereof; civil engineering	Hoch- und Tiefbau	Construction d'ouvrages complets ou de parties d'ouvrages, génie civil
Class 45.3	Building installation	Bauinstallation	Travaux d'installation
Class 45.4	Building completion	Sonstiges Baugebwerbe	Travaux de finition
Class 45.5	Renting of construction or demolition equipment with operator	Vermietung von Baumaschinen und -geräten mit Bedienungspersonal	Location de matériel de construction et de démolition avec opérateur

The main difficulty with the current version of the NACE is that it does not make a clear distinction between "building" and "civil engineering" activities.

Quite clearly construction works cannot be reduced to a single category, as there are significant differences between work carried out in constructing

buildings on the one hand, and civil engineering work on the other.

Construction work carried out in respect of buildings and civil engineering works is itself complex in its entirety and the sub-divisions have very many distinctive characteristics. Thus the construction of buildings covers general construction work as well as technical equipment and finishing work. Likewise, civil engineering work covers both earthworks and hydraulic engineering work. However, these various activities require specific types of equipment.

The first discussions for a major revision of the NACE, to be implemented in 2007, started at the end of 2002. The implications of this revision are extremely important because it will take place in a global perspective, which will also imply a revision of the United Nations activity classification (ISIC) as well as of the North American classification (NAICS).

Within this framework, FIEC has sent its request to EUROSTAT, asking for a clear distinction between "building" and "civil engineering" activities to be put into place in the revised version. FIEC's request is based on a definition of "construction", which can be of general use and which is not linked to the specificities of a country or to a particular moment in time and within the "construction" section a basic core, which can be used by everyone and which could be further detailed by each country according to its own needs.

### 3. Legislative package: After the adoption of "common positions" by the Council of Ministers, the European Parliament is starting its "2<sup>nd</sup> reading"

On 10<sup>th</sup> May 2000, the European Commission (EC) presented a "consolidated" directive proposal on the coordination of procedures for the award of public supply contracts, public service contracts and public works contracts<sup>1</sup>.

By pursuing its targets of simplifying, restructuring and clarifying the existing legislation, the EC has presented a proposal which brings together the three current directives, i.e. "services" (92/50/CEE), "supplies" (93/36/CEE) and "works" (93/37/CEE). But it has also introduced a certain number of important new elements, including the following: electronic procurement mechanisms, a new procedure aimed at particularly complex markets ("competitive

dialogue"), a reinforcement of the provisions relating to award criteria and to the selection of candidates.

At the same time the EC has presented a second proposed directive relating to the procedures for awarding contracts in the water, energy and transport sectors.

These two proposed directives (one for "classical" sectors: services, works, supplies, the other for "utilities" sectors: energy, water, transport) make up what is commonly called a "legislative package".

Within the framework of the "co-decision" procedure which gives the European Parliament (EP) an extremely important role, as it becomes a co-legislator at the same level as the Council of Ministers, in March 2003 the latter finalised its "common positions", on each of the two proposed directives, and the EP will therefore be able to start its "2<sup>nd</sup> reading".

This "2<sup>nd</sup> reading" will start with a number of uncertainties which may affect the whole of the legislative process.

On the one hand, there is a risk of major confrontation between the EP and the Council on the question of including social aspects amongst the award criteria, which was one of the main themes that the EP concentrated on during the "1<sup>st</sup> reading". In fact, in this area the Council quite rightly did not go as far as the EP would have wished.

On the other hand, the possibility that the EP might reject the Council's "common positions" appears to be growing in the preliminary discussions. This would certainly have consequences as, within the framework of the "co-decision" procedure, any rejection of the "common positions" means that the



FIEC discussion with Members of the European Parliament on the "Legislative Package" issue – Brussels, 19<sup>th</sup> February 2003

<sup>1</sup> COM(2000) 275 final dated 10/5/2000, corrected by COM(2000) 275 final/2 dated 30/8/2000.

legislative process is permanently halted and that, as a result, the legislations currently in force (in this case the current "public works contracts" directives) would remain applicable, supplemented by the jurisprudence of the European Court of Justice.

Finally, we must not forget the elections to the new EPs to be held in spring 2004. If there were to be a conciliation procedure, which is the last opportunity to reach an agreement between the EP and the Council, there would be a very real risk of failing to achieve a compromise text within the framework of the current legislature. This would mean going back to the starting point, with new proposed directives which the EC would have to submit to the new EP.

So the road is still long and full of uncertainties. In any case, it appears likely that the directive could be adopted, in the best case scenario, towards the start of next year (2004).

FIEC, both directly and through its member federations, will be continuing to closely monitor this matter and to play an active role, so that we can effectively take an additional step in the area of public contracts towards greater legislative simplification, greater transparency in procedures, working to the advantage of construction companies.

#### **4. "Reduced VAT" directive: the European Commission finalises its assessment report and reflects about the future**

Adopted in late 1999, the "reduced VAT" directive (1999/85/CE) had dual goals: to boost employment and to combat the scourge of the black economy. This directive, which affected highly labour intensive services, was "not compulsory" (only Member States who wished to do so were to apply it), "optional" (it would be applied to a certain number of activities out of a predefined list) and "temporary" (for a maximum period of 3 years). At the end of 2002 the Council of Ministers, on a proposal from the European Commission (EC), extended the validity of the directive by one year, until 31/12/2003, in order to allow the States which have applied it, to finalise their assessment reports on the effectiveness of the measure.

For this first experimentation phase, as far as the construction sector is concerned, only restoration and maintenance activities were affected in the following countries : Belgium, Spain, France, Italy, the Netherlands (only for painting and plastering work), Portugal and the United Kingdom (only for the Isle of Man).

FIEC has always very actively supported this initiative. Since October 1997, it had taken a position on this subject by showing the positive effects which a measure of this sort could have on employment and in better combatting the black economy. Estimates had shown that if all of the Member States decided to reduce their current VAT rates on restoration and maintenance work in the construction sector to 6%, somewhere in the region of between 240,000 to 270,000 jobs per year would be created, across the EU 15. In addition to these direct jobs, we could add the effects on sectors upstream or downstream, and the reduction for each State in charges relating to unemployment benefit and a reduction in the black economy generating VAT income for the State in question.

The EC is currently finalising the analysis of the reports submitted by the various Member States which have applied the measure. According to these reports, the overall assessment does not look very positive: there appears to have been less of an effect in terms of job creation and combatting the black economy than expected.

Without going into the question of the black economy, where any estimate, whether ex-ante or ex-post cannot really rest upon solid foundations, we do nevertheless need to qualify this probably negative overall assessment which the CE is getting ready to make.

On the one hand, the effects of a measure of this sort are only seen after a certain amount of time has elapsed. However, in several of the reports submitted to the EC the States have underlined that they do not have enough hindsight to be able to precisely quantify the effectiveness of the directive. It is clear that such a short observation period (1999-2002) weakens the tests measuring the impact.

On the other hand, the studies carried out by certain FIEC member federations have shown the undoubtedly positive effects in terms of business and job creation.

In France, the restoration and maintenance in volume activity has undergone spectacular growth. As an example, over the whole of the year 2000 the increase in the activity in terms of volume was 5.6%. As far as employment is concerned, around 30,000 direct jobs (around 2% of total employment in the sector) appear to have been created in the year over the period from 2000 to 2001, i.e. 50,000 recruits if we include jobs upstream and downstream.

In Belgium, estimates based on a similar experiment carried out in 1995 show that by the year 2000, the measure had generated around 6,000 direct (around 1.7% of total employment in the construction sector) and indirect jobs. This is a very good performance

for a measure which had a neutral effect on public finances.

The EC is also intending to make proposals for a more general review of VAT rates. Within this framework, the FIEC will be making specific proposals to the EC for a proportion of construction activities to appear in the permanent reduced VAT rate field.

### **5. Transport policy: the FIEC holds a meeting with Mrs Loyola de Palacio, Vice-President of the Commission and Commissioner responsible for Energy and Transport**

The various facets of transport policy (development of the Trans-European Transport Network and Corridors to Central and Eastern Europe, the problem of financing infrastructures, Public-Private partnerships, etc.) are still among the FIEC's priorities.

To discuss this, a delegation from the FIEC chaired by the Vice-President Daniel Tardy met Mrs Loyola de Palacio, Vice-President of the Commission and Commissioner responsible for Energy and Transport on 18/2/2003. This meeting had a dual objective: on the one hand to present the document drawn up by the FIEC and entitled "Proposals for financing rail infrastructure projects in Europe" and on the other to discuss subjects which Mrs de Palacio is intending to deal with as a priority. On the same occasion, FIEC Vice-President and EIC President, José-Luis Vega presented the new EIC "White Paper on PPP".

It is well known that the main obstacle to the implementation of large infrastructure projects is their financing. From discussions with the Directorate General responsible for Energy and Transport (DG TREN), it clearly emerges that this financing problem particularly affects rail projects, for which the user only pays an insignificant part of the costs and which are not profitable enough to attract sufficient private capital.

DG TREN has stated that it wishes to discuss and defend any specific proposal which might help to solve these problems.

For this reason, a FIEC document entitled "Proposals for financing rail infrastructure projects in Europe" was finalised after consulting all the Member Federations. Obviously the aim of this document is not to promote one mode of transport over any of

the others but, on the basis of a specific example, in this case rail projects, to attempt to identify specific proposals which might provide a solution to the problems involved in financing infrastructure projects as a whole.

The main points of the proposals made in this document can be summarised as follows:

- in order to do away with the difference between the actual cost of an infrastructure during its life cycle and the funds available (private, public, European funds), we suggest launching a European loan,
- the launching and reimbursement of a loan of this sort would be handled by a dedicated body which would be independent of the Member States,
- this loan would not be covered by guarantees from the States, as it would be guaranteed by a specific tax on the fuel consumed,
- a tax of this sort would have no impact on growth as the surplus of growth generated by this new infrastructure would compensate for any financial losses linked to this tax.

Whilst she did acknowledge the relevance of these proposals, Mrs de Palacio did however underline the difficulties in getting them backed by all of the Finance Ministers of the 15, not all of whom share the idea of a large-scale European loan.

Certain principles of our proposals are, nevertheless, part of the subjects which Mrs de Palacio is intending to take forward before the end of her term



Meeting with Mrs. Loyola DE PALACIO, Vice-President of the Commission and Commissioner responsible for Energy and Transport on the issue "Transport policy" Brussels, 18<sup>th</sup> February 2003

of office, in particular with regard to what is known as the "infrastructure package", the broad outline of which she sketched out during this meeting.

This "infrastructure package" is actually made up of three parts:

- 1) proposals to ensure better coordination of existing practices within the European Union on the financing of infrastructures,
- 2) a proposed directive on "remote tolling" on roads: by 2010 the idea would be to promote interoperability between the 3 already existing systems. After 2010 there are plans to set up a harmonised satellite-controlled system.
- 3) a general framework for a common methodology on the "pricing" of infrastructures, which could be applied to the Trans-European transport network.

However, the official "Infrastructure package" adopted does not contain the third part. These are subjects which the FIEC intends to monitor with great interest over the next few months.

#### **6. The FIEC "Blue Book": work worth more than €85 thousand million still remains to be done, just for the 14 so-called "priority" projects**

The results of the 9<sup>th</sup> annual survey on the state of progress of the 14 so-called "priority" projects, known as the FIEC "Blue Book" were published during 2002. These projects form part of the Trans-European Transport Networks (TENs), whose role in the long-term development, competitiveness, cohesion and enlargement of the European Union has been highlighted on several occasions, both at the level of the Heads of State and Government summits as well as by the European Parliament and the Commission.

This survey takes stock of the situation at 31<sup>st</sup> December 2001.

Three projects are now completed (the rail link between the Republic of Ireland and the United Kingdom; Malpensa Airport in Italy, the fixed Øresund link between Denmark and Sweden), but others will probably not be completed before 2015, even though in 1994 the Member States did take the decision to finish them all by 2010.

The following emerges from the survey:

- 1) the overall projected budget for 13 of the 14 projects is around €125 thousand million (not including project no. 8, the multimodal link between Spain and Portugal, for which only partial information was available),
- 2) in spite of the fact that the financing of projects of this sort is still a major obstacle, to date only 3 projects, out of those for which we have managed to collect enough information, have achieved financial cover of less than 50% (on average 58.6% of the whole financing for the projects is already provided for),
- 3) if we compare the results with those from previous surveys, we note that the annual performance rate has increased and is now approximately 7.2% per year of the total estimated value for all of the 14 projects. At the end of 2001 this amounts to an accumulated performance rate of 31.5%, equivalent to an approximate total of €39 thousand million, whereas if the initial calendar had been respected around 45% of the total value should already have been finished,
- 4) of the €85 thousand million of work still remaining to be done, only 60 thousand million € could in principle be carried out during the period from 2001 to 2006, whereas the remaining €25 thousand million will not be completed before 2015.

#### **7. Subcontracting: a huge survey shows that delays in payment remain one of the major concerns**

For several years, FIEC has given its full attention to the good relations between partners in the construction process, in other words to relations between the main contractor and his subcontractors. In 1999 this led to the publication of a document entitled "Subcontracting in the construction sector: fundamental principles of collaboration between partners".

Three years after this publication, the ECO Commission, through a working group chaired by Mr Jacques De Meester (B-CC), wanted to take stock

of the main questions relating to subcontracting in the various countries.

From this survey, which was presented to the European Commission in February 2003, it is clear that the main source of disputes between a main contractor and his subcontractors is delays in payments (for which main contractors also suffer in relation to the client).

In most countries there are provisions to penalise these delays in payment, which may take the form of increased interest rates or may even go as far as the suspension of the works, but these measures vary from one country to another. Nevertheless, there should be a certain harmonisation with the application in national legislations of the European directive on "payment times" (2000/35/CE), which should be transposed by the various Member States into their own national law by August 2002 at the latest.

The European Commission is to carry out an analysis of the impact of this directive on commercial transactions 2 years after its entry into force, i.e. in August 2004. The results of this assessment will be presented to the European Parliament and to the Council of Ministers and will, if necessary, be accompanied by proposals for improving the directive.

Fair relations between partners =  
satisfied clients

## FIEC position on the revision 2007 of the NACE classification

### A. Introduction

[...]

The organisation of companies varies significantly from one country to the other, and at any given moment in time and several types of activities may be carried out by the same enterprise. Therefore, in order to define whether a company be classified in the "industry", "services" or "construction" section, according to its "principal" activity, **we propose that the general criteria of classification based on the added value be systematically applied.**

Furthermore, FIEC considers that at least three elements should be taken into consideration to define construction activities :

1. the type of services (general contractor<sup>1</sup> or specialist contractor)
2. the type of materials used (wood, metal, painting, etc.)
3. the nature of the work carried out (housebuilding, industrial building, infrastructure works, etc.)

The activities of a general contractor who constructs a house with a timber frame cannot be compared to those of a specialist contractor who builds the concrete frame of a shopping centre. Similarly, the activities of a painter are completely different if he is working in a private house, in an industrial building or on a steel bridge.

[...]

### C. Argumentation

Quite clearly, construction work cannot be reduced to a single category, as there are significant differences between work carried out in constructing buildings on the one hand and civil engineering works on the other.

Construction work carried out in respect of buildings and civil engineering works are themselves complex in their entirety, the sub-divisions of which have very many distinctive characteristics. Thus the construction of buildings covers general construction work as well as technical equipment and finishing works. Likewise, civil engineering work covers both earthworks and hydraulic engineering works. However, these various activities require specific types of equipment.

[...]

In the absence of requirements relating to refining NACE Rev.1 on the basis of a codification involving more than four digits which would make it possible to divide the sector, "general construction work for buildings and civil engineering work", into a "general construction work for buildings" category and a "civil engineering work" category, the NACE Rev.1 version introduced a statistical distinction which makes it impossible to follow developments in the civil engineering sector.

**FIEC would like to see this main distinction between "building" and "civil engineering" activities be clearly introduced in this major revision of the NACE classification.**

<sup>1</sup> For FIEC, the "general contractor" has to carry out part of the works which are under its responsibility and cannot sub-contract them entirely.

**LEGISLATIVE PACKAGE**

**FIEC position paper on the "Common Positions" of the Council of Ministers**

9/5/2003

[...]

FIEC is willing to continue the dialogue with the various Institutions with the aim of ensuring that in the end the new directives on public procurement do effectively improve the existing legal framework, according to the initial objectives that were originally intended to be achieved.

However, after having carefully examined the "common positions" adopted by the Council of Ministers, FIEC considers that :

- these texts do not yet strike a fair balance between the legitimate interests of public clients on the one hand and economic operators on the other hand
- major requests based on the industry's practical experience have not been taken into consideration.

