

# 2011

ANNUAL REPORT

EN

European  
Construction  
Industry  
Federation



**F I E C**



29  
countries

34  
federations

including reports of



## FIEC

### Created in 1905

Legal personality under French law

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

**34 national member federations** representing firms:

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

### Associate members:

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

**EFFC** European Federation of Foundation Contractors

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



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



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



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



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



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



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



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



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



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



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



Partner in the OSHA (European Agency for Health and Safety at Work) Campaign on "Healthy Workplaces"  
<http://osha.europa.eu/en/campaigns/hw2010>



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

## The Sector

Total construction in 2010 (EU 27):

**1,186**  
billion €

**9.7%**  
of GDP  
in 2010 (EU 27):

**52.3%**  
of Gross Fixed  
Capital Formation

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

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

**93%**  
with fewer than 10  
operatives

**13.9**  
million  
operatives

**6.6%**  
of Europe's total  
employment

**biggest  
industrial  
employer in  
Europe**  
(29% of industrial  
employment)

**41.7 million workers**

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

**Multiplier effect:**

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

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

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It is my honour and pleasure to present the latest edition of the FIEC Annual Report, the first of my mandate as President of FIEC. It presents FIEC's main activities over the past year since our 2010 General Assembly in Limassol. In accordance with a long-standing tradition, our colleagues from the European International Contractors (EIC) and the Confederation of International Contractors' Associations (CICA) also present their activities in this Annual Report.

### **FIEC's comprehensive representativeness**

Without discrimination, FIEC represents the interests of construction enterprises of all sizes, from craftsmen and small, family run enterprises to global players. This is the particular strength of FIEC. The participation of contractors and experts of the 34 member federations from 29 countries, as well as the specific role of our Vice-President "SME-Envoy", ensure that each issue addressed within FIEC reflects the interests of all enterprises. This comprehensive representativeness is also key to ensuring the strength and unity of the voice of construction enterprises in the European Social Dialogue in which FIEC is the officially recognised employer partner.

### **The economic environment**

Overviews and detailed reports on general developments and construction activity are presented in our Statistical Report (N° 54) published at the same time as this Annual Report. I will therefore only mention some major trends. According to the latest EUROSTAT forecast, EU27-GDP grew by 1.8% in 2010 and will see similar growth in 2011. Contrary to this general development, EU construction output

is estimated to have dropped again in 2010 and should almost stabilise in 2011, with the optimistic expectation of some recovery in 2012.

All these general statements are based on differing developments in countries and regions as well as in the various sub-sectors of construction activity. In view of this overall development, I would like to reiterate our appeal to governments not to systematically sacrifice investment budgets, but to ensure the steady and consistent flow of investment that is needed for securing social and economic development and the well-being of Europe's citizens for today and future generations.

From the multitude of issues addressed by FIEC, I would like to briefly mention just a few which are high on the FIEC agenda:

### **A level playing field**

The EU social market economy is based on fair competition and on a level playing field. Rules have been established over time to ensure these two major tenets of the internal market are upheld. For these reasons, it is unacceptable that third country state-owned and state-aided enterprises, who are not subject to the same constraints as companies here in the EU, can easily be awarded public contracts within the Union. At the same time, it is equally unacceptable that the market access opportunities are not symmetrical, so that EU enterprises are prevented from public procurement markets in certain countries, whilst the enterprises of such countries fully benefit from the EU openness.

Further potentially problematic areas related to this issue are abnormally low tenders, the respect of social and environmental rules, as well as the proposed directive on "intra corporate transfers".

Together with the colleagues from EIC, FIEC has continued to bringing these problems to the attention of political decision makers, while proposing pragmatic solutions. Recent developments show that this has not been without success, even if a lot remains to be done.

### **Commitment to sustainability: addressing climate change and energy and resource efficiency.**

For all these major challenges, the construction sector, i.e. the entire construction value chain, is able to provide a wide variety of solutions, if it is given the opportunity, the resources and the regulatory framework. At the same time, this activity will be a significant contributor to the creation of new jobs and the establishment of sustainable prosperity in the European Union, as is also pointed out in the "Manifesto for Action" published by the European Construction Forum ECF in November 2010. For the implementation of the Energy Performance of Buildings Directive alone, the EU Commission has estimated the benefits in terms of employment to be in the order of 280 to 450 thousand additional jobs by 2020.

### **Trans-European Networks (TEN-T, TEN-E) and financing**

The issue of the TENs and the role of the private sector in public projects have been among FIEC's priorities for many years. This commitment to the effective execution of the TENs, an essential basis for the future of Europe, its economy, its social systems, its society and its citizens, is on-going. European funding has always been insufficient in relation to the estimated budgetary requirements. Consequently, FIEC has responded to the Commission consultation to increase the TEN-T budget in the next Multi-annual Financial Framework to at least 20% of the estimated core network costs. FIEC continues to encourage the implementation of solemn decisions into real action, where appropriate with the assistance of the private sector, in the framework of genuine partnerships, namely PPPs, or "project bonds" as proposed by President Barroso. In its response to the Commission's consultation, FIEC welcomes such bonds as a complementary financing option, considering that solid public co-financing is necessary in order to play a leverage role for attracting private co-investment. In the meeting with Transport Commissioner Kallas in April, I was pleased to see a

broad level of agreement with our ideas and requests concerning these issues.

### **Legislative proposal on "Posting"**

The "Posting" Directive plays a key role in the smooth functioning of cross-border provision of construction activities as it touches sensitive issues such as wages, health and safety and working time. The European Commission has undertaken long preparatory work in view of a new legislative proposal, to be presented this autumn, aiming at improving the application of the "Posting" Directive. We will continue to follow this issue with great attention because it could have some significant consequences for our companies: the "joint liability" of the main contractor towards its sub-contractors could, for example, be included in this legislative initiative. Within the framework of "Posting", FIEC has always insisted on the need to make information available both for enterprises and workers and a specific website was developed jointly with our colleagues from the trade unions EFBWW. Two recent independent studies undertaken on behalf of the European Commission have indicated our website as one of the best examples in this area. We can be proud of this.

### **My thanks**

And finally I would like to express my gratitude to everybody who has participated in our work, namely my Steering Committee colleagues, the Presidents and members of our commissions, sub-commissions and working groups, the contractors and staff of our member federations and also the FIEC Team in Brussels. At the same time, I would also like to thank all our partners in the European institutions and the associations/ federations with whom we have worked together.