Consequently, unless major improvements on some critical issues are introduced in the proposed directives, then the initial objectives would not be reached and there would be a serious risk of setting up a framework which would significantly constrain the effective operation of European contractors in procuring public contracts.

The 5 issues that FIEC considers to be critical and on which major improvements are essential, are :

[...]

**1. The principle of confidentiality throughout and after the procedures and the authorisation of variants, unless indicated otherwise in the tender notice**

In the case of public works contracts, the innovative capacity of economic operators is reflected in the tenders which they submit to the contracting authorities and in particular in the variants proposed.

If such innovation is to be encouraged, it is essential that the intellectual contribution of economic operators be protected by safeguarding the confidentiality of their proposals / tenders. Economic operators can only afford to present innovative solutions, where disclosure of their proposals to competitors is prohibited and likewise any subsequent use in another procurement procedure.

[...]

**2. The exclusion of "works" from the scope of "electronic auctions" and dynamic purchasing systems**

[...]

The proposed electronic (or "reverse") auction process is completely unsuited to the specific nature of works contracts. Works never constitute a standardised activity, even when the contract specifications can be precisely drawn up. Their aim is to achieve a monotype, that is to say, a unique performance meeting the specific needs of contracting authorities at a given time and in a risky environment which will vary according to the construction site (in particular the soil and subsoil), the vagaries of nature etc., the real cost of which will be known only when the construction work is finished.

[...]

The Community rules on public procurement should explicitly rule out dynamic purchasing systems and electronic auctions in the case of public works

**3. The provisions concerning contracts awarded by a contracting authority to a public(ly financed or controlled) entity should not be extended to "works" (considered as "in-house" services)**

[...]

These provisions reduce the chances of private construction enterprises to participate in public work tenders in a fair way. They considerably limit the possibility of being awarded a public work contract, either in the absence of any tendering at all or – if a tender takes place – due to the preferential treatment public(ly financed or controlled) entities/ utilities are granted in the tender.

Moreover, private enterprises are based on private risk capital, which provides a completely different basis for calculation in comparison to the "state guarantee" public(ly financed or controlled) entities/ utilities enjoy. Since, as a rule, the financial basis and especially costs largely differ between private enterprises and public(ly financed or controlled) entities/ utilities, the latter should generally be excluded from competition with private enterprises. Where construction contracts are tendered, any "in-house" tenders must be subject to the same rules

and treated equally to those received from private tenderers. Any public "cross-subsidisation" must therefore be ruled out.

#### 4. The improvement of certain aspects of the "competitive dialogue"

FIEC considers that a procedure such as the "competitive dialogue" is only acceptable to the extent that the following conditions are met :

- (1) Any "cherry picking" must be excluded,
- (2) strict confidentiality of proposals / tenders safeguarded,
- (3) costs for participation in the procedure reimbursed

[...]

#### 5. "Social considerations" should not be used as award criteria

In order to promote innovation and establish best value for money, FIEC strongly favours the award of public works contracts to the "economically most advantageous tender", instead of the lowest price.

In this context, the provisions of Art. 53 §1a of the "common positions", whereby a tender should be the most economically advantageous one **for the contracting authority** and the related award criteria **justified by the subject of the contract** – which confirms the economic character of public procurement – must a minima be maintained. The expression "**directly linked to the object of the contract**" in the European Commission's initial proposal concerning Art.53 §1 adds further clarity and should therefore be integrated.

### LEGISLATIVE PACKAGE

#### FIEC comments on the Council of Ministers` Political Agreement of 21 May 2002

3/12/2002

[...]

#### 7. Abnormally low tenders (Art.54)

In order to improve the effectiveness and transparency of Community provisions in this matter, it is necessary that, on the one hand, the contracting authorities must examine tenders which appear abnormally low in relation to the other tenders submitted and that, on the other hand, where evidence of the constituent elements of the tender submitted by the tenderer does not enable the reliability of the tender to be guaranteed, such tender must be rejected.

#### 8. Groups of economic operators (Art.3 §2)

Joint ventures are standard practice in the construction sector. They promote access by small and medium-sized enterprises to public procurement.

The capacity of firms coming forward as a group to satisfy the selection criteria on a cumulative basis should be explicitly stated in Article 3.2 as the European Parliament had proposed (see amendment 30 adopted by the EP during its first reading).

[...]

**LEGISLATIVE PACKAGE**

**FIEC position paper on the European Parliament's proposed amendments (1<sup>st</sup> reading)  
3/5/2002**

[...]

**Delimitation public works ./ service contracts – AM 7, 142, 145 and 171 (Rec. 14a, 15a, Art. 1.2.3 a, b, c)**

FIEC is opposed to these amendments, since they discriminate against well established working methods.

1. FIEC fully supports the idea that it cannot be the intention of the directive to restrict market developments and "prescribe either joint or separate contract awards". This principle must be respected throughout the directive. The current definition of a public works contract covering the execution, or both the design and execution of works (= specific construction activities) or a work (= a structure), where necessary including other elements such as operation, maintenance or finance, does not call for any provisions which might be used to limit the public clients' choice (= joint or separate award) in order to ascertain the most economically advantageous tender.

[...]

**Framework agreements – AM 24 and 139 (Art. 1.7 and 32.3b)**

FIEC is opposed to the use of framework agreements for public works.

1. The specific, non-standardised solutions necessary for satisfying the needs of public clients in each individual case of public works contracts are unsuitable for the proposed procedure.
2. Considerable contract volumes would be withdrawn from the market for a considerable period of time. Enterprises not selected for participation in a framework agreement would be chased out of this market without any serious opportunity of judicial review.
3. Newcomers, offering innovative new solutions, would be excluded.

[...]

**Weighting of criteria AM 99 (Art. 53.2)**

FIEC is strongly opposed to this amendment, which eliminates the obligation for the contracting authorities to indicate the relative weighting given to each of the criteria chosen and therefore goes against the principle of transparency. Only listing these criteria does not give the contractors the solid basis required for preparing tenders.

[...]

**The complete texts of all FIEC position papers are available on  
[www.fiec.org](http://www.fiec.org)**

## FIEC's proposals for the financing of railway infrastructure in Europe

10/9/2002

[...]

### 1. The volume of transport is constantly increasing

[...]

The construction of Europe is causing ever greater demands to be placed on the transport system as a whole, in line with the growth in European countries' GDP and with their political integration. The congestion that would be caused by an increase in the demand for transport without the necessary infrastructure being put in place would lead to loss of growth. The CEEC countries in particular are having to do in the space of just a few decades what it took Western Europe practically half a century to achieve.

[...]

### 3. The benefit generated by an infrastructure project outlasts the possible duration of its financing

Of course, if these long-term effects are taken into account, a marked divergence is revealed between the constraints of a strictly financial nature associated with the construction and operation of the rail system and the long-term advantages that that system gives rise to. A rail infrastructure has a life expectancy of well over a century, and therefore generates benefits that should be discounted over an equivalent length of time. However, modern financing procedures do not make it possible to take advantage of this considerable timespan. Instead, they require the financial cost of the necessary construction works to be spread out over a maximum of thirty years.

### 4. It is impossible to put a financial value on the whole of the economic surplus generated

[...]

Recent examples of private concessions for which quantitative data is available (relating to time saved and the reduction of the generalised cost) show that the surplus generated by the infrastructure is at least three times as much as the amount the infrastructure makes it possible to collect as direct revenue from its use.

[...]

### 5. The range of financing sources therefore needs to be extended

To make it possible in practical terms to construct and operate railway infrastructure, it is therefore necessary to successfully implement a process which takes the beneficial structural effects generated in the near and remote future and rapidly converts them into financing.

[...]

The solution is therefore to ask the users and communities, that are the long-term beneficiaries, to help the rapid introduction of the financing needed for the works. The traditional solution that is resorted to in order to meet this kind of requirement is to organise a large-scale loan, drawing on the widest possible base.

[...]

As the beneficiary of the trans-European networks will be Europe as a whole, the beneficiaries should be appealed to on a European scale. If necessary, states should be requested to provide partial or total loan guarantees. Of course, that proportion of the surplus, converted into cash, that is released by the rail network will only be used effectively to create these new routes to the extent that that network is operated efficiently.

[...]

Preferably, this financing would be based on a specific tax related to fuel consumption, rather than on a tax applied to vehicles on the Swiss model, which would most likely not be accepted by all Member States. This tax could be decided on by ECOFIN.

The tax would not have a negative impact on growth. This is because the growth surplus generated by these new infrastructures would compensate for the tax on the sale of fuel.

[...]

### An independent body

This set-up presupposes the creation at European level of a dedicated and independent body, furnished with all the necessary powers, which would be responsible for launching the European loan and overseeing its repayment. This body, which would benefit from firm and irrevocable commitments by the States to pay it all the above-mentioned tax revenue, would not need to be backed up by State guarantees, as the revenue from the fuel sale tax would be sufficient to guarantee its solvency.

[...]

SOC



President:  
Mr. Peter Andrews, GB

Rapporteur:  
Mrs. Laetitia Passot, FIEC

SOC



Executive President:  
Mr. John Stanion, GB

Sub-commission SOC-1

"Vocational Training"



Chairman: Mr. Alfonso Perri, I

Rapporteur:  
Mrs. Rossella Martino, I

Sub-commission SOC-2

"Health and Safety"



Chairman:  
Mr. José Gascon y Marin, E

Rapporteur:  
Mr. Alejandro del Valle, E

Sub-commission SOC-3

"Economic and Social Aspects of Employment"



Chairman: Mr. Jacques Laurent, F  
(-03/2003)



Chairman: Mr. André Clappier, F  
(03/2003-)

Rapporteur:  
Mr. Jean-Charles Savignac, F

## Foreword

The UK federation is delighted to be entrusted with the presidency of the Social Commission whose programme lies at the heart of FIEC's work, embracing issues that directly affect more than 11 million construction industry employees across Europe.

With a brief that encompasses training, health and safety and the economic and social aspects of employment, through its three sub-commissions, the Social Commission's role is both inward and outward facing, communicating not only with the FIEC membership but also carrying out official dialogue on legislation with representatives of the European trade unions and the European Commission.

During the past year the Social Commission has undertaken a series of measures to ensure that it reflects the needs and requirements of all FIEC members.

A questionnaire was sent to FIEC's member organisations asking them to prioritise the issues dealt with by the Commission. The results from an excellent response were analysed and used to develop a new Business Plan which prioritises work, sets objectives and measures performance of the three Social Sub-commissions.

While the Business Plan provides us with a road map for the way ahead, and a means of ensuring we hit our targets in the areas that matter most in a busy social agenda, we have also developed detailed criteria and guidance to ensure the correct systems are in place to achieve our aims.

With the Social Commission's vision for the future and its focus on the key issues plainly stated and clearly understood I look forward with optimism and confidence to the exciting and challenging programme of work ahead of us.

**Peter Andrews**

## SOC-1 : Vocational training

The vocational training subcommission's brief is to develop skills in the construction sector by means of suitable training policies and through programmes and exchanges of good practices between FIEC member federations. Vocational training plays a vital role in reinforcing the competitiveness of any business.

The FIEC member federations deemed the following topics and projects to be high priority:

### 1. Consultation by the Commission on the new generation of education, training and youth programmes

In 2002, the European Commission launched a consultation procedure which finished at the end of February 2003. The aim of this consultation process was to gather opinions from participants and interested parties on how successful these programmes had been and what directions they ought to take in the future. On 28/2/2003 the FIEC presented a position paper stating that it was in favour of a reduction in administrative formalities and calling for simplified management procedures and better distribution of results and good practices.

### 2. FIEC-EFBWW pilot project on the transparency of qualifications

A joint pilot project with the EFBWW on the transparency of qualifications was launched in March 2002 with a view to encouraging the mobility of workers within the Union. The aim of this project is to develop a "transparent" document which would clearly and intelligently specify workers' qualifications so that these qualifications can be recognised in EU countries other than the workers' own countries of origin. The project is initially limited to one profession within the sector: bricklayers.

The working group was given the task of comparing the qualifications which bricklayers need to have in the various EU countries. It is also to examine certain initiatives which have already been taken at national level. These go from cards showing qualifications to data banks listing the skills required by the various trades in the sector. The working group was also asked to propose systems which will allow an increase in the recognition of these trades within the EU, possibly taking its inspiration from the Euro-pass, an additional certificate or diploma developed by the European Commission.

At a later stage, we will be looking at the possibility of extending the project to other branches of the construction sector.

### 3. FIEC-EFBWW tutoring project

The aim of the tutoring project is to encourage young people to remain in the sector by using tutoring programmes to improve the way in which they are welcomed into the profession and their sense of integration over the first few years they spend at the company. This project also aims to combat the sector's poor image, mainly amongst young people, and to keep older workers in the company. It is supported by the European Commission Leonardo fund as part of the programme intended to take advantage of the Leonardo database.

The working group which has been set up to carry out the work is in the process of developing a guide collecting all known tutoring good practices together in one place, so that tried and tested educational and training tools can be made available to contractors within the sector. An electronic version of this guide will be available on the FIEC and EFBWW sites as soon as the project is finished – which should be by December 2003.

### 4. Exchange of good practices between FIEC member federations: Thematic visits

In 2002 SOC-1 members organised two thematic visits to Paris and Rome in order to visit training centres and companies which are particularly effective in terms of vocational training. The aim was to develop the exchange of experience and good practices between them. Another of the aims of these thematic visits was to hold discussions on the ground so as to better understand the initiatives which have been taken in the field of vocational training by the FIEC member federations in the various countries of the Union.

Thematic visits have been supported by the European Commission as part of Employment and Social Affairs DG budget line B3-4000. The report on the thematic visits, a summary of the questionnaire sent out to FIEC member federations and the report on activities submitted to the European Commission in January 2003 are all available on the FIEC website. There are plans to continue with this initiative in 2003. There are two visits scheduled for autumn 2003, the first to Germany and the second to Poland or the United Kingdom.

## SOC-2 : Health and safety

SOC-2's job is to promote health and safety in the construction sector. Improving health and safety standards involves the drawing up of the right policies and training programmes as well as the exchange of good practices between FIEC member federations.

### Exchange of good practices between FIEC member federations:

#### 1. Good practice guide on health and safety management systems

In certain countries, clients are increasingly insisting that companies prove that they have set up safety systems and are complying with them. In most cases these systems are specific to the client. So companies have to draw up a large number of different sets of documentation which are specific to each client.

As a result of this situation, the SOC-2 sub-commission has decided to produce a good practice guide on health and safety management systems aimed at construction companies. The members of SOC-2 are thus hoping that the existence of a "European" model developed by the European social partners will encourage clients to use a health and safety management system of this sort.

A working group has been set up with the aim of taking the work on to the next stage. A mechanism for financing the guide needs to be looked at in the near future.

### Social dialogue

#### 2. Good practice guide on coordinating on-site health and safety

The aim of this initiative from the social partners is to give the various actors in the construction sector relevant examples showing that an effective application of the principles of the directive on mobile construction sites (directive 92/57/CEE dated 24<sup>th</sup> June 1992) can make a contribution to reducing the number of industrial accidents.

The aim of this guide is to help companies in the sector, and especially small and medium-sized businesses and their employees, by raising their awareness of the risks of industrial accidents and by promoting a business culture in the field of health and safety. It proposes a series of strategies for effectively coordinating safety on construction sites

"Best practice"

along with practical measures aimed at preventing certain specific situations when working. The guide is based on texts, photos and diagrams in order to ensure that it is clear and can easily be consulted on construction sites. It is published in 6 languages (DE, DK, EN, ES, FR and IT) and is made up of three parts:

- The first part includes a brief overview of European and international health and safety rules plus a summary of the activities of the European social partners in this field.
- The second part introduces a few good practices aimed at reducing the number of accidents on sites. These good practices are accompanied by basic information on the frequency of accidents and the occupational diseases found in the sector.
- The third part includes a whole series of photos illustrating the good practices developed in the second part and taking into account the specific features of the various construction methods and techniques used in Europe.

The Guide is available on the FIEC website. People who are active in the health and safety field or closely involved in preventing accidents in the construction industry may ask the FIEC and the EFBWW for a printed version of the guide.

The production and printing of the Guide were made possible thanks to the European Agency for Health and Safety at Work (Bilbao).

### 3. Joint declaration on the "working at heights" directive (former "scaffolding")

The construction sector's European social partners, the FIEC and the EFBWW, have drawn up a joint recommendation aimed at facilitating the implementation of the "working at heights" directive (Directive 2001/45/CE dated 27<sup>th</sup> June 2001). This directive should be transposed into the national legislation of the various Member States of the Union by 19<sup>th</sup> July 2004 at the latest.

In order to respond to the problem of uniformly implementing this directive, the social partners have agreed upon the expression "competent person" and have drawn up certain recommendations. As a result of this, three checklists of skills required have been drawn up and must be supplied to the people mentioned in the directive: the people who are in charge of supervising the assembly work, the fixing in place and the users. All of these people need to be able to safely handle and use scaffolding.

At each of these 3 stages, the people in question must be at least have a minimum knowledge of the safety instructions, so that they can properly assess the risks and so that they know that they need to take safety measures – in relation to free

circulation on the scaffolding – so that the maximum permissible loads are complied with and any related or subsequent work on the site is taken into account.

This agreement was adopted by the FIEC Council on 14/3/2003 and was presented at the Press Conference held by the FIEC on 2/4/2003 in Brussels. It can be used on a voluntary basis by FIEC and EFBWW member federations at national level, in order to assist the implementation and application of the directive on a uniform basis.

### 4. Cement: discussions on the workers' safety

In the context for a proposed directive on "packaging and labelling", the Commission has recently dealt with 2 dangerous substances, one of which, namely hexavalent chromium (Cr. VI), is important for construction as it is a component in the composition of cement. When mixed with water, Cr. VI can cause allergic reactions if it comes into contact with the skin, also known as "mason's dermatitis" (which used to be called "cement itch"). A working group with representatives drawn from FIEC, EFBWW, the cement (CEMBUREAU) and concrete industries (BIBM, ERMCO) came to the provisional conclusion that the possible theoretical reduction of Cr. VI levels in cement would only provide a partial protection against dermatitis risks.

Wet Cr. VI can cause allergic dermatitis, while the alkaline properties of wet cement may also cause irritant dermatitis. For this reason, wet cement should, by taking the appropriate security measures, in any case not be allowed to come into contact with skin.

Now that the proposed directive, at least in part restricting the concentration of Cr. VI in cement, has gone through the hurdles of the legislative process, the above mentioned working group will try to agree on a basis for a common position.

### 5. Research project on stress at work

Following the consultation by the Commission on stress at work, the EFBWW has made a proposal to the FIEC relating to the launch of a joint project on stress in order to better analyse what is actually happening with this phenomenon in the construction sector. This proposal has been accepted by the FIEC. The FIEC member federations who have been consulted on the extent of the phenomenon of stress seen in the sector in their own respective countries had actually themselves stated that they did not have a great deal of information on the subject. The project proposed by the EFBWW aims to study the extent to which the construction sector is affected by stress. The interviews and writing of the study will be entrusted to a CLR research institute.

## 2004: European year of health and safety in the construction sector

A European health and safety in the construction sector week will be organised by the European Agency for Health and Safety at Work in October 2004. At their Social Dialogue committee meeting held on 25<sup>th</sup> February 2003, to which a representative of the agency had been invited, the FIEC and the EFBWW officially offered the Agency their collaboration. This collaboration will deal both with preparing for this week and with the various events scheduled to be held in 2004 on the same theme.

### SOC-3 : Economic and social aspects of employment

The job of SOC-3 is to improve economic and social aspects in the construction sector through suitable policies and programmes and by exchanges of good practices between FIEC member federations. Better working conditions in the construction sector play a vital role in improving the sector's image.

#### 1. Working conditions for temporary workers

On 20<sup>th</sup> March 2001 the Commission adopted a proposed directive on the working conditions for temporary workers (COM(2002)149) aimed at guaranteeing a minimum level of protection for temporary workers throughout the European Union and to encourage the development of this sector.

The draft directive establishes a principle of non-discrimination, including at salary level, between temporary workers and comparable workers within the user company to which the temporary worker has been assigned. The project also aims to re-examine the restrictions in the Member States where this sector is still not very highly developed.

Given the important role played by temporary workers in the construction sector in certain countries, a restricted working group met within the framework of SOC-3 in order to look at the proposed directive in detail and to prepare an appropriate reaction. A common position was adopted and distributed to the European institutions, from the Commission to the European Parliament.

Most of the concerns presented in that position were taken into account by the European Parliament when it looked at the proposed directive in its first reading.

## Social dialogue

### 2. Conditions for entry and residence

**Nationals of non-EEC countries: entry and residence for the purposes of paid employment or self-employed economic activity** (COM(2001) 386 final – 11/07/2001)

In July 2001 the Commission published a proposed directive aiming to harmonise the criteria for entry and residence and the procedures for issuing document and permits for nationals of non-EEC countries who apply for paid employment or work on a self-employed basis in Europe. This proposed directive makes provision for a single national application procedure, leading to the issuing, in a single administrative action, of a unique combined document which acts as both a residence permit and as a work permit. The main aim of this proposed directive is to do away with bureaucratic obstacles and to make Member States' immigration procedures more transparent. In no cases does it introduce an automatic right of access for nationals of non-EEC countries.

Given the high degree of mobility shown by workers in our sector, SOC-3 and the social dialogue committee for the sector looked closely at this directive with in 2001. Given the illegal activity of workers unduly claiming self-employed status, the FIEC and the EFBWW have reached an agreement on a draft common position and a press release, proposing a precise definition of self-employed status. This position taken by the social partners is to be made public in June 2003 and will thus contribute to the debates held by the Council's working groups on the proposed directive.

### 3. Assessment of the "posting" directive

In 2002 the European Commission published a report on the transposition of the "posting" directive in the various countries of the European Union. It announced the forthcoming publication of a Report on the assessment of the implementation of the directive. A study on the problems raised by the directive in the Member States was also envisaged.

The social partners have reached an agreement on undertaking a dialogue on this subject within the sector's Social Dialogue Committee. The problems encountered in the various countries of the Union and noted by the FIEC and EFBWW member federations will be set out during the plenary meeting of the Social Dialogue Committee in June 2003. An official position by the social partners will be sent to the Commission following this meeting.

#### 4. Undeclared work

The Commission published two reports on the black economy in 2002, the Biagi report entitled "Small-sized enterprises, tertiary and black work: systematical analysis of the good practices, especially in sectors of specific risk" and the Regioplan report entitled "Undeclared labour in Europe: Towards an integrated approach to combating undeclared labour" which assesses the measures taken in seven of the countries of the European Union to combat undeclared work. These two reports identify the phenomenon of work on the black economy and present various solutions which allowed it to be effectively combated: reinforcement of penalties and checks especially in the evening and at weekends, exchanges of information, preventive action with workers and especially with immigrants, the involvement of the social partners...with this subject being placed on the European social partners' working programme at inter-professional level, there is a great incentive to develop steps in this field.

The black economy has numerous negative consequences for the sector: unfair competition due to the breaching of collective agreements on the minimum wage and statutory obligations, random compliance with health and safety rules, etc. Although support in combating the black economy has always been clear within the FIEC or with the EFBWW, up until now very few measures have been adopted by the European social partners in the sector. At the plenary meeting of the Social Dialogue Committee in November 2002, the FIEC and the EFBWW decided to reach an agreement on an action plan at their meeting in June 2003, which could lead either to a memorandum from the social partners, or to the adoption of a code of practice. The Rapporteur of the EP on the issue, MEP Anne-Karin Glase, declared herself ready to work on the issue together with the social partners.

#### 5. Database

Following the work carried out jointly on the posting of workers, the FIEC and the EFBWW have identified the need to create a database, in order to facilitate the posting of workers within the European Union. This data bank would gather together the national legal and conventional provisions which have to be complied with during a posting along with information on the formal implementation of directive 96/71/CE on posting by the various countries of the Union.

A first meeting was held by the FIEC in January 2003. We looked at sections in order to start outlining the structure of the data bank. The subjects envisaged for these sections are minimum wages, holiday pay, compensation for bad weather and working hours. A request for information has now been forwarded to the member federations.

FIEC letter to the European Commission (DG Education and Culture) dated 28/2/2003

**Re: Consultation of the Commission on the new generation of education, training and youth programmes**

[...]

FIEC, its member federations and their member firms attach great importance to vocational training, which is also the pre-occupation of a special Working Group in its sectoral social dialogue with the construction workers' union, FETBB.

FIEC has had the opportunity of examining the Commission's Consultation on the "New Generation of Education, Training and Youth Programmes". It considers that these programmes have had very positive effects on the competences of the workforce in the construction sector. Workers have learned a wide range of skills and have gained experience in mutual understanding.

Nevertheless, the programmes could be improved in order to better respond to the specific needs of our industry.

Indeed, managing a Leonardo programme is a complicated administrative process. A plethora of paperwork is involved in order to respond to a call for proposals and subsequently to report on how the grant has been put to use. This complicated process could deter persons and companies from bidding for participation on their own. The administrative part of the programme has to be simplified in order to boost the participation of qualified companies and individuals.

Secondly, publicity and dissemination of "best practices" is broadly speaking unsatisfactory. Some databases exist but they are rarely used in order to look for ideas and build transnational projects on the basis of the results obtained in other sectors of the industry. More detailed and focused information should be provided in this database, with a clear mention of the ranking given to the projects by the European Commission once they are completed. The databases should include more information about the best practices and the effects and results of the projects. Furthermore, the data base should be made more user-friendly, more accessible and be more widely known. Increased publicity about the Leonardo Programme for instance would boost the participation of qualified companies and private individuals.

At the present time, FIEC is developing a Leonardo project within the framework of the valorisation programme of the Leonardo database. Additional comments on the Leonardo database will be sent to the Commission in December 2003, once the FIEC "valorisation" project is completed.

FIEC regularly offers the Commission help and advice in matters concerning the construction industry, which itself has broad interests in sustainable development in general and social issues in particular.

[...]

### Recommendations to the National Federations regarding implementation of Directive 2001/45/EC on "Working at heights"

The European social partners in the construction sector have taken note of Directive 2001/45/EC of 27 June 2001 on "working at heights", which must be implemented in the various European Union countries by 19 July 2004 at the latest.

They noted that:

- the use of the term, "competent person", contained in Articles 4.3.2 and 4.3.6 could give rise to difficulties as regards the interpretation and application of the Directive;
- a list of competences of the persons referred to in the Directive was desirable with a view to making provision for specific and appropriate training as provided for in Article 4.3.6 of the Annex to the Directive.

An ad hoc joint working group was set up for the purpose of drawing up recommendations regarding the interpretation of the term, "competent person". The working group also drew up checklists relating to the minimum skills which should be possessed by the persons referred to in the Directive.

These recommendations aim at facilitating transposition and implementation of the Directive in the various countries of the Union.

[...]

#### Definition of competent person as provided for in Directive 2001/45/EC of 27 June 2001

The Directive refers to two different kinds of competent persons :

[...]

- The competent person referred to in **Article 4.3.2** possesses technical skills which make such person capable of drawing up an assembly plan. Such person can work with the manufacturer, in an independent consulting firm or in the technical department of a major firm or can be the manager himself.
- The competent person referred to in **Article 4.3.6** is in charge of the assembly, alteration and disassembly of the scaffolding. The skills of such a person are of an operational nature. Such person can be the manager or, by delegation, a specific

person in the firm (general foreman, foreman or qualified fitter) or a person who has received specific and appropriate training. In any event, the duties of such person may not be delegated to a person who has not received appropriate and specific training in the operations envisaged.

These two types of skills may be possessed by the same person who draws up the assembly plan and who is also responsible for assembling, disassembling and altering the scaffolding.

On some construction sites, the competent person can be the scaffolding fitter himself.

[...]

Checklist relating to the skills of the person responsible for assembling the scaffolding

The person responsible for assembling the scaffolding must possess at least the three major skills listed below:

Skill 1

**KNOWLEDGE OF THE TYPE OF SCAFFOLDING INVOLVED**

- [...]
- Is familiar with the various types of equipment and parts used for the scaffolding and is able to explain their functions
- [...]

Skill 2

**KNOWLEDGE OF SAFETY INSTRUCTIONS**

- Is familiar with the basic rules to be complied with by scaffold users [...]
- [...]

- Is able to assess the correct application of the basic rules, directives and safety instructions, for example, the personal protection equipment required in the case of assembly, alteration or disassembly of scaffolding.

Skill 3

**ASSESSMENT OF RISKS AND THE SAFETY MEASURES TO BE TAKEN**

- Is able to assess visually the safety of scaffolding
- Is able to check compliance with the relevant statutory safety instructions
- [...]
- Is able to report dangerous situations on scaffolding and also to take measures to counteract them
- [...]

Checklist relating to the skills of a scaffolding fitter

Checklist relating to the skills of scaffolding users

The 8 major skills of a scaffold fitter

[...]

Skill 1

**PREPARATORY WORK**

- Knowledge of the instructions relating to the scaffolding required for the work
- Laying out, marking out and indicating by signs the work area in accordance with the instructions received

Skill 2

**TAKING DELIVERY OF SCAFFOLD COMPONENTS, UNLOADING AND STORAGE**

- Checking delivery contents
- Unloading, handling and storage of the equipment under secure conditions

Skill 3

**SETTING OUT OF THE SCAFFOLDING (THE BASE)**

- Positioning the chocks and base, inserting wedges, levelling where necessary in accordance with the calculations

[...]

The six major scaffolding user skills:

Skill 1

**SAFE ACCESS TO THE SCAFFOLDING**

- Use of ladders and access trapdoors

Skill 2

**SAFE PASSAGE ON THE SCAFFOLDING**

- Use of ladders and trapdoors to change level, closing trapdoors after use

Skill 3

**COMPLIANCE WITH LOAD LIMITS**

- In the event that materials are stored, compliance with the load limits for the scaffold decks

[...]

FIEC Position Paper on (27/5/2002)

**Proposal for a Directive on Working Conditions for Temporary Workers, "Agency Work"  
– Document COM (2002) 149**

[...]

**Preliminary remark**

FIEC considers that the proposal for a directive on working conditions for temporary workers is, in principle, positive and fairly balanced because it aims at developing temporary work as a flexible option in the European labour market and at the same time provides a certain protection for temporary agency workers. Because the needs of companies in the construction sector vary according to nature of the works to be executed, it is particularly necessary for firms to have a flexible workforce.

This said, FIEC would like to draw the attention of the European Parliament and the Council to the following points :

**Art 2 : Aim**

Considering the importance of Directive 96/71/EC (posting of workers) for the construction sector and recital 13 of the proposal for a directive on working conditions for temporary workers in particular, FIEC proposes to add the following § 2 to Art 2 :

"This directive shall not modify the rights and obligations established by Directive 96/71/EC dated 16 December 1996 concerning the posting of workers in the framework of the provision of services."

The intention of the amendment is to spell out clearly that also in cross-border agency work, the minimum social rights guaranteed by the "posting directive" and its national implementation have to be respected.

[...]

**Art 5 : The Principle of non-discrimination**

§4 FIEC considers that temporary workers should receive the same rights as permanent workers from the 1st day and not only, as proposed, after 6 weeks. Most of the temporary workers in the construction sector work in the user undertaking for less than six weeks, so that, if a six weeks period was to be implemented, the directive would in most cases not be applicable in the construction sector.

Furthermore, such a six weeks period would create a massive increase in administration and bureaucracy, especially for SMEs.

[...]

**Art 6 : Access to permanent quality employment**

§1 Temporary workers should be informed of vacant posts in the user undertaking, but the organisation of such a measure should not lead to an increase of bureaucracy. The directive assumes that all temporary workers aspire to permanent employment, but it is not the case in the construction sector where many workers choose agency work because they have specialist skills that are only required for short periods on certain sites by contractors and they are able to earn premium rates because they are available on a flexible basis.

[...]

§2 FIEC agrees with the principle that temporary workers should not be confronted with obstacles if they choose to accept permanent employment status. On the other hand, FIEC is aware that, in many cases, the agencies invest time and money in identifying, evaluating, recruiting and training temporary workers, in order to be able to provide exactly the persons and skills required by their clients, i.e. contractors. It is important not to endanger such services and their quality.

FIEC Position on the Communication from the Commission

**First stage consultation of social partners on the portability of supplementary pension rights**

6/9/2002

[...]