Luisa Todini,  
President of FIEC

Meeting with Vice President of the European Commission and Commissioner for Transport Siim Kallas – Brussels 4/4/2011



Commissioner Siim Kallas, Luisa Todini

Meeting with Commissioner for Employment, Social Affairs and Inclusion László Andor – Brussels 3/5/2011



Ulrich Paetzold, Thomas Schleicher, Commissioner László Andor, Domenico Pesenti (EFBWW), Sam Hägglund (EFBWW)

Photo: © Yvan Glavie

Meeting with CEPMC (Council of European Producers of Materials for Construction) – Rome 23/3/2011



Ulrich Paetzold, Luisa Todini, Libero Ravaioli (CEPMC President) and Erwin Kern (CEPMC Senior Vice President)

Photo: © Confindustria

Photo: © FIEC



Luisa Todini, IT

President



Jacques Huillard, FR

Vice-President  
ECO  
(FR)



Thomas Schleicher, DE

Vice-President  
SOC  
(DE)



Kjetil Tonning, NO

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



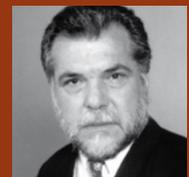
Michel Buro, CH

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



Elco Brinkman, NL

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



Andreas Mikallos, CY

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



David Taguas, ES (-12/2010)  
Néstor Turró, ES (1/2011-)

Vice-President  
MEDA  
(ES-PT)



Angelo Provera, IT

Vice-President  
SME  
(IT)



Michel Démarre, FR

Vice-President  
EIC

GENERAL ASSEMBLY

COUNCIL

STEERING COMMITTEE

**Economic and Legal Commission (ECO)**

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

**Working Group**

**Transport Infrastructure**  
Chairman: Jacques Huillard, FR

**Temporary Working Groups**

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

**PPPs and Concessions**

Chairman:  
Vincent Piron, FR

**Internal Market – Lead Markets**

Chairman: Thierry Ceccon, FR

**EU Contract Law**

Chairman: Wolfgang Bayer, DE

**Public Procurement**

Chairman: Jan Wierenga, NL

**Social Commission (SOC)**

President:  
Thomas Schleicher, DE  
Rapporteur:  
Domenico Campogrande, FIEC

**SOC-1:**

**Vocational Training**  
Chairman: Alfonso Perri, IT  
Executive Chairman: Jacques Lair, FR

**SOC-2:**

**Health and Safety**  
Chairman: José Gascon y Marin, ES  
(-9/2010)

**SOC-3:**

**Economic and Social Aspects of Employment**  
Chairman: André Clappier, FR

**Technical Commission (TEC)**

President:  
Kjetil Tønning, NO  
Rapporteur:  
Frank Faraday, FIEC

**TEC-1:**

**Directives, Standards and Quality Assurance**  
Chairman: Jan Coumans, BE

**TEC-2:**

**Research, Development and Innovation**  
Chairman: Bernard Raspaud, FR

**TEC-3:**

**Environment**  
Chairman: Jan Wardenaar, NL

**TEC-4:**

**Plant and Equipment**  
Chairman:  
José Ramón Yannone, ES

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

President: Michel Démarre, FR  
Director: Frank Kehlenbach, EIC



**Ulrich Paetzold**  
Director General



**Christine Le Forestier**  
Rapporteur  
Economic and  
Legal Commission



**Domenico Campogrande**  
Rapporteur  
Social  
Commission



**Frank Faraday**  
Rapporteur  
Technical  
Commission



**Joëlle Caucheteur**  
Secretariat



**Yasmina Koeune**  
Secretariat



**Sylvie Masula**  
Secretariat



**Muriel Lambelé**  
Accountant



**Maxime Wotquenne**  
Documentalist -  
Webmaster

Photo: Yvan Clavier, Brussels

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

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

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

**Conference – Le Meridien Hotel – Bacchus Ballroom – “Sustainability is our business – Making the EU Market for Sustainable Construction a Reality” 28/5/2010**



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1. Prof. Ing. Anke Van Hal, Nyenrode Business Universiteit, NL
2. Olga Sallangos, Caramondani Desalination Plants Ltd., CY
3. Leo Wartna, Visser & Smit Hanab, NL
4. Daniel Soldini, BEC Frères SA, FR
5. Stéphane Bellamy, Enterprise E26, FR
6. Dr. Scott Steedman, BRE Global, UK
7. Ricardo Gomes, FEPICOP, PT
8. Michalis Sarris, Former Minister of Finances, CY
9. Dr. Erato Kozakou-Markoulli, Minister for Transportation and Public Works, CY



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Photos: © OSEOK

**Planning the Future of the Construction Business: Contractors get serious about Sustainability**

There can be few more appropriate venues to discuss how the construction industry can help in forging a more sustainable planet than Cyprus, an island which is facing considerable strain on water resources due to a severe and prolonged drought and which will be most exposed to the effects of climate change in coming years. The theme running through the afternoon conference, organized during FIEC’s annual Congress near Limassol, was how the need to manage the planet’s overstretched resources can be married with profit and exploiting new business opportunities.

In her opening keynote presentation, Professor Anke Van Hal from Nyenrode Business University in the Netherlands put forward her view that the future of business development in construction will be at those points where profit and societal needs meet; a term she refers to as the “merger of interests”. It will no longer be sufficient for companies to follow legislation to satisfy clients’ demands but rather they will need to go further in showing environmental and social credentials or risk losing out to competitors. Therefore one of the key challenges facing the entire value chain in construction is to overcome the traditional inertia and risk aversion that is so often a hallmark of the sector and anticipate and adapt more successfully to long term trends.

A number of case studies followed showcasing how companies are putting sustainability into practice while also demonstrating a sound business case. A Cypriot example entitled “building in a water scarce environment” showed how an operator of a desalination plant had perfected a pioneering technology to considerably reduce the energy intensity of the desalination process. Energy costs associated with the process amounted to over 60% of operating costs for the Dhekelia plant located on Cyprus’s south coast. Here new, higher efficiency turbines were installed that involve a pressure exchange process; these have led to a 40.5 million kilowatt hour per year saving in energy consumption. In a further presentation an example of carbon diversion was presented from the Netherlands whereby CO<sub>2</sub> is diverted from industries in and around the port of Rotterdam to greenhouses for the

production of fruit and vegetables. Currently over 500 greenhouses are provided with CO<sub>2</sub> diverted from the flue gases of boilers or the cogeneration process, leading to a saving of 170,000 tonnes CO<sub>2</sub> per year. Staying on the theme of carbon dioxide emissions, in another presentation from France, a number of small companies showed how the “Omega TP” tool is helping civil engineering contractors to assess the carbon footprint of a project based on a straightforward model spanning the entire lifetime of the works from the raw materials to waste disposal.

The second session sought to go beyond the business case and look at the larger picture of regulation and finance and began with a presentation by Dr Scott Steedman from the UK’s Buildings Research Establishment and former President of the European Council for Construction Research, Development and Innovation, ECCREDI. Dr Steedman took the example of the preparation for the 2012 Olympic Games in London to show how leading contractors had grouped together to sign ambitious commitments to sustainability, transforming how the project has been carried out. In one example, the delivery of concrete to the site has been streamlined and contractors disincentivised from wasteful practice. The result has been a significant reduction in the site’s carbon footprint and cost savings. He continued to echo comments made by Professor Van Hal that with clients’ demands ever more stringent and the regulatory climate on a tougher trajectory in areas such as energy efficiency in buildings and the disposal of construction and demolition waste, contractors who understood the need to innovate and move ahead of the game would thrive while those who didn’t would be left behind. Drawing an analogy with Rolls Royce, the future of construction would, in Dr Steedman’s view, be a service industry, offering solutions to clients’ needs and offering more than simply delivering a finished building or civil engineering work to the owner.