FIEC strongly supports all initiatives the EU could take to facilitate labour mobility in the EU and in this context considers this consultation on the portability of supplementary pension rights as very relevant :

1. Mobility of workers is of great importance to the competitiveness of the construction industry, whose activities are by definition not linked to a permanent production site but move from place to place almost for each contract.
2. Uncertainty in the consolidation, preservation and transferability of acquired pension rights can actually constitute barriers to the free movement of workers. For posted workers, who are quite numerous in the construction sector, cross-border membership has already been organised. The posting directive as well as directive 98/49/EC on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community provide now that contributions can continue to be made to supplementary pension schemes in the workers' Member State of origin. But there seems to remain cases, in which the situation is not compatible with the increased mobility needs in the labour markets in general and the interests of employees in the construction sector in particular.
3. The majority of the FIEC member federations, therefore, welcomes an EU initiative, in principle. A minority considers that no EU initiative is necessary because the possible problems mentioned do not occur in the construction sector. In particular, a transfer would in any case, require a harmonisation of taxation and social security laws first.
4. In any event, a EU initiative in the field of the supplementary pension schemes should in no way interfere with the organisation of supplementary pensions arrangements in Member States. Supplementary pension schemes vary widely from one country to another in the EU due to historical and social reasons. What is needed between those schemes is coordination, not harmonisation or interference in their organisation or rules.
5. A EU initiative could consist of the organisation of exchanges of best practices and information at the EU level on the experiences developed by member states in creating links between different supplementary pension schemes at the national level. A code of good practices could then be disseminated in the EU member states.
6. Action could also be taken at cross-sectoral level, too, since workers move not only from one country to another but also from a sector to another within their country and abroad. Supplementary pension schemes developed in the different sectors and countries should be made compatible.
7. Such a measure should apply equally to all supplementary pension schemes whatever their mode of financing, except when the schemes are exclusively financed by the employer.
8. FIEC also supports the UNICE position paper on this topic.



TEC



President:  
Mr. Giandomenico Ghella, I

Rapporteur:  
Mr. John Goodall, FIEC

Sub-commission TEC-1

“Directives, Standards  
and Quality Assurance”



Chairman: Mr. Rob Lenaers, B

Rapporteur:  
Mr. Frans Henderieckx, B

Sub-commission TEC-2

“Innovation and Processes”



Chairman: Mr. Vincent Cousin, F

Rapporteur: N.N.

Sub-commission TEC-3

“Environment ”



Chairman:  
Mr. Terry Penketh, GB

Rapporteur:  
Mr. Andy Sneddon, GB

## 1. Introduction

Two plenary meetings have been held during the period under review, one in November and the other in May. No sub-commissions meetings have been held except for TEC-1 which met once to discuss and develop a position paper on the relationship between "CE Marking" and "Voluntary Marking". TEC-3 "Environment" has not met this year, but following the appointment of a new president, increased activity is expected in the coming year with a particular focus on waste issues. As concerns "research and development", this continues being addressed in ECCREDI (European Council for Construction Research Development and Innovation), but this has not prevented FIEC from initiating a R & D proposal under the rubric of "Economic and Technical Intelligence" (ETI) aimed at assisting SMEs participate in the 6<sup>th</sup> Framework Programme.

## 2. The Construction Products Directive (89/106)

In January 2003, the European Commission held two meetings on consecutive days during which FIEC presented papers on both occasions. The first was dedicated to the interests of the Accession Countries, expected to become full members of the EU in 2004, and the second constituted a wide-ranging review of the current state of the implementation of the Directive.

The European Commission having issued or adopted:

- 31 mandates for product families;
- 2 horizontal mandates for fire;
- 31 mandates for "European Technical Agreement Guidelines" (ETAG);
- decisions setting attestation of conformity levels for all product families; and
- decisions setting fire classifications;

now considers that the legal framework is in place. All that remains to be done is for CEN and EOTA to produce all the long-promised "harmonized specifications", ultimately expected to number about 500 harmonised standards with some 1500 supporting standards. In May 2003, 79 harmonised product standards had been published in the Official Journal, a further 31 were available, 6 were undergoing final vote and a further 43 were ready to go through the final voting procedures. As far as ETAGs are concerned, 15 have been cited in the OJEU and 3 more were endorsed in May and 85 ETAs issued effectively making CE Marking possible on 85 products.

Even if the over-riding concern of the European Commission and CEN is the slow rate of production of harmonised specifications, the concerns of contractors are quite different. The messages delivered by the Chairman of TEC-1, Mr. Rob Lenaers at the Construction Sector Network Forum in Malta in September and again the following month at the CEN General Assembly in Lisbon, were re-iterated for a third time at the Construction Industry Meeting in Brussels in January. Contractors are concerned about the compatibility of "Voluntary" marking with "CE Marking". For some products, they are concerned that the level of attestation of conformity has been set too low. The disappearance of familiar national markings and their gradual replacement by a single CE Mark, even if not unexpected, has given rise to uncertainty and a lack of confidence in some countries. FIEC is calling for a Europe-wide campaign to improve transparency and familiarise product producers and contractors with the various marking systems and the various levels of attestation of conformity. The publication by the Commission of its own position paper (CONSTRUCT 03/600) dated 5<sup>th</sup> May 2003 entitled "No additional national requirements for CE marked products" is a welcome contribution, but much greater efforts are required at the level of the member states.

Clearly, widespread confidence in the system of CE-Marking is absolutely fundamental to the success of the application of the directive. It is absolutely vital that all CE Marked products perform in accordance with the harmonised specifications (in addition to the related "National Application Documents" where applicable) in accordance with which they have been certified. If these criteria are not met, or if there is confusion and a lack of transparency in the market place, then the whole "European project" for a single market for construction products could be put into jeopardy. This, and the question of affixing additional marks, such as the "Keymark", on construction products, is an issue that FIEC continues to address.

FIEC adopted two position papers during the year, one dealing with "ETA-Guidelines for Building Kits" and the other "Harmonised standards for doors and windows". These two position papers address two distinct issues that are of fundamental importance. The issue of kits calls for a clear demarcation of what is normally carried out by contractors on construction sites on the one hand and what constitutes a "kit" put on the market on the other. The latter is subject to CE Marking whereas the former is not. The paper concerning doors and windows addresses the long-outstanding issue of "non-series production" which affects many more elements (e.g. pre-cast concrete elements) of construction works than "doors and windows". FIEC will be following these issues up with intense interest in the coming months.

### 3. Eurocodes

CEN/TC250 continues revising the Eurocodes that were originally published as pre-standards (ENV), in order to transform them into European Standards (EN), at which point they will replace national standards. Out of a potential total of 57 EN Eurocode parts, 4 ENs are now available, 1 has been voted positively and 1 is ready for final vote. 26 EN parts have been "technically" achieved, 17 EN parts have reached "stage 32" while 10 EN parts are still under development by CEN/TC250.

### 4. Qualification of Construction Enterprises

All hopes that CEN/TC 330 might reach an agreement on a text for a European Standard for the "Qualification of Construction Enterprises" were finally dashed at the TC's last meeting in Paris on 20<sup>th</sup> September, 2002. In a resolution adopted by a simple majority of 10 in favour, 3 against (Belgium, Denmark, Spain) and 3 abstentions (Germany, Iceland, Sweden), the TC decided to stop work on the draft standard and to ask the Chairman and Secretary to draft a CEN Technical Report which, when complete will be subject to a 3 month's vote by correspondence.

For its part, CENELEC/TC218 voting formally on its proposed draft on 7<sup>th</sup> March 2003, failed to achieve a qualified majority of 71% as required under the CENELEC regulations. 10 members voted in favour and 10 against, resulting in a weighted result of 51% in favour and 49% against. A variety of reasons were given for the negative votes, but many cited the failure of reaching an agreement with CEN, while several also added that in future versions of the public procurement directives there will be no reference whatsoever to any kind of qualification system and consequently all work carried out under the terms of Mandate M/084 is no longer relevant. Following this rejection, CENELEC is now considering whether the draft document could be adopted as a Technical Specification.

These decisions by CEN and CENELEC effectively bring to an end a task that has pre-occupied many experts from all over Europe in numerous meetings ever since 1995. The Commission is now expected to take the formal decision to withdraw mandate M/084 from both CEN and CENELEC and apparently does not intend taking this issue up again in 2003, but perhaps in 2004.

There is no simple explanation why CEN and CENELEC failed to reach an agreement. Although most countries did share similar views on many aspects, there were others that conflicted with existing national systems which turned out to be real stumbling blocks. In conclusion, this negative result serves as a further reminder of just how culturally varied and diversified Europe is. The national construction industries are no exception, and while there is generally widespread enthusiasm for simplified European procedures and the single market, there is often fierce resistance to any proposal that constitutes a threat to real national interests and traditions. A European system of qualification it seems, amounted to such a threat and as such is a step – some might say several steps – too far.

### 5. Sixth Framework Programme for Research and Development (2002-2006)

Following the adoption by the European Commission of its Communication "More Research for Europe" [COM(2002)499 final dated 11.09.2002] FIEC and ECCREDI were invited by Commissioner Busquin to express their views on the proper ways and means of achieving the objective of raising research spending with the aim of reaching 3% of EU average GDP by 2010. Extracts from FIEC's response are included in this report, but it is pertinent to underline some of the various points made.

The letter pointed out that technological progress in the construction sector is often the result of integrating and transferring breakthrough innovations from other industrial sectors, as opposed to innovations developed purely in, or specifically for, the sector. FIEC also stressed that progress is not only the result of technological innovation but also of innovations in soft sciences and management as it is basically a human process industry. The letter also pointed out that the "Integrated Projects" and "Networks of Excellence" should be assessed by panels of experts drawn from the industry and specifically possessing relevant expertise. This has often been a sore point of contention in the past and it is of course essential that the industry, for its part, ensures that an adequate number of qualified individuals are registered with the Commission as experts. Moreover, FIEC proposed that special rules be introduced for the assessment of proposals (criteria, thresholds and weighting factors), and for assessing the level of breakthrough in a position relative to the sector's particularities.

no "CEN-solution" for Qualification

FIEC also pleaded for the allocation of research budgets by sectors, something that the Commission has rigidly opposed in the past in spite of making specific allocations for a few industries such as aviation.

Finally, FIEC underscored the growing recruitment crisis in the industry which in the longer term will be further exacerbated by the ageing of the population. In addressing this phenomenon, the industry will need increasingly to mechanise the construction process through the use of off-site pre-fabrication techniques requiring less skilled labour on sites. In achieving this objective it will be necessary to move the industry towards a "high-tech" environment so as to attract high calibre recruits back into the universities and through into the industry. For both these reasons, the industry will only succeed if its efforts are underpinned by an appropriate level of R&D, otherwise it will fail to fulfil the construction needs of Europe's citizens.

In view of the poor results of the sector in the first open call of the priority 3 NMP (nanotechnologies, materials, processes) of FP6, it is obvious that more effective lobbying efforts must be exercised at the highest level in DG Research so that there will be a strong positive signal given by the Commission in favour of the construction enterprises ahead of the next call for proposals.

## 6. "STEP-IN" for SMEs

For several years now, FIEC has stressed the need to promote the increased involvement of construction SMEs in the Community framework programmes for research. Hitherto, SMEs have, in most instances, applied for research grants under the CRAFT programme and although many have been successful, participation in absolute terms relative to the size of the industry can only be described as "minuscule". On the other hand there is now under FP6, a new opportunity for federations and research centres to apply for grants on behalf of SMEs under the rubric of "Collective Research". In this context and as a preparatory measure, FIEC, in collaboration with some of its member federations and research centres in Europe has joined in an initiative and submitted a proposal for a "Specific Support Action" known as "STEP-IN".

STEP-IN is an innovative further extension of earlier work carried out for the benefit of construction SMEs under CONSTRINNONET and E-CORE focused on SME construction enterprises (criteria of size and of independence) to assist them in identifying interesting RTD projects and themes. SMEs and federations are then assisted up to the stage of

conclusive submissions under any of the FP6 budget lines and calls (including cooperative or CRAFT, and collective research).

SMEs' active participation will be obtained by Federations through a series of open activities of various kinds : seminars, conferences, enquiries, brainstorming workshops, audits and meetings. These will be carried out in several European cities. The methodological framework of these activities will be first studied and established by RTD providers in the areas of the most important challenges facing the construction industry : process and management, information and communication technologies, sustainability, etc.

STEP-IN aggregates the efforts of leading RTD providers: – CSTB, VTT, AIDICO, ASM, SALFORD – under the leadership of key Federations – FIEC, ANCE, FNTP, KZPB – to tackle the matter from a truly European perspective and is planned to last from October 2003 until the FP6 call of 2005, i.e. March 2005.

## 7. Tripartite Working Group "Information and Communication Technologies"

The Information and Communication Technologies Working Group (WG "IT") was set up in late 1998 as one of a series of tripartite groups with representatives from industry bodies and Member States to support the development by the Commission of an action plan to increase the competitiveness of the European construction sector.

In its first phase the theme of the IT Working Group was "*Information Technology as an Enabling Tool in the Construction Sector*". The group sought to identify productivity gains that could be achieved in the construction process through ICT, whilst becoming increasingly aware that the small and medium-sized enterprise segment of the sector was lagging behind in awareness and willingness to exploit new technologies.

The final report was published in June 1999, and the assessment of the first phase was presented to a tripartite meeting of Member States, the European Commission, and Industry in October 2000. It was subsequently decided that a second phase Working Group should be established. This would focus on IT application throughout the construction process, with special recommendations for SMEs. Its terms of reference were:

*"To evaluate the existing situation in e-Construction on the basis of e-commerce*

*technologies, e-collaboration and knowledge technologies, including e-learning and to provide recommendations on how to develop and to exploit it".*

In order to carry out this evaluation, the participants decided that they should carry out a review on the basis of selected themes. In contrast to the first phase, in which a considerable contribution was made through canvassing the views of non-specialist industry practitioners, it was decided that in Phase II, industry specialists should be invited to make presentations on developments and applications relating to the given themes. The key themes for review were:

- e-Collaboration in project centres
- e-Learning and knowledge management linked to the construction process
- e-Procurement and B2A (Business to Administration)
- B2C and B2B: customer relationship management (end user) and business to business items such as auctions (supply chain management)
- Life-cycle asset management including the aspects of facility management organisation.
- Legal aspects related to transactions and authentication and information sharing between partners in projects, their individual and joint responsibilities and their individual and joint rights to work results.

The drafting of the final report is now in its last stages and is expected to be published together with its recommendations in the second half of 2003.

## 8. Energy Performance of Buildings

FIEC has welcomed the new European Directive<sup>1</sup> for the energy performance of buildings, which is expected to stimulate increased construction activity in the sector, particularly as concerns the renovation of existing buildings and the maintenance of boilers and air conditioning systems.

Briefly the directive requires national governments by end 2005 to:

- calculate the energy performance of buildings according to a methodology based on a general framework;
- apply minimum energy performance requirements to all new buildings;
- apply minimum energy efficiency standards to existing buildings (over 1000 m<sup>2</sup>) undergoing major renovations;
- define who is qualified to provide certification services;

- establish energy certification schemes for:
  - all newly constructed buildings
  - all public sector buildings
  - large buildings open to the public
  - all buildings being sold or rented out
- introduce inspections of boilers and cooling installations every two years (except for gas which is every four years)

Putting these measures in place will amount to a major challenge for national governments. Significant numbers of independent qualified and/or accredited experts will be required in order to implement the directive in each member state.

The inspections of boilers and cooling installations may also be expected to lead to an increase in the demand for plumbers, electricians, gas fitters and similar skilled craftsmen in the building trades. This in turn will call for increased recruitment and training in order to meet the expected demand.

Buildings account for around 40% of all energy consumption in the EU and about a third of greenhouse gas emissions of which about two-thirds is in homes and one-third in commercial buildings. The new buildings directive should be able to deliver about 45 million tonnes per annum reduction in greenhouse gas emissions by 2010. To put this figure into context, research studies<sup>2</sup> have indicated that a potential saving of as much as ten times that amount; 450 million tonnes exists in the EU. Given the difficulties confronting the member states and the challenge for the construction industry, even the 45 million tonnes forecast reduction – representing just 21% of the EU's Kyoto target for 2010 – may turn out to be over-optimistic.

Reducing greenhouse gas emissions in Europe will remain a challenge for many years to come and clearly this directive marks only the beginning of a very long road to comprehensive energy efficiency in the built environment. From the standpoint of the construction industry, it remains to be seen how much additional work it will generate and whether action is called for now to increase training activities in order to meet increased demand.

<sup>1</sup> COM (2002) 91/EC dated 16.12.2002

<sup>2</sup> Source : European Alliance for Energy Efficiency in Buildings (EuroACE)

## 9. Definition of Waste

FIEC has been addressing the question of the "definition of waste" for some years now, but by all accounts, the European Commission remains very reluctant to amend it and consequently no tangible progress has been made with this topic during the period under review. This remains a horizontal issue affecting many industrial sectors and UNICE has already done a great deal of work in order to try and find a solution. In the case of the construction industry, we presume that the present definition and the application of the related legislation is causing direct losses to our contractors.