In the final panel discussion the speakers were joined by a leading figure from the financial sector including Michalis Sarris, former Cypriot finance minister and Ricardo Gomes, outgoing member of FIEC’s Steering Committee. Commenting on the discussion, Mr Sarris pointed to the aftermath of the 2008 financial crisis and subsequent economic downturn on future investment decisions. In a fiscal climate governed by tightening government spending, there will be more need for private sector financing and with this

in mind, more imaginative longer term contracts such as Design, Build, Operate (DBO) will likely become more widespread. FIEC’s Ricardo Gomes brought the discussion back to the regulatory climate and reminded participants that despite longer term savings, buildings built under sustainable business models still involve a greater up-front cost to the client. In an allusion to the ongoing controversy surrounding the awarding of a Polish motorway tender to a Chinese state-owned firm, he added that public authorities need to show consistency in pushing for a greater uptake of sustainability. It is unacceptable that ever more demands are made on EU industry to adapt to tighter regulation while public procurers are, at the same time, looking to squeeze contractors on cost. Mr Gomes brought home the message already stressed by FIEC on previous occasions: the construction industry must have a level playing field in the EU and internationally to be competitive and deliver what society expects for the needs of future generations.

Concluding the conference, the Cypriot minister for public works, Mrs Erato Kozakou-Markoullis, stressed the vital contribution the construction industry can make to sustainable development.

**Opening Ceremony – Famagusta Gate 28/5/2010**



Dirk Cordeel, FIEC President

**Gala Dinner – Le Meridien Hotel 28/5/2010**



Luisa Todini, FIEC President – Sotos Loïs, OSEOK President

Photos: © OSEOK



## Sustainability is Our Business

### Making the European Market for Sustainable Construction a Reality

FIEC Conference – Limassol (Cyprus) - 28/5/2010

#### *Setting the Scene:*

Man's **footprint on Earth** has exceeded what can be borne by the planet without irreversible effects. Figures show that human consumption is currently far more than the planet can sustain. Further to this, the threat of unmitigated climate change on the wellbeing of future generations along with a growth in worldwide consumption levels accompanying population growth and concerns over future energy supply can no longer be ignored.

Therefore a **massive** reduction in man's footprint is needed urgently in order to prevent irrevocable damage to the eco-system upon which mankind relies for safe water, agriculture and economic activity. Moreover the need for action to mitigate the effects of climate change and de-fossilize energy supply will require a fundamental shift in how people live, work and travel. Construction is a significant part of this equation: no action taken on any of the major challenges facing humanity can be undertaken without the sector and expertise.

The financial crisis of 2008 and subsequent sharp economic downturn have challenged the business as usual scenario. Investor decisions are currently retrenched but in the longer term new, more resilient, models for growth will need to be found.

**This occasion should be seized on by investors as a prime opportunity to substitute new sustainable business models for old ways of thinking. FIEC, its member federations and their member companies, will offer leadership in this transformation, spurring all parts of the construction process: clients, materials producers, architects, designers, consulting engineers and downstream users.**

#### *The role of Construction:*

Construction is a key player in bringing down man's footprint. **Half of extracted materials from the Earth's crust are used in activities linked to construction** and waste from construction activities forms the largest single waste stream. It also represents a significant share of both employment and GDP. It must not be forgotten that the overwhelming majority of the industry are craftsmen and SMEs who are close to their communities and who are well placed to achieve sustainability at a local level. The role of the sector, FIEC and its member federations is to stimulate sustainable new lines of business among member companies and advise governments to establish the right legal, fiscal and financial frameworks.

#### *Overcoming the barriers*

Opting for sustainability often seems to carry a higher upfront cost for the investor.

A new building or infrastructure work built today in Europe will, on average, stand for 30-40 years however investment decisions still tend to be focused on short-term return on investment with little regard for how the asset will perform over its entire lifetime, its maintenance and the long-term well-being of its occupiers or users. This tendency is exacerbated by the "**split incentive**" problem whereby the investor does not directly benefit from longer term savings in the life time of the asset. This **deep-seated inertia** must be challenged and transformed into long-term thinking that fosters sustainable outcomes.

Investment of any nature always contains an element of **risk**. While no single action can change that, awareness raising in the short to medium term among private investors and public procurers on the benefits of sustainable choices will be crucial in beginning market transition. People cannot make reasoned choices without full knowledge and the same goes for any investment decision. **Uncertainty around the viability of long term investment acts as a substantial barrier.**



Progress is also needed within the industry itself. The construction value chain is traditionally highly fragmented, with a large number of actors on any construction site whose interests often differ. This can stand in the way of a more long-term approach to working on issues affecting society's needs. In this connection FIEC is in favour of real cooperation among the different actors in the construction value chain.

Another barrier to sustainability is in the training of all those concerned in the construction chain. From client, to the architect and designer, to the builder; all these various actors face a wide gap in **adapting their knowledge and skills needed for sustainability**.

**There is a need for business development around sustainability. Although there are numerous examples of innovative ideas that lead to the creation of markets in the construction sector, the amount of enterprises unable to exploit their potential for innovation is far larger. FIEC therefore aims to reach out to these companies through its annual conference through examples of success stories leading to both more sustainability and more turn-over.**

***Moving forward: creating the right framework***

FIEC is committed to sustainability and encourages its member federations to support member companies in identifying successful entrepreneurs/business cases for sustainability.

However, such efforts will achieve greater success with the right financial and regulatory framework. The process will not be accomplished overnight but FIEC puts forward the following as essential initial steps in forging a sustainable construction business.

1. The availability of long term project finance is key to making sustainability a reality. FIEC is encouraged by the use of long term investment funds that give the necessary finance to sustainable construction projects.
2. In the wake of the economic downturn, consumers should be encouraged to invest their extra savings in secure financial instruments dedicated to the funding of long term sustainable infrastructure projects.
3. The construction industry calls for a clear legislative roadmap from the European Commission on implementing sustainable development. Industry can respond effectively to market drivers such as regulation when these are clearly and properly implemented and do not overlap.
4. For public tendering, more use should be made of the possibility under existing public procurement rules to use the Most Economically Advantageous Tender instead of the lowest bid. A rush to cut costs impedes long term thinking whereas costing the asset over its lifetime leads to more sustainable outcomes.
5. Construction enterprises can offer many innovative solutions for sustainability through offering alternatives in tendering but are often prevented from making use of these by the rules of the tender. FIEC calls for variants to be systematically permitted in all public tendering.
6. Public private partnerships (PPPs) offer the potential for greater sustainability as they are based on greater life-cycle costing. They also enable the contractor to bring his knowledge and expertise earlier in the process. The use of PPPs should be expanded where beneficial.