Consequently FIEC has proceeded to consult its member federations and has circulated two questionnaires in an attempt to compile a dossier of case studies. Responses to the first questionnaire were received from federations in Belgium, Denmark, Germany, Sweden, Switzerland and the United Kingdom.

The principal points arising from the replies received were as follows:

- There is a general consensus that the present definition is unsatisfactory particularly as concerns (waste) materials that can be re-used without further processing and that such materials should not be considered as waste, i.e. the definition is "too wide".
- The directive is being applied inconsistently and often incoherently across the member states. This is leading to confusion amongst contractors in some countries.
- There is general agreement that FIEC should support the UNICE paper and the on-going UNICE initiatives, but should nevertheless establish a distinct file of those aspects of the topic affecting the construction industry.

In response to the second questionnaire, replies were received from member federations in Switzerland, France, Germany and Italy. These however contained very little evidence in terms of proving direct financial loss. In most instances, the difficulties linked to the definition notwithstanding, contractors appear to have managed to find solutions to difficulties arising without incurring additional costs. In some instances they appear to have succeeded in passing any additional costs on to their clients as a consequence of the legislation in force.

From FIEC's standpoint, this issue remains as important as it is challenging. If the Commission will not change the definition, then hopefully it will agree to issue guidance in order to clarify current mis-interpretations of the legislation and to coherently enforce it across all the member states.

## 10. Batteries and Accumulators

FIEC first drew up a position on this topic in 1997. When the European Commission (DG Environment) launched another industry consultation in April 2003, little seemed to have changed: it is still hoping to achieve a ban on the manufacture and use of batteries containing cadmium. FIEC, in collaboration with the manufacturers for power tools, revisited its original position paper and updated it (please refer to extracts herewith), insisting that these batteries are essential for handheld power tools widely used by craftsmen all over Europe. FIEC explained why it disagrees with any initiative aimed at introducing a ban but is in favour of a properly managed system of recycling.

## 11. Sustainable Construction

Following the completion of the general report entitled "An Agenda for Sustainable Construction in Europe" in 2001, the European Commission decided to follow up on another of the recommendations contained in this report and established a 4<sup>th</sup> Tripartite Task Group on the "Whole Life Costs of Construction" (WLCC). The terms of reference of this task group are to:

*Draw up recommendations and guidelines on Whole Life Costing of construction aimed at improving the sustainability of the built environment.*

The integration of Whole Life Costing and Life Cycle Assessment presents a powerful route to improving the sustainability of the built environment. Combining economic and environmental assessment tools to obtain "best value" solutions in both financial and environmental terms has the potential to make a significant contribution to achieving sustainable development. One of the principal objectives of the group is to come forward with recommendations explaining how Whole Life Costs can be introduced into public procurement procedures so that clients may enter into construction and maintenance contracts that reflect the whole life of a built facility rather than simply accepting the lowest bid for the construction cost. In principal, such procedures should also lead to more sustainable construction.

The work of the group is now well advanced and the report should be adopted before the Autumn of 2003.

FIEC position paper  
**ETA-Guidelines for Building kits** (14/3/2003)

## 1.0 Introduction

Two ETA-Guidelines relating to Building kits have been already endorsed by the Standing Committee on Construction. Moreover, EOTA Working Groups are drafting further harmonised specifications for "building kits" in respect of:

- Metal/Concrete Frame Building Kits
- Building Units
- Cold Storage Building Kits

FIEC believes that these can be of particular importance to its members. Basically, building kits are being produced by two distinct types of entities:

- Manufacturers who work in accordance with a design system, manufacturing some or all of the components themselves, and placing the kits on the market, where contractors assemble them, with or without additional components bought on the market and incorporate them into building works. In this case, the manufacturer should put the products on the market in accordance with the provisions of the Construction Products Directive (CPD) (89/106).
- Contractors who work in accordance with a design system, manufacturing some or all of the components, directly incorporate them into building works. In this case, the contractor's activities are comparable with any other normal construction activity, the only difference being that he works in accordance with a design system.

Hitherto, both manufacturers and contractors have had (voluntary) national approvals for "building systems" in some countries (and in some cases for actual kits as well).

## 2.0 Distinguishing between the roles and responsibilities of manufacturers and contractors

As far as manufacturers are concerned it is quite clear that once the relevant ETAGs become available, they will be required to affix CE Marking to their manufactured kits in accordance with the provisions of the CPD and the relevant ETA.

As far as contractors are concerned, the issue is closely related to the degree of responsibility that they want to take. If a contractor obtains CE Marking for a building kit (as a product), his responsibility as a contractor for the assembled works is limited to the correct incorporation of the building kit into the works.

If on the other hand the contractor manufactures such a kit for his own use and incorporates it directly into the works, it would seem unreasonable that such kit should necessarily be subject to the CPD as far as it relates to the CE Marking of kits. In effect, such a specifically manufactured kit would be "put on the market" according to the "physical" interpretation of the term.

## 3.0 Request

FIEC requests the Commission to confirm this latter interpretation.

FIEC position paper

## Harmonised standards for windows and doors (14/3/2003)

### 1.0 Introduction

There are numerous SME manufacturers/carpenters putting onto the market windows and doors, mostly wooden, that are made on a project-by-project one-off basis. These elements can have many different dimensions and are made specifically to client's instructions.

CEN/TC33 is developing two draft harmonised technical specifications for doors and windows, one for interior doors, and another for exterior pedestrian doors and windows (prEN 14351).

According to the provisions of Article 2.1 of the Construction Products Directive (89/106) (CPD), these products are "placed on the market" and consequently manufacturers (and/or sub-contractors as the case may be) are obliged to affix CE Marking to these products. In practical terms, taking into account the FPC requirements in particular, not to mention performing initial type testing in notified laboratories, that have been foreseen in the draft harmonized standards, it would be difficult, if not impossible, for many of these SMEs to comply with the provisions of the Directive.

### 2.0 Attestation of Conformity for individual and non-series production

Article 13(5) of the CPD, clearly states that: "In the case of individual (and non-series) production, a declaration of conformity in accordance with Annex III (2) (ii), third possibility, shall suffice, unless otherwise provided by the technical specifications for products which have particularly important implications for health and safety."

The attestation of conformity system referred to in the relevant article is system 4, i.e. declaration of conformity by the manufacturer, which appears justified as one cannot consider that doors and windows influence health and safety in an important way, unless they are fire doors.

However, the text of the draft product standard for exterior doors and windows (prEN 14351), actually provides for non-series (or individual production as defined on page 37) doors and windows that can be classified in either system 1, 3 or 4 (see Table ZA.2a):

- System 1 for Fire/smoke compartmentalization and on escape routes (which seems to be in line with the CPD, as safety is influenced)

- System 3 (doors) for other declared specific uses and/or uses subject to other specific requirements, in particular noise, energy, tightness and safety in use (most, if not all exterior doors).
- System 3 (windows): other than fire uses
- System 4 (doors): For internal communication only (and that in a standard for exterior pedestrian doors?)

So, in reality, doors and windows manufactured on a non-series basis would always fall under system 1 or 3. The good thing in the standard is that for non-series doors and windows, ITT is being limited to only 3 characteristics (see Annex ZA.2c – why this is limited to only 3 characteristics is difficult to understand anyway), but nevertheless they are in a higher system than 4 (is this contrary to the CPD?).

### 3.0 Difficulties confronting SMEs

On a purely practical basis, FIEC wonders how SMEs will be able to carry out initial type testing (ITT) on individual products (unless non-destructive) and furthermore how many manufacturers / carpenters will be able to write a "Declaration of Conformity" for each door or window they produce?

In the past FIEC has argued the case that ready-mixed concrete is rarely, if ever, transported across national borders within the EU. Consequently, affixing CE marking to ready-mixed concrete would serve no useful purpose in promoting the objectives of the "Single Market". The same argument is applicable in the case of doors and windows manufactured on a non-series basis. Furthermore, these rules if strictly applied, would put many specialist SMEs out of business and would lead to reduced competition and markedly increased costs to the detriment of clients.

Obviously, although the question is being raised for doors and windows, it applies to other products manufactured on a non-series basis as well.

### 4.0. Conclusion

FIEC requests the European Commission to take measures aimed at either:

- excluding non-series production of this kind from the provisions of the CPD; or
- making all such products subject exclusively to attestation of conformity system 4

**STEP-IN B1 – Objectives of the proposed project**

The record of participation of SME construction enterprises in the EU framework programmes has been hitherto rather low although:

1. there exists an urgent need to modernize the construction sector through RTD,
2. the SME construction enterprises form the overwhelming bulk (97%+) of the construction stakeholders,
3. the construction sector is key to providing the physical framework and economical environment for supporting all other activities,
4. there are important opportunities to progress given the recent advances in ICT and sustainable technologies,
5. Europe is facing a demographic crisis and the shortage of skilled labour in the construction industry is already acute in many countries and expected to worsen. This growing crisis particularly threatens SMEs in the sector and new techniques need to be developed as a matter of growing urgency in order to raise productivity dramatically.
6. The construction industry will need to do more and more with fewer and fewer employees.

The construction sector also suffers from fragmented national or regional markets when in fact the problems are similar and call for a common and multi cultural or multi national approach which could bring significant benefits in terms of productivity and quality.

The ultimate goal of STEP-IN is for SME construction enterprises to overcome all these barriers through a higher level of involvement in the Commission's framework programmes.

More precisely, objectives may be identified as follows:

1. Increase the awareness of SME construction enterprises of the opportunities offered to them by FP6,
2. Inform widely the SME construction enterprises of the benefits to construction brought in by past programmes and by on-going projects or proposals under FP6,
3. Establish an RTD agenda & vision specific to SME construction enterprises, still bearing in mind the place of contractors in the overall construction supply chain,
4. Identify and submit a number of RTD direct proposals (within consortia of SME construction enterprises or under their leadership if wider), or participations in on-going or yet to be submitted IPs (Integrated Projects) or NOEs (Networks of Excellencies).

In order to measure progress and impact relative to objectives 1 and 2 above, it is intended to perform at the beginning and at the end of the project a survey in the form of the same questionnaire sent to a sample of SME construction enterprises from the member of the partner Federations to assess their state of awareness on these issues. It is also intended to obtain in total the attendance of 500 SME construction enterprises in the so-called seminars and conferences.

In order to establish a meaningful RTD agenda, it is anticipated that written answers will be obtained to the enquiries by more than 100 SME construction enterprises in a somewhat balanced situation from France, Italy, Poland and other countries (i.e. 20-30 from each of the 4 geographical groupings).

Finally, to measure progress against the 4<sup>th</sup> objective, it is intended to achieve submitting in total for 2004 and 2005 calls, 10 direct proposals (SIREP, IP for SMEs, cooperative research, collective research) or significant participations in on-going or yet to be submitted IPs and NOEs. It is also intended to establish a network of 100 iRTD dynamici SME construction enterprises from all over Europe.

**FIEC letter to Commissioner Philippe Busquin (6<sup>th</sup> January 2003)**

Dear Commissioner,  
Dear Mr. Busquin,

**More research for Europe**

I write in reply to your letter dated 27<sup>th</sup> September 2002 concerning the European Council's call to raise research spending with the aim of approaching 3% of EU average GDP by 2010. FIEC welcomes the opportunity afforded to further express our views on the proper ways and means for achieving the goal of "More research for Europe".

During the ECCREDI conference "Priorities for Construction Research" on 2<sup>nd</sup> October 2002 in Brussels, three eminent representatives of European contracting firms, MM P Daurès, Senior Vice-President of Bouygues Construction, JP Lamoure, CEO of Solétanche-Bachy and J Byfors, Director of Research of NCC provided you and your staff with a comprehensive overview of the sector and of its needs and their vision in terms of research, development and innovation. We would like to take this opportunity to underline some of the points raised in the context of your own Communication.

The sector is vital for all modern economies as it provides all actors with the framework and the physical environment to sustain and undertake their activities: from infrastructures supporting transport and mobility of goods and citizens to industrial plants and office construction for all industries, and to the urban environment and residential and leisure facilities for the public in general. European Contractors are also the world leaders in construction and in construction research ahead of the US and Japan. Nevertheless, it remains a low margin, over-regulated and high risk activity, with a process characterised by a very fragmented structure. Construction activities and the resulting built environment have very long term impacts and its position regarding R&D activities is somewhat special and deserves particular attention.

Progress is often the result of integrating and transferring breakthrough innovations from other industrial sectors, as opposed to innovations developed purely in, or specifically for, the sector. Progress is slow as it usually involves a long time for assimilation and dissemination, also for demonstrating at scale one the practicability of innovations and overcoming inherent risks. Progress is not only the result of new technological

innovation but also of innovations in soft sciences and management as it is basically a human process industry.

Having reassessed the context of construction R&D, it is now possible to turn to specific comments contained in your communication.

Increasing the level of business funding is a key point to which we subscribe entirely. This implies in turn that: the Integrated Projects (IPs) introduced in the 6<sup>th</sup> FP must be reserved to IPs under the leadership of engineering contractors.

The Networks of Excellence (NoE) must include in their management structure "Market Advisory Councils" in order to endorse and approve the joint programme of activities and to ensure that the knowledge to be produced will be relevant to the industry's real needs. The proposals should be assessed by panels of experts coming from the downstream side of the envisaged research works.

Safeguarding and raising the level of R&D investment in the Construction sector means introducing rules for awarding R&D subsidies preferentially to the sector, either through:

- Allocations of budgets by sectors
- Special rules for assessing proposals (criteria, thresholds and weighting factors)
- Assessing the level of breakthrough in a position relative to the sector's particularities

Proposals should always be assessed by "downstream" experts as mentioned above.

Promoting "innovations friendly regulations" implies:

- Establishing public procurement rules favouring alternative technical solutions, performance based calls for tender, design and build conditions to be the norm above a certain value of works, transparency of criteria and of final evaluation, and protection of intellectual property rights linked to project specific solutions developed by contractors.
- Supporting all actions aimed at cutting down on restrictive technical regulations and transforming them into performance based directives on a European basis only and in reduced quantity.

Promoting the use of fiscal instruments is also to be favoured for as long as rules for eligible costs are adapted to the situation of innovation and research in the construction sector as explained above.

Another aspect of promoting R&D in the construction sector is linked to the sector's image. As Mr. Daurès mentioned in his paper on 2<sup>nd</sup> October, the construction industry is all too often perceived as a "low-tech" or even "no-tech" activity. In reality, many of our activities are actually "high-tech". Nevertheless, it is the "low-tech" image which seems to pervade all others.

As you may be aware, the construction industry is facing a growing recruitment crisis. Universities are starting to close down courses in building and civil engineering for lack of demand, while the supply of skilled labour continues to shrink, exacerbated by the ageing of the population. Consequently, there is an urgent and growing need:

- to increasingly mechanise the construction process through better use of off-site pre-fabrication techniques requiring less skilled labour on site; and
- to move the industry towards a "high-tech" environment so as to attract high calibre recruits back into the universities.

Looked at from the point of view of Europe's citizens and the unfavourable demographic developments which will increasingly confront future generations, this last point is perhaps the most important reason of all to raise the level of R&D in our sector.

FIEC remains at your disposal for any questions you or your staff may have.

Yours sincerely,

Wilhelm Küchler  
FIEC President



Press Release

**The new Directive "Energy Performance of Buildings" will stimulate renovation and maintenance works in construction**

2/4/2003

FIEC has welcomed the new European Directive<sup>1</sup> for the energy performance of buildings, which is expected to stimulate increased construction activity in the sector, particularly as concerns the renovation of existing buildings and the maintenance of boilers and air conditioning systems.

Briefly the directive requires national governments by end 2005 to:

- 1) calculate the energy performance of buildings according to a methodology based on a general framework;
- 2) apply minimum energy performance requirements to all new buildings;
- 3) apply minimum energy efficiency standards to existing buildings (over 1000 m<sup>2</sup>) undergoing major renovations;
- 4) define who is qualified to provide certification services;
- 5) establish energy certification schemes for:
  - all newly constructed buildings
  - all public sector buildings
  - large buildings open to the public
  - all buildings being sold or rented out
- 6) introduce inspections of boilers and cooling installations every two years (except for gas which is every four years)

Putting these measures in place will amount to a major challenge for national governments. Significant numbers of independent qualified and/or accredited experts will be required in order to implement the directive in each member state.

These inspections may also be expected to lead to an increase in the demand for plumbers, electricians, gas fitters and similar skilled craftsmen in the building trades. This in turn will call for increased recruitment and training in order to meet the expected demand.