*FIEC is the European Construction Industry Federation, representing via its 34 national Member Federations in 29 countries (27 EU & EFTA, Croatia and Turkey) construction enterprises of all sizes, i.e. small and medium-sized enterprises as well as "global players", carrying out all forms of building and civil engineering activities.*

*For further information, please contact Frank Faraday*

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**Promoting “paritarian funds” in the construction industry**

The European Social Partners of the construction industry, FIEC and EFBWW, in collaboration with

the AEIP (the European Association of Paritarian Institutions of Social Protection), organised a 2nd European conference aiming at promoting the development of paritarian funds in the construction industry in those Member States where such funds do not exist yet.

Paritarian funds are funds jointly set up and managed by the social partners with the aim of dealing with specific issues impacting the sector such as training, health and safety, specific sectoral pensions schemes, etc.

This conference, which was part of a project co-financed by the European Commission, took place on 19<sup>th</sup> and 20<sup>th</sup> October 2010 in Bucharest (RO) and was attended by more than 150 participants from 22 different countries.

Over two days high level speakers from politics, business, trade unions and paritarian funds exchanged experience, promoted the development of paritarian funds in the construction industry and encouraged strengthening Social Dialogue in the Central and Eastern European member States.

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

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

Due to these particularities, the social partners in the construction industry have a specific proactive role and task in organising and regulating

the construction sector through industrial relations. Their role at the national level is not limited to the traditional aspects of usual industrial relations such as, for example, wages, working conditions, health and safety, social protection, but it also aims at developing the long-term sustainability of the construction industry.



The website can be found through the following link: [www.paritarian-funds-construction.eu](http://www.paritarian-funds-construction.eu)

In most of western European member States there are such paritarian social funds, which are established, funded and managed by the social partners themselves. Often they fulfill a complementary role to existing governmental structures and are extremely important for the whole construction industry for various different reasons:

- from a political point of view : paritarian funds and institutions are an important link between the social partners. In these paritarian funds and institutions the social partners discuss formal and informal issues and they are also a place where joint agreements are negotiated.
- from a practical point of view : paritarian funds and institutions are necessary because many issues and concerns of the construction industry are under the joint responsibility of the social partners, e.g. the reduction of (fatal) accidents, professional and vocational training of workers, sectoral social security schemes.
- from a financial point of view : paritarian funds have at their disposal the adequate structures and instruments for receiving and managing the contributions from the numerous companies and scattered workers in the construction industry.

As part of the same project a joint FIEC-EFBWW website has been launched aiming at providing detailed information on the structure, the organisation and the objectives of the existing paritarian funds in the construction industry. It is therefore an extremely useful platform for an exchange of national experiences and best practices between all the stakeholders in the various Member States.

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## 14 | THIRD COUNTRY STATE-OWNED AND STATE-AIDED "ENTERPRISES" IN EU-FUNDED PUBLIC PROCUREMENT PROJECTS

In last year's Annual Report, we presented the award of two lots of a motorway project by a Polish contracting authority to a consortium led by a Chinese state-owned enterprise and the numerous general questions it had raised. The subsequent discussions have shown the complexity of the issue which concerns both Internal Market questions (Public procurement/ abnormally low tenders, competition policy/ state aid, EU financing/ structural funds, migration policy/ lack of skilled workers) and Trade Policy questions (WTO-Government Procurement Agreement [GPA], reciprocity, symmetric access to public procurement markets).

Over this year, the debate in the EU institutions has developed considerably and instead of hearing "there is no problem", we now see the announcement of proposals for specific instruments ensuring symmetric access as well as a growing interest in the general commercial strategy of some third countries and the way in which in particular state-owned and state-aided (Chinese) firms operate in the EU market, but also on other continents, such as Africa.

### We wish to reiterate that:

- FIEC and EIC are opposed to protectionism
- FIEC and EIC are in favour of fair competition on open markets
- FIEC and EIC are in favour of symmetric access to public procurement markets
- FIEC and EIC are in favour of taking all measures which are necessary, on a temporary or permanent basis, to prevent unfair competition and to encourage symmetric market access.

FIEC, EIC and their Member Federations have continued their intensive lobbying efforts both at EU and national levels, as well as in conferences<sup>1</sup>, with the press<sup>2</sup> and on television<sup>3</sup>. At the same time, there has been considerable development and progress, in particular in the EU institutions.

### • in the EU Commission

In its Communication "Trade, Growth and World Affairs", COM(2010)612 of 9/11/2010, the Commission announced that it intended to "make a legislative proposal for an EU instrument to help secure and increase symmetry in access to public procurement markets in developed countries and large emerging market economies". This will be done in a joint action by Commissioners De Gucht (TRADE) and Barnier (MARKT) and a consultation had been expected

for June 2011. But it seems that this has now been postponed until later this year.

In its response to question 112 of the Commission "Green Paper" on consultation on modernising public procurement rules (see Chapter Economic and Legal Commission), FIEC put forward its proposals on how to adapt the public procurement rules, in order to ensure fair competition on a level playing field, in particular a modification of the rules on abnormally low tenders (Art. 55.3, Dir. 2004/18)

Also in the discussions on the proposed directive on "Intra-Corporate Transfers" (see chapter Social Commission), the question of third country "experts" working for a third country construction firm in the EU plays an important role, in particular with respect to recent press reports on 500 to 2.000 visas having been requested by the Chinese contractor mentioned above.

### • in the European Parliament

A number of MEPs have submitted a series of written questions on various aspects of the issue and received written responses by the EU Commission referring to the actions announced in Commission documents. Also the Rühle report on public procurement (18/5/2010) addresses certain aspects of the issue.

On 12/5/2011, the EP adopted a Resolution [P7\_TA(2011)0233] on "equal access to public sector markets in the EU and in third countries and on the revision of the legal framework of public procurement including concessions". FIEC applauded the signatory MEPs for this Resolution which is very much in line with FIEC requests.

### • in the European Economic and Social Committee

On 4/5/2011, the EESC almost unanimously adopted an opinion on the issue "Third country state-owned enterprises in EU public procurement markets"<sup>4</sup>. FIEC actively contributed to this opinion and welcomes its recommendations, of which the following be mentioned in particular:

**(1.2)** ... the EU must increase negotiating power to improve access to third countries' public markets ...

**(1.3)** ... ensure more effective, strategic defence of the EU's interests in the area of access to public markets both internally and internationally ...

**(4.6)** ... there should be a level playing field for all contracting enterprises: in this regard the EESC raises doubts regarding the conditions for participation of third country "state-owned enterprises", particularly in

<sup>1</sup> e.g. several conferences in Italy (President Luisa Todini), 18/11/2010 conference of the Belgian EU Presidency and FEB, Federation of Belgian Enterprises (DG Ulrich Paetzold).

<sup>2</sup> e.g. Agence Europe, BEM, Bild, Corriere Economia, Die Presse, FAZ, FT, FTD, Handelsblatt, Le Monde, Le Moniteur, L'Echo, Les Echos, Reuters, Corriere della Sera, RKW-ibr, Tagesspiegel, Wirtschaftswoche.

<sup>3</sup> e.g. DW-TV 19/5/2010, ARD Europamagazin 16/10/2010.

<sup>4</sup> [www.eesc.europa.eu/?i=portal.en.ccmi-opinions&itemCode=15863](http://www.eesc.europa.eu/?i=portal.en.ccmi-opinions&itemCode=15863)

*terms of prohibited direct or indirect state aid, price calculation method, and precautionary consideration of costs and risks. In fact, the European market guarantees access without sufficient guarantees against unfair competition, entailing a real danger of social and environmental dumping and non-compliance on the part of these state-owned "enterprises" with the body of ethics laid down in the Treaties and the CFR.*

**(4.7.16)** *To amend Article 55(3) of Directive 2004/18/EC and Article 57(3) of Directive 2004/17/EC on abnormally low tenders, by making it impossible to accept bids submitted by state-owned enterprises that fail to prove that their bid has not received direct or indirect state aid that is prohibited by the Community rules: an example to this effect of "state aid tests" can be found in the Millennium Challenge Corporation's Annex 4.*

**(4.7.18)** *To ensure that the future European legal instruments on the free movement of third country workers do not provide an incentive for third country state-owned enterprises that receive prohibited state aid.*

- **in the WTO-GPA negotiations**

In the framework of the World Trade Organisation, public procurement questions are dealt with in the GPA which is a "plurilateral" agreement. This means that not all WTO members are GPA members, but only those having decided to do so and having completed the accession process. In addition, the coverage of contracting authorities and economic activities is negotiated on a bi-lateral basis through the WTO method of exchanging offers and requests until an agreement based on reciprocity of market access can be obtained. The EU Member States do not conduct these negotiations themselves but have mandated the EU Commission to do this on their behalf. Regrettably, there is nothing in EU law obliging the Member States to refrain from actions which weaken or destroy the EU negotiating position. By the same token, there is nothing preventing them from opening their national markets further than negotiated by the EU, so that the results obtained in the negotiations do not have an absolute value. Both these aspects weaken the position of the EU in international trade negotiations considerably and should be improved.

China became a WTO member in December 2001, commenced the GPA accession process in December 2007 with an initial offer and presented, in July 2010, a revised offer, of which the construction coverage is

extremely limited, for example:

- **contracting authorities:** covered are only "central government entities proper and their administrative agencies located in Beijing" (but NOT sub-central authorities or state-owned enterprises)
- **thresholds:** decreasing from 100 million SDR to 15 million SDR from the 1<sup>st</sup> to the 5<sup>th</sup> year "after implementation", i.e. 5 years after China's accession to GPA. [Note: the current GPA and EU threshold is 5 million SDR]
- **activities NOT covered:** important building works, all civil engineering works, foundation works and water well drilling.<sup>5</sup>

These negotiations are on-going and time will show the level of reciprocity and symmetric market access which can be achieved.

### Outlook

At the same time, it must not be forgotten that important parts of the EU industry live from importing goods from or exporting goods and services to China. In addition, the EU needs considerable funds in order to build the transport and energy infrastructure necessary for the global challenges of energy supply, energy efficiency, climate change and resources, so that there is considerable interest in obtaining foreign direct investment (FDI).

Striking the right balance between these diverging interests is the outstanding challenge with which politicians, business, workers and citizens are confronted at all levels. This is not a "one off" issue, but an on-going challenge requiring strategic short, medium and long-term thinking, in order to identify the most appropriate set of policies and measures.

### FIEC and EIC

have contributed their expertise to these discussions and will continue doing so, together with their Member Federations, in order to ensure that fair competition on a level playing field do not remain empty words.

<sup>5</sup> "In China, infrastructure projects are almost never considered government procurement, even when they are government funded." (EUCCC study "Public Procurement in China", April 2011, p.8) <http://www.europeanchamber.com.cn/view/media/publications>



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International Accounting Rules



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## 1. Construction activity: a slow recovery process...

In its interim forecast on the overall EU economy published in February 2011, the Commission and EUROSTAT indicated that:

- Economic growth is forecast to have increased by 1.8% in 2010 in the EU, due to the exceptional crisis measures put in place, which played a major role in turning the economy around. GDP is projected to further grow by 1.8% in 2011, despite the withdrawal of stimulus measures.
- The remaining economic slack and subdued wage growth contributed to keep inflationary pressures in check in 2010 (+2.1%). A surge in energy and commodity prices in the last few months are expected to lead to a slight inflation's increase in 2011 (+2.5%).
- While exports should continue supporting the recovery going forward, rebalancing of growth towards domestic demand is expected for 2011.
- Prospects for private investment, and specifically for investment in equipment, are favourable.
- Private consumption, which remained subdued in 2010, is expected to gradually firm up this year. The on-going stabilisation in the labour market, the recovery of lending to households, as well as the continued decline of householder saving rates, all bode well for consumer spending in the near term, while increased inflation will have some countervailing effect.
- The improved outlook is supported by better prospects for the global economy and strong EU business sentiment. However, uncertainty remains high and developments across countries are uneven. The major challenge now concerns the consolidation of Member States' public finances.

According to the latest data released by FIEC in the May 2010 editions of its Statistical Report and construction annual "key figures", the construction industry represented, at the end of 2009, 9.9% of EU GDP, with total output amounting to €1,173 billion. To this total amount, the new housebuilding segment made up 18%, the non-residential segment represented a share of 31%, rehabilitation and maintenance activities amounted to 29% and the civil engineering segment represented a substantial share of 22% of this total. Regarding the share of the construction sector in terms of jobs, it made up

7.1% of the EU's total employment and 29.1% of EU industrial employment.

Due to the long-term effects of the global financial and economic crisis, overall construction activity experienced negative growth for the second consecutive year in 2009 (-7.5%). Although signs of recovery are apparent in an increasing number of countries, a return to normal activity will take several years.

According to initial estimates, the situation varies greatly from one country to the other regarding recovery in the construction sector. While most countries will experience a continuous decrease of activity in 2010 and 2011, some of them will start recovering from 2011. By contrast, few privileged northern and eastern European countries experienced an uptake of the activity in 2010 already (DE, FI, SE, PL). On the opposite side, a small group of countries will remain very much impacted by the crisis in the coming years (ES, PT, IE, GR). Anti-crisis measures have been about the same everywhere, with varying success: fiscal measures in R&M, additional public investment in infrastructure... Efforts are now, however, undermined by national budget consolidation measures and sometimes major cuts in investment.

## 2. Public procurement: towards a "modernisation" of the rules?

In the past two years, a series of initiatives – studies and consultations – concerning all areas of public procurement have been launched by the Commission with the purpose of assessing the impact and cost-effectiveness of EU procurement legislation and eventually proposing a "modernised" legislative framework by 2012.