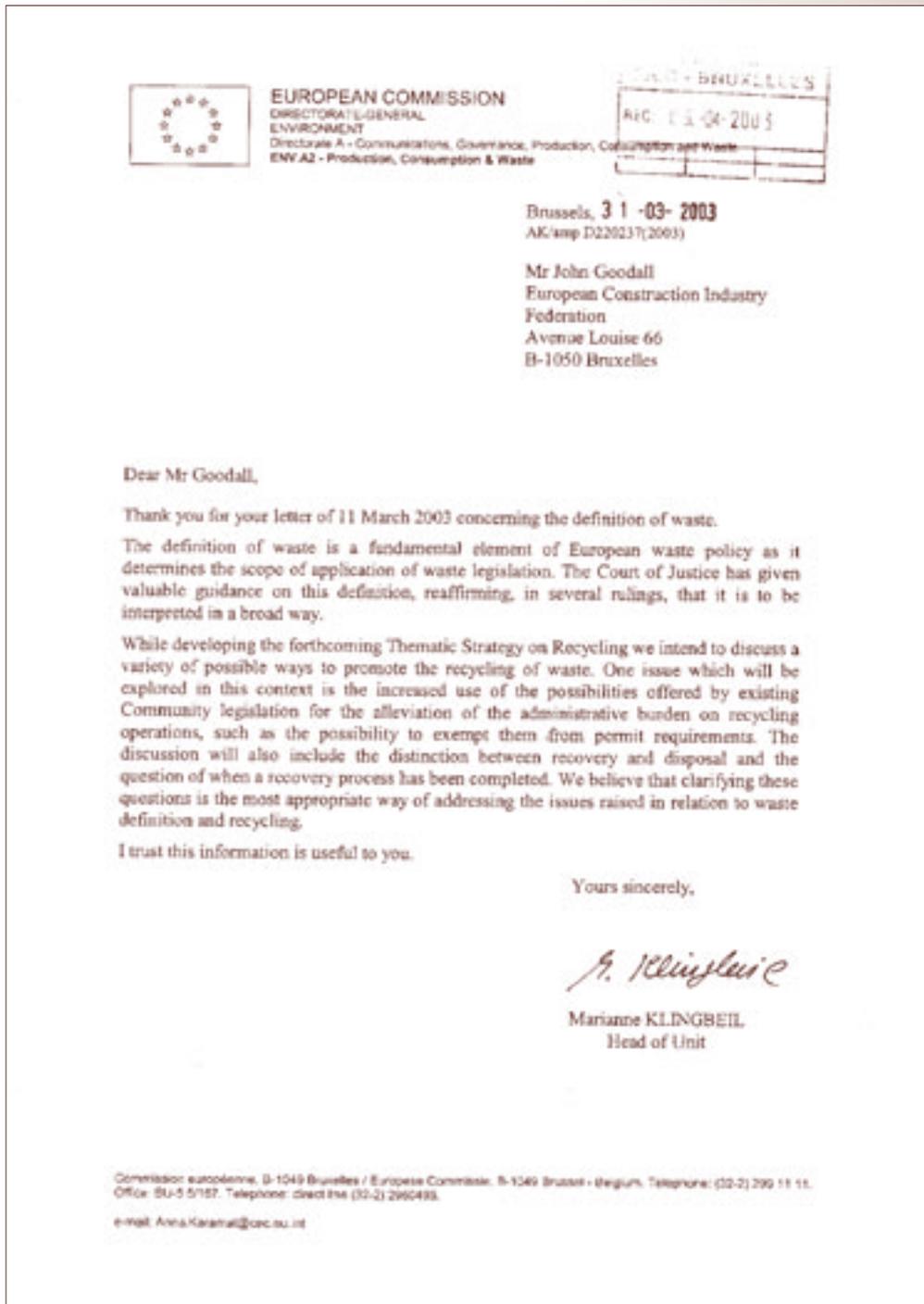
Buildings account for around 40% of all energy consumption in the EU and about a third of greenhouse gas emissions of which about two-thirds is in homes and one-third in commercial buildings. The new buildings directive should be able to deliver about 45 million tonnes per annum reduction in greenhouse gas emissions by 2010. To put this figure into context, research studies<sup>2</sup> have indicated that a potential saving of as much as ten times that amount; 450 million tonnes exists in the EU. Given the difficulties confronting the member states and the challenge for the construction industry, even the 45 million tonnes forecast reduction – representing just 21% of the EU's Kyoto target for 2010 – may turn out to be over-optimistic.

Reducing greenhouse gas emissions in Europe will remain a challenge for many years to come and clearly this directive marks only the beginning of a very long road to comprehensive energy efficiency in the built environment.

<sup>1</sup> COM (2002) 91/EC dated 16.12.2002

<sup>2</sup> Source : European Alliance for Energy Efficiency in Buildings (EuroACE)

**Definition of waste  
EU Commission answer to a FIEC letter**



## FIEC position paper on the Commission's consultation on the Battery Directive Revision 28/4/2003

**FIEC welcomes** the opportunity to respond to the on-line consultation launched by the Commission regarding various policy options for revising Directive 1991/157/EEC on spent batteries and accumulators, with the aim of improving the management at end of life of all types of spent batteries. However, **FIEC is alarmed** at what is now being proposed and earnestly requests the Commission to take our concerns into consideration:

- I. **FIEC already submitted** to the Commission a position paper (Ref: PP98/TEC-3/3) on this topic in July 1998 when commenting on the draft proposal for a European Parliament and Council directive on batteries and accumulators. In that position paper, FIEC called on the Commission to amend article 4 of the Draft Proposal which required the Member States to prohibit the marketing of all batteries and accumulators containing more than 0.0005% of mercury or cadmium by weight, as well as the corresponding appliances into which they are incorporated, in favour of measures for collection, recovery and disposal as described in Articles 5 and 6 thereof. FIEC now re-confirms the principle of that position and adds the following comments as concerns the present consultation:
- II. **Whereas** it is common practice on construction sites in Europe today for construction enterprises, especially SMEs and craftsmen, to make widespread use of hand-held electric tools which are powered by rechargeable batteries, especially nickel-cadmium batteries; and
- III. **Whereas** the introduction of these cordless tools over recent years has been widely welcomed by contractors, especially SMEs, for the following reasons:
  - increased autonomy and ease of use due to the elimination of power cables;
  - increased safety, as the presence of power cables on construction sites is a frequent source of tripping and in extreme cases even strangulation of operatives;
  - the reduction of dangers and even death from electrocution due to the elimination of medium/high voltage electrical installations required for corded electrical appliances;
  - increased productivity and competitiveness and consequential reduction in construction costs; and
- IV. **Whereas FIEC is in favour of reducing environmental hazards**, FIEC nonetheless does NOT consider the "introduction of a ban on the use of nickel-cadmium batteries and accumulators placed on the Community market, where commercially viable substitutes are available" as proposed in the Commission's consultation document, as being the best way of achieving this objective, not only from the standpoint of the construction industry but also for the environment.
- V. **FIEC is of the opinion that the best policy option** for the end of life management of battery powered equipment is their **collection and recycling** at end of life with other Electrical and Electronic Equipment as it will be progressively implemented with the enforcement of the WEEE Directive.
- VI. **The demand** in the construction industry for cadmium battery powered cordless products is extremely strong. Should their sale be prohibited, then there is a danger that a black market will develop to the benefit of criminals. Collection and recovery activities (closed loop) which are working increasingly well today would gradually dry up and these illegally imported articles would find their way into other waste streams. Hence the environment will not be protected but damaged further. On the other hand craftsmen, obliged to use corded tools once again, would be put at risk and construction costs would tend to rise due to a fall in productivity.
- VII. **Currently**, NiCD battery technology provides the best combination of value and other key operating characteristics needed by construction industry operatives. Moreover, the argument that suitable alternatives to cadmium are readily available, whilst true on the one hand, is unsatisfactory and unacceptable on the other. The following battery characteristics are very important considerations to match contractors' needs, especially in some of the more demanding power tool applications:
  - High rate of discharge
  - Fast recharge
  - Long cycle life @ 10amp discharge rate
  - High amp hour capacity at 10 amp discharge rate
  - Robust and resistant to abuse in order to withstand high rate discharge, overcharge, high

temperature charge, accidental short circuit whilst being shock and vibration resistant.

- Low internal resistance.
- Wide temperature operating range
- Excellent cell balance
- High temperature charge acceptance
- Long term storage at any state of charge
- Must be cost effective in order to make cordless power tools a viable commercial reality.

VIII. **In comparison**, the identified problems of other chemistries that are reportedly comparable for some power tool applications are as follows:

**Nickel metal hydride**

- Significantly less cycle life
- Questionable high rate discharge at cold temperature
- Overcharge sensitive and so reduces cycle life
- Poor deep discharge recovery
- Required temperature control on charging
- Considerably higher cell cost

**Lithium Ion**

- Lacks high performance power
- Very high internal resistance
- Sloping voltage profile
- Significantly lower cycle life
- Intolerant to overcharge and discharge
- Requires electronic control on charge and discharge
- Considerably higher cost per pack.

IX. **FIEC therefore calls on the Commission to support the implementation of spent battery collection programmes** private and/or collective in Member States by establishing in the new Directive on batteries and accumulators the rules for financing the collection and recycling of all types of spent batteries without distinction.

X. Once the waste equipment and their spent batteries are collected, spent batteries should be separated from the equipment and **delivered free of charge to Battery Collection Organisations**, Public or Private, **in order to process these batteries in recycling units.**

XI. **The land-filling or incineration of spent batteries should be forbidden.**

XII. In view of the foregoing and considering the importance of nickel-cadmium batteries for cordless tools application, **the marketing restriction of these batteries is not considered as a policy option.**

XIII. **FIEC is convinced that the implementation of spent battery collection programmes** would not only be better for SMEs and craftsmen in the construction industry but also for the environment. FIEC would welcome the opportunity of holding discussions with the Commission in order to explore how such arrangements could be put into practice.





**Chairman:** Eero Makkonen (FIN)  
**Rapporteur:** Hasso von Pogrell (EIC)

The EU summit in Copenhagen on 13<sup>th</sup> December 2002 marked the conclusion of the accession negotiations with ten candidate countries, including eight from Central and Eastern Europe. The negotiations had begun as far back as November 1998 in the case of a first group consisting of the Central and East European States of Estonia, Poland, Slovenia, the Czech Republic and Hungary on the one hand and Cyprus on the other. In March 2000, negotiations were begun with a second group of candidate countries consisting of the Central and East European States of Bulgaria, Latvia, Lithuania, Romania and Slovakia on the one hand and Malta on the other. With the exception of Romania and Bulgaria (which aim to accede only in 2007), after signature of the accession treaties on 16<sup>th</sup> April 2003 and – where necessary – following the subsequent ratification processes, accession will be open to all candidate countries, with the prospect of being eligible to participate as full EU members in the elections to the European Parliament in June 2004. While Hungary's membership of the EU was approved in a referendum held in Hungary on 12<sup>th</sup> April, referenda still have to be held in the Czech Republic, Poland and Slovakia and these will take place during the period extending from the beginning to the middle of June.

The accession process has resulted in a greater need for information, particularly on the part of the candidate countries. FIEC is making its contribution to the enlargement process by supporting its member federations in the candidate countries during the screening process which includes an analysis of existing national legislation in connection with the *acquis communautaire*.

This support consists of helping these member federations in selecting and gaining a better understanding of EU documents by providing information and proposals relating to the various construction industry topics arising in connection with the screening process.

Further to the change in the chairmanship of the Ad Hoc Group "CEEC" – on the occasion of the FIEC annual Congress held in Rome in June 2002 when

Mr Eero Makkonen took over the chairmanship of the group from Mr Angelo Provera – a survey among the "CEEC" members resulted in identifying the following priority topics :

- EU Directives relating to the *acquis communautaire* (theory and practice)
- Social dialogue
- Market Access / Competition / Freedom of movement
- Exchanges of experience with federations from the EU-15
- Federation management, services for members
- EU Programme as support for enlargement and integration (PHARE, ISPA, etc.)

In the political context of Agenda 2000, the European Commission has proposed that the PHARE funds be used mainly to prepare the accession candidates for EU membership and that the support be given primarily for the top priorities involved in taking on the *acquis communautaire*, for example, institution building and investment support. During the period from 2000 to 2006, the European Union will make EUR 1.5 billion available annually within the PHARE framework, of which amount 30 percent will be allocated to institution-building and 70 percent to the gradual adaptation of the candidate countries' industries and infrastructure to the EU level.

(for further information: <http://europa.eu.int/comm/enlargement/pas/phare/index.htm>).

ISPA (Instrument for Structural Policies for Pre-Accession), an additional financial instrument, was established on 1st January 2000 and will provide approximately EUR 1 billion annually during the period 2000-2006 for the purpose of promoting the transport and environment sectors in the 10 Countries of Central and Eastern Europe.

(for further information: <http://europa.eu.int/comm/enlargement/pas/ispa.htm>).

In the framework of the "International Building Fair" the Ad Hoc Group took part in April 2003 in the European Building Forum in Brno (CZ) prior to consecutively holding its own meeting. High ranking

future EU members

Czech politicians, the Dep. Director General of DG Enterprise, Heinz Zourek, the Presidents of FIEC, Wilhelm Küchler, of our Czech member federation SVAZ, Milan Veverka, and of our Slovak member federation, ZSPS, František Slávik, as well as Frans Henderieckx of the Belgian Building Research Institute (BBRI), delivered speeches and took part in lively discussions afterwards.

The works of the Ad Hoc Group were concentrated on the following issues :

- Discussion on the latest developments in Brussels, in particular on the legislative package "public procurement" and on issues related to the Social Dialogue.
- Exchange of experience on federation management and services, on the basis of two detailed presentations on these issues made by representatives of the Finnish member federation RT and the German member federation HVBI. The participants were very interested in this practical information which they would use as a source for further input to be applied within their own federation frameworks. This exchange of experience will be further completed in the future meetings of the Group with presentations from the other EU-15-federations.
- Initial discussions on the summary of the CLR-Study about the Social Dialogue as well as employees' and workers' federations in some future EU-countries.
- Preparation of a special workshop on the issue of collective agreements, the objective of which is to give to the member federations from the new EU-countries the opportunity to learn from experienced experts of the EU-15 countries on practice relating to the social dialogue.

The Ad Hoc Group has set as its objective, including beyond the EU Enlargement process, to further serve as a platform for exchange of experience among the FIEC member federations coming from the "old" and the "new" EU countries.



**Chairman:** Helmut Hubert (D)  
**Rapporteur:** Elmar Esser (D)  
 Ulrich Paetzold (FIEC)

The SME structure of the construction industry and the active participation of SME contractors in the FIEC member federations ensure that the special interests of small and medium-sized construction enterprises are reflected in FIEC's work at European level. It is therefore a unique advantage and the great strength of all FIEC publications and opinions that they are based on a consensus among construction enterprises of all sizes active in all construction and civil engineering specialties in 25 European countries, and not just on special interests.

Because of the major importance – which is repeatedly stressed in political discussions – of SMEs for economic development and job creation in the European Union, FIEC has initiated the function of SME coordination. This means that, with FIEC, there is an additional guarantee at European level that the interests of SMEs will be appropriately taken into account.

In addition to this collaboration in all questions dealt with in the FIEC Commissions and Subcommissions, the Coordination Group deals with several projects relating to the specific situation of small and medium-sized construction enterprises.

### **New European Union definition of a SME**

The current definition of a SME was published in 1996 as Recommendation 96/280/EC. Last year, the Commission conducted a pilot study relating to the European Union Communication of 25 July 2002 on amending this Recommendation. FIEC conveyed (on 26 August 2002) an opinion in this regard in which it emphasized, above all, the aspect of the independence of a SME in relation to enterprises which are not SMEs (see Annex).

In the meantime (8 May 2003), the Commission has adopted a new definition of a SME, "by means of which entrepreneurial initiative, investment and growth will be encouraged, access to risk capital will be facilitated, administrative complexities will be reduced and legal certainty will be increased". "So that the changeover can take place smoothly at the level of the Union and Member States. The definition will apply as from 1/1/2005."

### **Rules governing the award of contracts – Practice relating to contracts below the EU thresholds**

To an increasing extent, SME building contractors are showing an interest in cross-border activity. The progressive development of the European internal market is therefore clearly leading to a situation in which small and medium-sized construction enterprises are also taking an interest in activities abroad, mostly those close to borders. Unfortunately, in so doing they often encounter problems for which they cannot properly prepare themselves e.g. award procedures and the possibilities of legal protection which, while in line with the basic principles of the EU Treaty, are not in accordance with the much more detailed EU Directives. This problem arises in particular for small and medium-sized construction enterprises as the value of most of the contracts of interest to them is below the thresholds for application of the EU Directives. It is against this background that, by means of a survey among member federations, relevant information is being collected on award rules and on legal protection relating to awards in the case of contracts below the thresholds, with a view to making them available to interested construction enterprises in the form of a database.