### Parliament's own-initiative report

In this framework, FIEC actively participated last year in the drawing-up of the Parliament's own-initiative report on new developments in public procurement, defended by Rapporteur MEP Heide Rühle (Greens/EFA-DE)<sup>1</sup>. This report was finally adopted on 18/5/2010 and warmly welcomed by FIEC due to its careful positions in line with those of FIEC, namely that: a revision of the 2004 directives on public procurement in the near future is premature, the

<sup>1</sup> See FIEC Annual Report 2010.

Commission should better coordinate its legislative and non-legislative initiatives in this field to avoid confusion; socially-responsible procurement does not require further legislation but clear guidance; iPPPs and public-public cooperation have already been clarified sufficiently by recent ECJ case law; and a specific directive for services concessions is not needed.

### Electronic procurement

On 18/10/2010, the Commission published a Green Paper on "expanding the use of e-procurement in the EU" (COM(2010)571) with the aim of further promoting electronic procurement, which is developing very slowly within the EU. According to the Green Paper, the technology is available, but little use is made of it, namely due to the non-standardised development of the various e-platforms, which lead to a lack of accessibility and interoperability. Given the need for commercially viable solutions, the Commission is consulting as to the best approach in this field.

In a contribution dated 26/1/2011, FIEC responded that construction companies recognise e-procurement as a useful and positive tool which enables time and administrative costs savings; the current legal framework simply needs to be correctly implemented and applied by Member States; the number of e-platforms should be limited to those which ensure security and confidentiality of data; the platforms should be interoperable as regards the systems and standards applied; however there is no need for mandatory rules for the use of e-procurement.

The Commission is expected to publish a summary of all responses received in April or May 2011. The outcomes will help identify priorities for further actions in this area. On this basis, the Commission foresees to publish, in September 2011, a Communication presenting the actions it considers necessary to expand the use of e-procurement in the EU.

### Green Paper on the modernisation of public procurement

On 27/1/2011, the Commission finally published a very broad Green Paper on the modernisation of EU public procurement policy (COM(2011)15). Two main considerations led the Commission to

launch this consultation: identifying the scope for greater cost-effectiveness of the current legislation and enhancing the impact of public procurement for the support of other policy objectives – taking into account innovative, environmentally-friendly and socially-responsible outcomes. The final goal of this large-scale initiative is to propose a modernised legislative regime for public procurement by 2012.

The TWG "Public procurement", chaired by Jan Wierenga (NL-Bouwend Nederland), actively worked on a response to this Green Paper. During a meeting held on 16/3/2011, the national experts agreed on most orientations: public procurement rules need stabilisation above all; the current structure, definitions and thresholds are appropriate; the principle of negotiation in the framework of award procedures should not be generalised, but remain used under strict conditions for specific cases only; access of SMEs to public procurement can already be addressed through the implementation of the EU Code of Best Practices<sup>2</sup>, on a voluntary basis; existing procurement procedures already allow environmental and social requirements, to be taken into account as long as they are linked to the subject-matter of the contract; using the Most Economically Advantageous Tender criterion is the most appropriate for promoting innovation and value for money, etc.

The paper will now be finalised in view of the consultation deadline set on 18/4/2011.

### 3. PPPs and concessions: the "long-awaited" Commission initiative

The adoption of the communication "Mobilising public and private investment for recovery: developing Public-Private Partnerships" on 19/11/2009 contributed providing more coherency in the field of PPPs by making all concerned Directorates General (DG MARKT, DG MOVE, DG REGIO, etc.) work together to draw up this communication – under the coordination of the Secretariat-General – and provided a roadmap of forthcoming actions aimed at promoting PPPs in the EU, not only to support the economic recovery through infrastructure investment, but also to address structural challenges on the long term.

<sup>2</sup> European Code of Best Practices facilitating access by SMEs to public procurement contracts, SEC(2008)2193 dated 25/6/2008.

Amongst the listed actions, the Commission recalled that an initiative on concessions was still in the pipeline. However, the question of a further legislative proposal on service concessions – which are currently excluded from the scope of the public procurement directives – is very controversial and DG MARKT has to undertake a series of consultations and studies in this field.

Consulted several times on this issue and meeting the Commission on a regular basis, FIEC indicated that no further legislation in this field was needed, as service concessions have to respect the fundamental principles of the EU treaty (transparency, non-discrimination, etc.). If however, the Commission confirmed a legislative initiative, then FIEC would support the so-called “light approach”, namely to extend the existing provisions for works concessions to service concessions.

The Commission is finally expected to finally present a legislative proposal amending both directives 2004/18/EC and 2004/17/EC according to the “light approach”, in spring 2011.

### EPEC Private Sector Forum

In parallel to this exercise, FIEC has continued its participating in the activities of the Private Sector Forum of the European PPP Expertise Centre (EPEC) and has contributed with the specific experience of the construction industry, via the participation of Vincent Piron (FR-FNTP), Chair of TWG “PPPs & concessions”.

Thanks to this Forum, FIEC is disseminating expertise and capacity building towards national and local public entities. In December 2010, Mr. Piron namely recalled during a presentation that experience gained over the years demonstrates that successful PPPs require an adequate “socio-economic return”, and efficient financial and management schemes.

## 4. International accounting rules: Revenue Recognition in contracts with customers

Following a buoyant year for the TWG “International Accounting Rules”, the activities of the past year, regarding issues developed by the International

Accounting Standard Board (IASB) and having an impact on construction activities, focused on responding to the IASB Exposure Draft on Revenue Recognition.

The IASB issued a Discussion Paper in December 2008 entitled “Preliminary Views on Revenue Recognition in contracts with customers”, aimed at replacing the existing standards on revenue recognition – namely IAS 11 *Construction contracts* and IAS 18 *Revenue* – for one revenue model intended to be applied across all industrial sectors.

Following a first consultation round in 2009, in which FIEC actively participated, the IASB published in June 2010 a so-called “Exposure Draft: Revenue from Contracts with Customers” aimed at further developing the issue and inviting stakeholders to a second round of comments. The European Financial Reporting Advisory Group (EFRAG) a body which gives feedback and advices to the IASB initiatives specifically requested the opinion of the construction industry on this proposed new standard.

FIEC responded in a comment letter, dated 30/9/2010, that for most construction companies, the existing standard (IAS 11) functions well; has a long application record based on well-known practical concepts and is well established among the various parties of the construction process. For these reasons, a majority<sup>3</sup> of construction companies recommended maintaining IAS 11 as a distinct standard. Otherwise, amendments would need to be made to the new standard (e.g. on criteria for the continuous transfer of control, onerous performance obligations, credit risk, product warranty...) in order to better translate the economic substance of construction contracts.

FIEC's main concern regarding the Exposure Draft was that the new model would request splitting the contract into separate performance obligations in every contract with customers. For those companies which manage contracts by considering different risks depending on different performance obligation, such a recognition criterion is relevant. But when the contract is specific, managed and negotiated with a single client as a whole, the necessity to unbundle the contract by artificial performance obligations on a non-contractual “subjective” basis would not be relevant. For this reason, FIEC recommended that the final standard be above all adapted to companies'

<sup>3</sup> It is to be noted that Spanish accounting experts have a divergent approach than the other national experts. In Spain, contracts are already divided into “performance obligations”, within which the PoC (Percentage of Completion) method is applied. The new model proposed by the IASB is therefore relatively in line with what Spanish accounting experts already apply in construction contracts.

business practices as a key indicator to decide on the revenue recognition model.

In response to the Exposure Draft, the IASB received nearly one thousand comment letters. Redeliberations over the proposal started in January 2011. In this process, the accounting rules regarding key aspects of the Exposure Draft (i.e. combining / segmenting, contract modification, performance obligation, recognize revenue, etc) are slowly changing<sup>4</sup>.

The adoption of the final standard is expected to occur in the course of 2011.

### 5. Sustainable Construction: EC study on the competitiveness of the construction sector

At the end of 2007, the European Commission (DG Enterprise and Industry) launched the "Lead Market Initiative" (LMI), aimed at promoting the innovation and the development of large-scale markets with international potential. This horizontal initiative concerns six key markets of which one is sustainable construction.

In this framework, the TWG "LMI", chaired by Thierry Cecon (FR-FFB), followed up the various studies undertaken by the Commission and provided a more comprehensive input to a study concerning the assessment and update of the 1997 Sector Competitiveness Strategy.

In a paper dated 2/7/2010, FIEC pointed out that the sector is facing cyclical and structural challenges: respectively the economic and financial downturn; energy efficiency and societal needs and skills shortage. In this context, competitiveness can be reinforced at various levels by improving companies' and public and private procurers' practices.

Amongst other proposals, FIEC recommended to promote innovative solutions in public procurement through recourse to variants and to the MEAT criterion, to improve the training of public procurers dealing with construction contracts, to ensure the confidentiality of bids, to reject Abnormally Low Tenders (ALTs) through stricter mechanisms, to respect payment periods and to set up fiscal policies and mechanisms (e.g. reduced VAT) to promote

sustainable construction – for instance the energy efficiency of buildings.

In addition, the paper focused on the case of unfair competition on the EU market from third-country state-owned enterprises and private enterprises receiving state subsidies, mentioning the various aspects of this matter: ALTs in public procurement, state aid, the trade reciprocity principle, allowance of EU funding and the respect of environmental and social requirements.

Besides, as key representative organisation, FIEC was solicited to provide a large amount of data concerning the construction sector itself.

The progress report presented by the consultants during the autumn was quite disappointing. Actually, focusing on R&D, better innovation and productivity few specific points were taken over from the FIEC paper. Therefore, FIEC had to make a strong case of these outcomes to obtain some improvements in the final draft report, in particular regarding the issue of third-country state owned enterprises.

The study ended up December 2010 and the publication of the final report, containing a range of proposals for concrete measures, is now imminent. On this basis, the Commission will launch a consultation in spring 2011 and propose a new competitiveness agenda at the end of 2011.

### 6. Late payments: some improvements... but remaining loopholes!

In spring last year, as the discussions on the revised directive on combating late payments in commercial transactions became tougher, the EU institutions decided, shortly before the expected European Parliament vote in plenary session, to start negotiating in trilogue – that is, the Commission, the Parliament and the Council together – in order to reach an agreement in 1<sup>st</sup> reading.

Despite the weaker transparency of this specific procedure, FIEC kept recalling its main messages in order to improve the text. In a mailing sent to the European Parliament on 17/6/2010, FIEC stated that: it is fair that public authorities be subject

<sup>4</sup> In particular regarding the performance obligation, the IASB said: "In some cases (e.g. many construction contracts), an entity promises a bundle of goods and services that are highly interrelated and the entity provides a significant service of integrating those goods and services into the item(s) for which the customer has contracted. In those cases, the entity should account for the bundle of goods and services as a single performance obligation".

to stricter rules and imposed higher dissuasive compensation in case of late payment – as originally proposed by the Commission – since they have a secure financial basis; a general payment period of 30 calendar days should be applied to public authorities and public utility undertakings and there is no reason which could justify them to require a longer payment period; the acceptance and verification periods should not have the effect of extending the statutory payment period; however in B2B, it is important that enterprises contractual freedom be respected.

Unfortunately, many compromises softening the rules have been necessary during the trialogue negotiation, which ended up on 14/9/2010 with a political agreement. On 20/10/2010, the European Parliament validated this political agreement on a new directive on combating late payment in commercial transactions, aimed at replacing the existing rules of directive 2000/35/EC. The Council also formally endorsed the political agreement on 24/1/2011 and the new directive was finally published in the OJEU on 23/2/2011<sup>5</sup>. Member States have two years to transpose this new directive into their national law.

The most interesting elements of the new directive are the following:

- In B2B, the statutory payment period applied is 30 days, when the parties have not agreed themselves on another payment period, which cannot exceed 60 days, “unless expressly agreed in the contract” and if “not grossly unfair to the creditor”.
- In contracts with Public Authorities, the statutory payment period applied is 30 days, “unless otherwise expressly agreed in the contract and provided it is objectively justified in light of the particular nature or features of the contract”, but with a strict capping up to 60 days; however, Member States can choose to apply a statutory payment period of maximum 60 days for public entities in healthcare sector and public undertakings under the regime of art. 106 of the Treaty.
- The verification and acceptance periods are set at 30 days – but in addition to the payment period – and “unless otherwise expressly agreed in the contract” – “and any tender document” for public authorities” – and if “not grossly unfair to the creditor”... but without any capping!

- The interest rate for late payment amounts to the statutory interest at the reference rate, plus at least 8%, as well as a minimum fixed amount of €40 as a compensation for recovery costs.

Although the three European Institutions considered this new directive as a big victory for SMEs – which are the ones facing the worst difficulties regarding late payments – FIEC expressed some doubts concerning the concrete impact of this directive; firstly, considering the fact that the main problem pointed out by businesses was that they are reluctant using legal instruments to request their money, as they fear being excluded from future business opportunities; and secondly, because the provisions on the verification and acceptance periods leave room for “hidden” longer payment periods.

However, the new rules provide a basis for improvement, especially in the Mediterranean Member States, which are the most affected by late payments.

## 7. Consumer Rights Directive

On 8/10/2008, the Commission proposed a directive on consumer rights (COM(2008)614) aimed at merging together, for better coherency and harmonisation, four existing consumer directives<sup>6</sup>. The legislative process experienced a slow start and gained some pace solely after the parliamentary elections of June 2009 with the nomination of a new Rapporteur, Andreas Schwab (EPP-DE).