**97% of SMEs with fewer than 20 operatives**

### The enterprises

Most SMEs do not participate in tendering for larger projects as they do not have the required capacities. As a result, they often find themselves in the role of subcontractor for larger contractors which have been awarded the contract. This type of cooperation has been successfully practised in the construction industry for a long time. Nevertheless, SMEs are also interested in working with contracting authorities on the basis of a direct contract. This can, in particular, happen through project-related cooperation among several SMEs whose know-how and capabilities complement one another in such a way that all the requirements relating to a larger project are met. The Coordination Group will examine whether a corresponding database or federation network could be of additional assistance to SME contractors.

In the case of small and medium-sized construction enterprises, owner-workers and/or assisting family members are often encountered, in many cases by way of succession to several generations which have managed a firm. As the traditionally customary and almost automatic transfer of an enterprise to the next generation is nowadays taking place to a decreasing extent, the question which increasingly arises is that of transfer of the firm or succession to the entrepreneur. The Coordination Group will examine whether a corresponding database or federation network could be of additional assistance to contractors in such a situation.

**Observations relative to the pilot study of communication of the European Commission dated 25<sup>th</sup> June 2002 which modifies the recommendation 96/280/CE regarding the definition of small and medium-sized enterprises**  
26/8/2002

## I. SME definition

Reading the Commission's pilot study, it seems that, for "partner" enterprises as well as "linked" enterprises, the only ones that can be considered as being SMEs are those whose aggregated number of employees and turnover or total annual balance sheets correspond to the following criteria:

- Have less than 250 employees
- and
- A turnover not exceeding 50 M€ or Annual balance sheets not exceeding 43 M€.

It would be appropriate that this rule be expressly confirmed by means through resorting to the following modifications:

Pilot study of the Commission Recommendation amending the Recommendation 96/280/CE	Proposed modifications
Annex: SME Definition	
<p style="text-align: center;">Article 6</p> <p>1. In the case of an independent enterprise, the data, including the number of employees, are determined on the basis of the accounts of that enterprise alone.</p> <p>2. In the case of a partner enterprise, the data are those taken from the accounts or, where they exist, the consolidated accounts of the enterprise in question, to which are added the corresponding data for each of the partner enterprises situated immediately upstream or downstream of the enterprise in question.</p> <p>For each enterprise, these data are aggregated proportionately to the percentage interest in the capital or voting rights (whichever is higher). In the case of crossholdings, the higher percentage applies.</p> <p>3. In the case of a linked enterprise, the data are determined on the basis:</p> <p>a) either of the accounts of the enterprise in question, consolidated where the enterprise draws up such accounts, or</p> <p>b) of the consolidated accounts in which the enterprise in question is included through consolidation, or</p> <p>c) of adding the accounts of the enterprise in question to the consolidated accounts of one of the linked enterprises if the enterprise in question is not included in the latter through consolidation.</p>	<p style="text-align: center;">Article 6</p> <p>1. In the case of an independent enterprise, the data, including the number of employees, are determined on the basis of the accounts of that enterprise alone.</p> <p>2. In the case of a partner enterprise, the data are those taken from the accounts or, where they exist, the consolidated accounts of the enterprise in question, to which are added the corresponding data for each of the partner enterprises situated <b>immediately</b> upstream or downstream of the enterprise in question.</p> <p>For each enterprise, these data are aggregated proportionately to the percentage interest in the capital or voting rights (whichever is higher). In the case of crossholdings, the higher percentage applies.</p> <p>3. In the case of a linked enterprise, the data are determined on the basis:</p> <p>a) either of the accounts of the enterprise in question, consolidated where the enterprise draws up such accounts, or</p> <p>b) of the consolidated accounts in which the enterprise in question is included through consolidation, or</p> <p>c) of adding the accounts of the enterprise in question to the consolidated accounts of one of the linked enterprises if the enterprise in question is not included in the latter through consolidation.</p>

<p>To these should be added, where appropriate, the data corresponding to the other enterprises not included through consolidation in the accounts in question, by addition in the case of linked enterprises and by applying the procedures set out in paragraph 2 in the case of partner enterprises.</p>	<p>To these should be added, where appropriate, the data corresponding to the other enterprises not included through consolidation in the accounts in question, by addition in the case of linked enterprises and by applying the procedures set out in paragraph 2 in the case of partner enterprises.</p> <p><b><u>4. Qualification as a small and medium-sized enterprise, in the case of a partner enterprise or a linked enterprise, is reserved to those enterprises whose aggregated data, determined in conformity with the paragraphs 2 and 3 of the present article, respond to the criteria defined in article 2 paragraph 1.</u></b></p>
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## II. Statistics

FIEC also believes that Community statistics relating to SMEs should be based on the same criteria as for the definition and not simply on the criteria of the number of employees.

In this respect, FIEC proposes that the following modifications be included in the Communication under preparation:

Pilot study of the Commission Recommendation amending the Recommendation 96/280/CE	Proposed modifications
Annex: SME Definition	
<p style="text-align: center;">Article 7</p> <p>The Commission will take the necessary measures to present the statistics on enterprises, that it produces, in accordance with the following enterprise size-classes:</p> <ul style="list-style-type: none"> <li>• 1 occupied person;</li> <li>• 2 to 9 occupied persons;</li> <li>• 10 to 49 occupied persons;</li> <li>• 50 to 249 occupied persons</li> </ul>	<p style="text-align: center;">Article 7</p> <p>The Commission will take the necessary measures to present the statistics <b>relative to small and medium-sized enterprises</b>, that it produces, <b>in conformity with the definition mentioned in the present recommendation</b>, in accordance with the following enterprise size-classes:</p> <ul style="list-style-type: none"> <li>• 1 occupied person;</li> <li>• 2 to 9 occupied persons;</li> <li>• 10 to 49 occupied persons;</li> <li>• 50 to 249 occupied persons</li> </ul>

**President:**

**José Luis Vega, E**



**Director:**

**Frank Kehlenbach,  
EIC**



**Organisation**

European International Contractors (EIC) is registered as an association under German law in Berlin (Germany). EIC has members from construction industry federations in 15 countries, which are directly or indirectly affiliated to the FIEC.

EIC is a legally independent federation working in close co-operation with the FIEC. In accordance with the memorandum signed by both federations in 1984, EIC and FIEC carry out complementary tasks. While the FIEC, which represents the European construction industry in the area of the European harmonisation and integration processes, is in close contact with the institutions of the European Union, the work of EIC is aimed primarily at improving the international conditions for European contractors. For this purpose, the EIC maintains relations with international and other organisations whose activities are important in terms of construction abroad.

In 2002, the members of the EIC Board were as follows:

José Luis Vega	Spain	President
Martin J.F. Weck	Netherlands	Vice-president
Gian Alfonso Borromeo	Italy	Treasurer
Johan Beerlandt	Belgium	
Per Hofvander	Sweden	
Esko Mäkelä	Finland	
Martyn Palmer	United Kingdom	
Karl Rönnerberg	Germany	
Michel Démarre	France	

President José Luis Vega represents EIC on the FIEC Steering Committee.

**Tasks and Objectives**

EIC has as its objectives to:

- represent and promote the interests of the European construction industry in all matters relating to the business of international construction;
- foster exchanges of views with international and other relevant organisations in order to improve the legal and economic environment for the business of international construction; and
- offer interested contractors a unique forum for the exchange of experience in matters relating to the business of international construction .

Within the broad range of interests to be represented in the name of the European construction industry at international level, the following areas have been selected as priority issues:

- International financing of projects, including BOT;
- International tendering procedures;
- Standard International construction contracts (FIDIC);
- Guaranties relating to international construction contracts;
- Export credit insurance issues;
- Identification and elimination of barriers to market access.
- Contacts with international and European institutions and partner organisations on other continents
- Arbitration and alternative possibilities for settling disputes;

### EIC and the Internet

During 2002, as a modern federation providing services EIC faced up to and adapted to technical demands and possibilities not only as regards content but also in image terms. Communication between EIC on the one hand and member federations and their affiliated member firms on the other now takes place to large extent without the use of paper.

EIC has given itself a new look with a completely redesigned Web site on which the current logo has been replaced by a modern one which brings out more clearly the global aspect of EIC's activities.

With a view to ensuring access to the wide variety of information prepared by EIC for its own members and for interested members of the public, EIC has additional Internet access on its home page which is reserved for member federations and their firms. While information (for example, statistical data on construction activity carried out by the European construction industry abroad) is shown on the Internet for interested members of the public, other types of information are reserved for the European construction industry. These include, inter alia, position papers which are being drawn up on current issues, and member firms are called on to collaborate actively in the preparation of these papers. Thus – true to the motto that EIC's output can only be as good as the input from its members – EIC makes use of the expertise of its member firms even if they are not represented on the standing EIC working groups.

### Projects BOT / PPP

At international level there is a steadily widening gap between the demand for infrastructure facilities and the resources available for financing these types of investments from government budgets. The trend has increased still further following the financial crises in South East Asia, Russia and Brazil during 1998. It is true that the construction industry is one of the sectors that are the first to suffer as a result of economic stagnation or recession – mainly on account of the cutback of investments in infrastructure. Unfortunately, the pledging of funds by international financing institutions, which in many cases ought to play a role as a catalyst, is shifting away from infrastructure investments to structural credits in order to level out the balance of payments of borrowing countries and reinforce their financial sector programmes.

Seen against this background, the possibility of private financing for complex construction projects in relation to BOT (Build-Operate-Transfer) projects

or Public-Private-Partnerships (PPP) is becoming an increasingly crucial factor in international competition. In the context of models of this kind, contractors are acting as sponsors themselves, driving forward project implementation on an autonomous basis.

The increasing importance of BOT/PPP projects together with the associated exceptional risks resulting from the prolix and complex legal structures contained in these models led in 2001 to the establishment of a new working group on financing. With the aim of providing both the public sector and national and international financing institutions with an efficient consultation document for the purpose of a smooth and efficient preparation and implementation of privately developed infrastructure projects, this working group prepared a kind of "White Paper" reflecting their expertise as investors and concessionaires as regards the political, economic and legal requirements for successful BOT/PPP models. The working group focused mainly on developing proposals to improve the project environment, project preparation, tendering procedures, the linking of various types and sources of financing as well as the distribution of risks between the two participating parties.

On the occasion of a seminar in Brussels of during 2003, this "White Book on BOT/PPP" will be presented to interested members of the public, in particular high-level representatives of international financing institutions (IFIs), multilateral agencies (MLA) and also government representatives, mainly from the Central and East European countries (CEEC).

### Relations with the FIDIC

In September 1999, the International Federation of Consulting Engineers (FIDIC), which is still the leading institution for publishing standard contract forms for the international construction industry, published a new edition of its existing specimen documents, including a new kind of standard contract form for EPC agreements (Engineering, Procurement and Construction). EIC was asked to review the new FIDIC documents at their various stages of development. As a result, these so-called "New Red & Yellow Books" are now generally more balanced and constitute an acceptable starting-point for the negotiations for customary engineering operations and turnkey projects. However, the changes do, in their entirety, represent a potentially greater risk for the building contractor. EIC therefore decided to subject both documents to a critical assessment. The result is the "EIC Contractor's Guide to the FIDIC Conditions of Contract for Construction" (Red Book) and the "EIC Contractor's Guide to the FIDIC Conditions of Contract for Plant and Design-Build" (Yellow Book).

In its guidelines relating to the FIDIC "New Red Book", EIC points out that major provisions were considerably tightened up and that, as compared with the previous edition of the "Red Book", these changes have generally increased the potential risk for contractors. For example, under the "New Red Book" a contractor is bound to disclose all the information – even if it is of a confidential nature – ostensibly required by the engineer as an employee of the client for the purpose of checking compliance by the contractor with the terms of the contract. However, EIC has pointed to several amendments which, from the standpoint of the construction industry, in some cases represent a clear improvement. Thus the client must provide proof of sufficient financing for the construction works. In addition, the "New Red Book" contains detailed procedural rules to which the client must adhere in the event that the client intends to assert a claim.

These and other provisions have also been criticised by EIC in its comments on the FIDIC "New Yellow Book". In addition, EIC doubts whether the "New Yellow Book" can be applied on the wide scale announced by FIDIC. While FIDIC recommends its standard construction contract for the provision of electrical and/or mechanical plants and/or other works which may include any combination of civil, mechanical, electrical and/or construction works, EIC has its doubts about the advisability of a standard construction contract covering such a wide range of applications.

On the other hand, EIC takes a very critical view of and remains directly opposed to the so-called "Silver Book", a new standard contract form for large turnkey projects on an EPC basis (Engineering, Procurement and Construction). With this document, which has been primarily designed for projects in mechanical and electrical sectors, FIDIC consciously departs from its traditional approach of a fair risk-sharing relationship that has prevailed between employer and contractor up until now in the view of EIC. As FIDIC wishes this standard contract form to also be suitable for privately financed infrastructure projects in connection with BOT projects, the disregard of recognised principles of risk allocation at the expense of the contractor can lead to serious and undesirable consequences. This is all the more true, as the contractor is not compensated for his total responsibility by a greater measure of independence in performing the contract. Under these circumstances, EIC decided to draft and issue a new publication last year called "EIC Contractor's Guide to the FIDIC "Silver Book" in order to highlight some of the more important issues to be addressed in bid preparations and client discussions for contractors. This publication, which has met with an excellent response throughout Europe – the EIC Secretariat has received orders for around 120 copies since it appeared – and was printed in full in the internationally renowned technical journal "The International Construction Law Review", points out the potential risks and pitfalls of the new FIDIC document. The first edition of the "EIC Contractor's Guide to the FIDIC Silver Book" is already

out of print. A second edition which, with minor changes in content, is being adapted to the new look of EIC publications should appear in the first half of 2003.

The balanced nature of EIC's criticism of the FIDIC standard contracts of construction have, not least, contributed to the excellent relationship which exists between FIDIC and EIC. This is particularly evident from the fact that FIDIC not only shows all EIC guides on its home page but also distributes them in the name of and at the expense of EIC.

Seen against this background, it should be mentioned that, generally speaking, FIDIC standard contract forms today face wider challenges from other standard documents than in the past. Main contractor contracts, turnkey projects, project management and contract management are now gaining increasing acceptance and other standard contract forms have originated which deal imaginatively with the conflicting interests of the parties to an international construction contract. To name just three current forms: the Japanese organisation ENAA (Engineering Advancement Association of Japan) has drafted its own standard contract form for the execution of process plant construction and for power plants, and the U.K. Institution of Civil Engineers is following a new approach to construction management with its second edition of the New Engineering Contract, departing from the "engineer concept" towards that of "project management". Both documents have also been recognised by the World Bank in its standard award documents. In addition, the "EIC Turnkey Contract", which was drawn up by EIC and published in 1994, can be used for a contract with a general contractor and for turnkey construction management.

### Relations with the CICA and the World Bank

The bi-annual meetings of the Confederation of International Contractors' Association (CICA) with the World Bank and other international financing institutions are an excellent opportunity to voice comments and concerns on international construction practices with regard to international financiers. At the request of the World Bank, EIC, as part of the FIEC delegation and together with the CICA, performs detailed preparatory work for these gatherings, which is generally highly regarded.

The most recent meeting between the World Bank and CICA took place on 19-20 November 2002 in Washington D.C. The discussion focused on the following topics:

### Worldwide activity

- (1) Public-Private Partnership (PPP)
- (2) Panel on Ethics and Socially and Environmentally Responsible Procurement
- (3) Performance-based Procurement, including Award Procedures
- (4) WTO Impact on construction.

On the basis of a presentation on the core statements contained in the recently produced "EIC White Book on BOT/PPP", EIC was able, inter alia, to make clear that because of the parlous state of government budgets, purely private financing of infrastructure projects cannot always be the best solution. Despite their acknowledged benefits in terms of the public interest, many potential infrastructure projects cannot be implemented on a private basis because they are not financially viable. Public-sector participation is therefore often essential. Even without direct knock-on financing, governments and IFIs can make a major contribution to the success of PPP projects by, for example, establishing an appropriate legal environment, by reorganising existing inadequate financial and guarantee mechanisms, by ensuring transparent tendering procedures and through the presentation of quality tender documents. In this connection, EIC prepared a position paper in April 2003 on its "Procurement Guidelines" at the express request of the World Bank.

In principle, it can be established that today's major changes in World Bank policy towards more co-operation with the private sector have been initiated by FIEC/EIC and CICA. EIC may well claim to have made its contribution toward the adoption of a far more open attitude by the World Bank compared to the early 1990's. The World Bank has undertaken to arrange its future financial commitments according to the criteria of efficiency and transparency to a greater extent – both with regard to the awarding of contracts and public procurement in general as well as in connection with BOT projects.

### Relation with multilateral development banks and international financing institutions

In 2002 and in a joint endeavour, the multilateral development banks and international financing institutions drafted a document on prequalification. This document is intended to be used by these organisations as a model to enable new and more harmonised standard procurement documents to be issued. In May and November 2002, EIC prepared position papers in which it made provision for the legitimate interests of the construction industry

operating on an international scale. Many points were taken up by the World Bank and have been included in the most recent version of the document.

### Cooperation with the European Commission (GATS 2000)

As a result of the Uruguay Round negotiations, world trade for services is covered for the first time ever by a global trade agreement. This General Agreement on Trade in Services – GATS brings trade in services into a multi-lateral framework of rules and disciplines broadly comparable to that provided for trade in goods by GATT. Following the failure of the Ministerial Meeting of the World Trade Organisation (WTO) in Seattle in November 1999 to launch a comprehensive new round, there was enormous pressure on all those involved to bring this new round to a successful conclusion, especially in view of the September 11 terror attacks. On 14 November 2001, one day late, a new trade round was launched at the 4<sup>th</sup> WTO Ministers Conference. Not all the reasons for the success of the Ministers Conference can be assessed as positive. This applies, in particular, to the attack on the World Trade Center in New York on September 11, which, although it almost prevented a meeting of the 142 governmental organisations, in the end led to greater discipline on the part of all involved. It is also conveniently overlooked that the round only came about because a large number of important and especially controversial negotiating issues were put off until the 5<sup>th</sup> Ministers Conference to be held in November/December 2003.

This problem also concerns two areas important for the international construction industry: firstly, the arrangements for rights of establishment, in relation to which the WTO working group is to consider, amongst other things, the relationship between trade and investments in time for the 5<sup>th</sup> Ministers Conference; secondly, the postponement of negotiations also affects the area of "Public Procurement". This is also made more difficult by the fact that the objective of the negotiations will only be a Multilateral Agreement on Transparency in Public Procurement. It is particularly emphasised in this regard that the negotiations should be confined to aspects of transparency and that negotiations are not conducted on extending the content or geographical coverage of the Plurilateral Agreement on Public Procurement (GPA). On the other hand, in a communication of 12 July 2002 to the Working Party on GATS Rules the EU Commission expressed support for the possibility of a step-by-step and individually phased opening of public procurement markets within individual sectors of WTO Member

States. As this is not possible under the GPA where a sector either is listed or has to follow GPA rules, the EC suggests that each WTO Member should make commitments as regards access to, and national treatment in respect of government procurement of services, with the possibility to choose which sectors to open, with – where necessary – limited restrictions on national treatment, within the model of the current system of GATS schedules of commitments. This would offer WTO Members, in particular developing countries, maximum flexibility to modulate the level of openness and liberalisation of their government procurement markets to their development needs and their national policy objectives. The fact that this paper came about represents, not least, a success achieved by the European Services Forum (ESF), in which FIEC and EIC strongly advocated the inclusion of all aspects of public procurement in the GATS negotiations. When it is considered, however, that the new round relating to a “Single Undertaking” has to be concluded by January 2005, little time now remains for the negotiations which are being set for a date only after the fifth Ministerial Conference.

The current negotiations on liberalising the service markets were not postponed or suspended. On the contrary, dates were set for the subsequent steps to be taken. Initial specific demands were to be brought into the discussions by 30 June 2002, and initial tenders by 31 March 2003. For this purpose EIC and FIEC have, in a tried and tested division of labour, supplied the European Commission with opinions and demands. While EIC is primarily concerned about specific demands and has requested maximum opening of the international service markets, FIEC has endeavoured to exert its influence as regards the submission of initial tenders. Thus, within the ESF and in relation to the Commission, it has been insisted that free movement of workers be restricted only to “key business personnel”.

EIC and FIEC are members of the European Services Forum (ESF), an informal network of leading company managers and European associations in the trade services sector. The network comprises some 50 companies and 22 European services federations representing 20 services sectors. EIC and FIEC collaborate together in this network and participate at all levels of its work. They put forward the contractors’ views concerning further market access and national treatment. Whilst EIC concentrates on “export interests” of the European construction industry, the FIEC, for its part, looks after the aspects linked to the importation of “construction services” into Europe from other regions and countries.

### Export Credit Insurance

At European level, EIC has paid increased attention to the most recent OECD directives, which are aimed at harmonizing the national procedure for awarding export credit and export credit insurance taking into account environmental aspects in the broader sense. For this purpose, a study group “Export Credit and Credit Insurance” (ECGI) – chaired by the OECD Ministers – had submitted a draft agreement with the objective of defining a “joint approach” with regard to export credits and the environment. The general objectives of the draft agreement recommended by the OECD Council of Ministers are to promote the cohesion of the directives relating to officially supported export credits and environmental protection guidelines at OECD level. Joint procedural methods and criteria are to be developed for the examination of the environmentally relevant factors of projects benefiting from officially supported export credits. Comparable instruction catalogues are also to be compiled in the individual member countries, thus reducing the potential for trade distortions.

Despite months of negotiations, the OECD countries were not able to agree on the draft document. The USA, in particular, rejected the draft as being too binding and not extensive enough. It is demanding binding environmental standards (World Bank standards) for the export credit agencies and also considerably more transparency, for example, in the form of prior publication on the Internet of data relating to project type and location. The other OECD states (except Turkey) undertook, however, to apply the proposals on a de facto basis by January 2002.

It is at this point that the work of EIC is set in motion. Not only has the implementation of these draft guidelines already begun in individual countries, in a number of cases “in hurrying to obey” the export credit agencies (ECA) approached are demanding that environmental matters be taken into consideration to an extent that goes far beyond the OECD draft paper. The EIC energetically supports its Member Federations in their efforts to prevent or countermand the distortion of competition associated with this. For this reason, it is planned to set up a new working group on export promotion in the near future. Furthermore, the EIC strategy is directed towards ensuring that information about the potential environmental effects of projects for which financial resources have been applied must already have been made available by the issuing authorities. On the one hand this would lead to considerable legal certainty, as in this case projects would not have to be broken off in the

construction stage on account of a lack of financing or on account of violent protests by environmental and other non- governmental organisations. On the other hand, this constitutes considerable relief for building contractors in applying for exports credit or export credit assurance.

### **EIC General Assemblies**

The autumn meeting of the EIC General Assembly took place in Greece on 4 October 2002. The theme of the subsequent workshops was: "PPP Toll Roads: The Greek Programme and Lessons to be Learned for the Construction of the Pan-European Corridors". Representatives of the construction industry, the EU Commission, the EIB and the Greek Ministry of Construction gave their views on the possibilities for and limits to PPP road construction projects in the European Union. EIC took as its main theme the tax aspect of PPP projects.

Because of the imminence of war in Iraq, the spring meeting of the General Assembly held on 4 April 2003 took place in Madrid and not, as planned, in Istanbul, Turkey. Also adapted was the title of the workshop which dealt with the theme, "Bonding and Insurance for International Construction Contracts in the Light of the Recent Political and Economic Crisis". However, problems relating to providing cover for international construction contracts were also examined from the standpoint not only of the construction industry but also the insurance industry, the rating agencies, export agencies etc. Because of current political and economic developments, the international insurance industry is experiencing a crisis which is also having a negative impact on the business of international construction.

The next EIC General Assembly will be held on 26 September 2003 in Berlin/Germany.

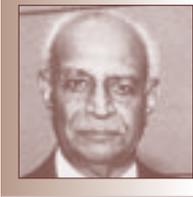
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**Director General:**

**Mrs. Claude Revel**



The Confederation of International Contractors' Association regroups 5 regional federations in the world: FIEC for Europe, FIIC for Latin America, IFAWPCA for Asia and Western Pacific, FUSCCA (i.e. AGC-CCA) for North America and FAC for Middle East, Africa and the Gulf, altogether representing 77 countries.

**Presidency, Vice-Presidents and Head Office**

Since February 2001 (CICA Council in Christchurch, New Zealand), the current President of CICA is Dr. T.N. Subba Rao, a Doctorate of Stuttgart University, an Indian citizen, former CEO of the main Indian Contracting Company, now CEO of Construma, a consultancy company involved in all fields of civil engineering work.

CICA is chaired in turn by a representative of each regional federation.

The current Vice Presidents and Board Members are: Messrs Jose Luis Vega (FIEC), Dr Ahmed Saif Belhasa (FAC), Ricardo Platt (FIIC), Robert Desjardins (FUSCCA), Patrick Jayawardena (IFAWPCA).

Mr Wilhelm K uchler, the FIEC President, is a Board Member as well as Treasurer.

The Director General is Mrs. Claude Revel, also Director General of SEFI/OBSIC, the Association of French International Contractors.

**Statutes and principles**

CICA is a non-profit, voluntary and global association of members. It is the worldwide body of the Construction Industry. The members are required to conduct themselves in an ethical manner.

The association is made up of full, associate and observer members. All represent construction industry contractors defending the principles of Free Enterprise.

**Messages**

The world construction market volume amounts to USD 3.1 trillion and the construction industry employs over 110 million people all over the world. It is considered as being the largest industrial producing sector. The provision of infrastructure remains a basis for development in each country in the world, be it emerging or industrialized. Everywhere, building and infrastructure contribute largely to the welfare of citizens whether in respect of their home, their work or their travels.

Although the link between infrastructure and development has been clearly defined for many years, the interface between construction and the reduction of poverty is now being increasingly underlined.

CICA highly regards its contacts with International Finance Institutions (IFIs) and International Organisations (IOs). These organizations not only help finance projects for development but they also consistently provide rules and guidelines. Their role as an advisor to emerging countries is vital. CICA day by day intends to develop responsible and active partnership with them in all issues concerning the construction sector such as procurement, environment, ethics, research, transparency, improvement of national economies by setting up public-private partnership ventures, B.O.T. projects and related concessions.

5 continents

## Activities in 2002 and early 2003

### 1) Relations with International Financing Institutions (IFIs') and International Organisations (IOs')

Working contacts and common action have been numerous and begin to give results.

- a) The CICA/World Bank biennial meeting was successfully held on 19-20 November 2002. It was preceded by a consultative meeting on the new IFIs' harmonized prequalification document. Discussions were deep with the representatives of the World Bank and the InterAmerican Bank and we have good hope that they take some comments into account. The meeting itself addressed matters of high interest for contractors, ethics and how the World Bank could help for better control of the local Authorities, PPP and accounting rules, WTO. The World Bank recognized the interest of getting advice from contractors and we are on the way to set up small electronic working groups on these matters. CICA has also recently been consulted on the new World Bank (IBRD) procurement guidelines and made comments which were all, except one, agreed upon by the World Bank and included in their draft. More generally contacts with the WB are in constant development.
- b) CICA is also involved in deep working process with other main International Institutions, of which:
- UNEP: numerous contacts and meetings were held with the Directors of Industrial Relations in Paris and Osaka (July, September, December). A huge report on environment has been drafted under CICA/UNEP stamp for the UN WSSD of Johannesburg with high help from FIEC. CICA was invited to the UNEP Board in Osaka in December 2002 and an IFAWPCA member attended on CICA's behalf . We also held a meeting of Experts in December 2002 in Paris where Dr Subba Rao CICA committed CICA to work with UNEP on the drafting of environmental training modules for Construction.
  - ILO: consequently to the Tripartite Meeting of December 2001, numerous contacts were held, among which the beginning of a common reflection on socially responsible construction investment.

### 2) With Private Organisations and NGOs'.

CICA is in regular contact with the ICC, for example but not only on the drafting of a new turnkey contract standard document.

CICA also keeps regular contacts and cooperation with other actors of the sector, for example IOE (International Organisation of Employers), Unions (IFBWW) and NGOs' when necessary, particularly through UNEP. All information is regularly provided to all CICA members.

**3) The Cairo CICA Conference**, which should have been an exceptional opportunity for gathering contractors from very diverse countries and representatives from IFIs' and IOs', has unfortunately had to be postponed, due to the regional events. It will be held in October-November 2003.

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## List of participants

Considering the characteristics of the current participants in the ECF, candidates for participation in the ECF must be European federations, adequately representing a significant field of activity in the construction sector and accepting the ECF Policy Paper. Any such federation wishing to become a new participant in the ECF, must be proposed by at least one of the current participants and be accepted by the others.

ACE	Architects' Council of Europe
CEMBUREAU	European Cement Association
CEPMC	Council of European Producers of Materials for Construction
EAPA	European Asphalt Pavement Association
ECCE	European Council of Civil Engineers
EFCA	European Federation of Engineering Consultancy Associations
FETBB	Fédération Européenne des Travailleurs du Bâtiment et du Bois
FIEC	Fédération de l'Industrie Européenne de la Construction
UEPC	Union Européenne des Promoteurs-Constructeurs

## Policy Paper

(29/1/1998)

### The construction sector

- construction = building, civil engineering and all related activities
- construction = biggest industrial employer in Europe
- construction = high multiplier effect : 1 job in construction = 2 jobs in other sectors (*source : SECTEUR study*)
- construction = basis for the development of Europe and the well-being of its citizens
- construction = team-work of different key players in a chain of competence and cooperation

### What is ECF?

- ECF is a platform for cooperation on issues of common interest between independent organisations representing key players in the construction sector and participating on a voluntary basis (see enclosed list).
- ECF is not an umbrella organisation and does not represent the participating organisations.
- Consequently, any position paper will carry the names/ logos only of those ECF participating organisations who support it.
- Participants in meetings are the Presidents and/or Directors General. Where appropriate, working and drafting meetings are open to any person delegated by an organisation participating in ECF.

### What are the aims of ECF?

- The principal aim of ECF is the establishment and recognition of a single comprehensive policy approach for the European construction sector through raising the awareness of the decision makers at a European level to the specific issues affecting the sector as a whole. To this end, the participating organisations will 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.

Key players in the sector

### **Relationship with other sectoral coordination bodies**

- ECF participants will remain in close contact and collaborate with sector specific coordination bodies, such as:
  - the Construction Contact Point (European Commission DG ENT)
  - and the CRANE Intergroup (European Parliament), "The forum in the European Parliament for construction, the environment and land management".
  - ECCREDI, the European Council for Construction Research, Development and Innovation

### **With which issues will ECF deal?**

Cooperation in ECF shall concentrate on

- general exchange of information on issues of common interest
- specific work on a limited number of key issues of strategic importance for the construction sector as a whole.
- common actions to promote the sector's interests.

### **Key issues**

The participating organisations have identified the following key issues :

- the competitiveness of the construction sector
- public procurement
- benchmarking (countries' infrastructure/ administration and the sector)
- TENs (Pan-European transport networks)
- image of the sector
- spatial and urban development (regional development, social, environmental and transport policies)
- EU enlargement

All issues will be addressed from various perspectives such as employment, training and education, sustainable development, quality etc.

### Press Conference 2<sup>nd</sup> April 2003

In the FIEC Press Conference in Brussels on 2<sup>nd</sup> April 2003, the FIEC Vice-Presidents Elco Brinkman (Communication), Peter Andrews (SOC) and Giandomenico Ghella (TEC) addressed current European themes relevant for the construction sector, in particular :

1. The economic situation and future perspectives for construction activity in Europe.
2. Presentation of the Handbook "Health and Safety on Construction Sites" :  
a practical tool which is intended to reduce the number of accidents.
3. The new directive on the energy performance of buildings :  
an opportunity for contractors?

The various corresponding press releases and Powerpoint presentations illustrating the various issues addressed are available on the FIEC website.



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

### FIEC web site

As the FIEC web site is a dynamic tool, its content is being updated on a daily basis in order to better meet the expectations of both Members Federations and the public.

With many further developments, the FIEC site has now become :

- an essential tool for FIEC members in their work
- a complete shop window for the activities and concerns of the European construction industry aimed at an outside audience.

### 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.

- **FIEC News**  
(2/year)

Our regular Newsletter, which gives updated information on progress and results in issues concerning European construction industry, and presents on a separate insert a national member federation and some of its significant construction sites.

- **Transeuropean Transport Network – Progress update**  
(1/year)

FIEC publishes the results of the survey on the status of the 14 so-called Priority Projects. These projects form part of the Trans-European Transport Networks (TENs), whose role in the long-term development, competitiveness, cohesion and enlargement of the European Union has been highlighted on several occasions, both at the level of the Heads of State and Government summits as well as by the European Parliament and the Commission.

- **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.

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

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

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



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