In a position dated 29/9/2010 and amendment' proposals dated 14/10/2010, as well as through further oral and written contacts with MEPs involved in the issue, FIEC pointed out that the original scope of the draft directive was so broad that it would cover all construction contracts concluded “off-premises”. Consequently, construction contracts would have been subject to a range of provisions on information requirements and withdrawal rights not adapted at all to the specificities of construction contracts and having a negative impact for those construction companies working for private consumers – above all SMEs and craftsmen active in the R&M segment who also need to be protected from additional administrative burden and abuses. For these reasons, FIEC advocated having

<sup>5</sup> Directive 2011/7/EU, dated 16/02/2011, on combating late payment in commercial transactions – reference OJEU L 48/1 of 23/2/2011.

<sup>6</sup> Namely: 93/13/EEC on unfair contract terms, 99/44/EC on sales and guarantees, 97/7/EC on distance selling and 85/577/EEC on “doorstep selling”.

construction contracts excluded from the scope of the directive, at least from the most problematic withdrawal provisions.

The current outcomes of the FIEC lobbying are good as two-third of construction works – that is “construction or major modification of a building” – have finally been excluded from Chapter III on “Consumer information and withdrawal rights for distance and off-premises contracts” and for the remaining smaller works, other safeguards exist – namely for services provided to the consumer’s specification or clearly personalised. This version of the text, if finally adopted, would be satisfactory.

The Council adopted its position on 24/1/2011 and the Parliament endorsed the position of the IMCO Committee, together with a number of new compromise amendments, on 24/3/2011. However, the Parliament’s version does not constitute a final resolution, but provides a mandate for negotiating with the Council and the Commission in trialogue, in order to achieve an agreement in 1<sup>st</sup> reading.

## 8. Commission’s Green Paper on EU Contract Law

The Commission is working on the possible creation of a European Contract Law instrument. As a follow-up to the publication of the Draft Common Frame of Reference (DCFR) by a network of university professors in December 2008, the Commission published on 1/7/2010 a Green Paper entitled “Policy options for progress towards a European Contract Law for consumers and businesses” (COM(2010)348).

According to the Commission, the co-existence of different legal systems in the EU is complicated and expensive, for both businesses and consumers. A study from EUROCHAMBRES highlighted that, amongst the main obstacles for businesses to go abroad, legal reasons have the lion’s share.

The range of options proposed in the Green Paper is extremely broad.

Regarding the non-binding options, the goal would be to obtain some convergence of the various national systems in the EU on the long-term. A

reference is also made to the US approach. The three options here would be: the publication of the results of the Experts Group set up by the Commission to work on the content of a possible instrument; an official “toolbox” for the legislator; or a Recommendation to the Member States on European Contract Law.

Regarding the binding options, there would be the choice between a Directive on European Contract Law, a Regulation establishing a European Contract Law, or the establishment of a European Civil Code. In these cases, Member States would be obliged to change their national laws.

Between these two approaches (binding or non-binding), the Commission proposes to set up an “optional instrument” on European Contract Law. This instrument would be legally binding but on an optional basis. It would introduce no change in Member States’ laws. It would only introduce the obligation to offer this additional option to businesses and consumers.

Commissioner for Justice Viviane Reding expressed herself in favour of an “optional instrument of EU Contract law” with a broad scope. Also, the European Parliament – Liberals and Conservatives within the JURI Committee in particular – expressed a lot of sympathy for this option. But the “toolbox” option could be the most likely to come out, as it is the most realistic advanced option.

In its contribution of 31/1/2011, FIEC stressed the fact that there is no need for a uniform EU contract law for the construction sector, which is a local business above all; the need for coherency with the related on-going procedure on Consumer Rights Directive; and pointed out that there are gaps in the content of the DCFR. Therefore, FIEC advocated for option 1 of the Green Paper, that is, the publication of the outcomes of the work of the Experts Group.

These outcomes should be published in May 2011. It is impossible to predict whether construction contracts will be included or not in the proposed instrument, but so far, the Experts Group focused its work on general contract law and sales contracts. At the end of the year, the Commission is expected to come out with “something”... but the form and the content of the forthcoming initiative is not yet clear.

In the meantime, the Parliament is expected to have adopted its own position in spring this year.

## 9. Infrastructure challenges

Amongst the priorities of Commissioner for Transport Siim Kallas, who wants to help tackle climate change through a more sustainable transport policy, the "Transport infrastructure" Working Group, chaired by President Huillard, focused on the following issues:

### a) Revision of EU transport policy: towards a sustainable future for transport

In order update the orientations of the 2001 White Paper on EU transport policy, and following a lengthy assessment and consultation process to which FIEC actively participated, the European Commission finally published, on 28/3/2011, a new White Paper entitled "Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system" (COM(2011)144). This new White Paper proposes an ambitious and comprehensive strategy on the development of transport in the EU by 2050. Basically, the Commission wants to reduce Europe's dependence on fossil energy; cut carbon emissions by 60% by 2050; while at the same time preserving mobility.

Amongst other aspects, it focuses on transport infrastructure, namely making a distinction between solutions to be adopted on long-distance transport, intercity medium-distance and urban transport. The White Paper also concentrates on the long-term needs for mobility and the financing resources, making a strong emphasis on a modal shift towards "environmentally friendly" modes for intercity mobility and promoting innovative private financing for the realisation of the necessary infrastructure.

FIEC President Luisa Todini had the opportunity to react to these orientations during a meeting held on 4/4/2011 with Commissioner Kallas. She stressed that an ambitious transport policy requires the matching financial means. She namely recalled that it is necessary to mobilise all possible financing resources in view of developing the proposed integrated transport network, which should use the full potential of each mode of transport. The EU budget dedicated to transport should be increased

according to the needs for the next programming period (2014-2020) and better coordinated with European funds and EIB loans. In addition to direct co-financing – but certainly not as purely alternative options – market-based innovative financial instruments should be further promoted (e.g. PPPs, infrastructure project bonds, smart pricing of infrastructure...). Finally, resources should be concentrated on a series of projects with high European added-value.

In the context of infrastructure financing and construction, she also called on the Commission to ensure a level playing field for EU and third country contractors, in particular in relation to state-owned and –aided contractors who have commenced developing more activity in the EU and neighbouring countries.

### b) Revision of the TEN-T policy and guidelines: a Core Network at the heart of EU's future sustainable transport policy

In parallel to this overall revision of the EU transport policy, the Commission is also working on the revision of the Trans-European Transport Network policy and guidelines, to be published by summer 2011.

In this framework, FIEC also contributed to a new consultation launched by the Commission early May 2010. In its contribution dated 15/9/2010, FIEC:

- reaffirmed that infrastructure projects do play a concrete role for the achievement of the internal market, in protecting the environment, enhancing territorial development, optimising traffic, decarbonising transport, and ensuring Europe's economic, social and territorial cohesion;
- recalled that the financial dimension will remain the main factor of success;
- called for an increased TEN-T budget in the next EU Multi-annual Financial Framework, amounting to at least 20% of the completion cost of the Core Network, that is, €30 billion for transport infrastructure alone (i.e. current 30 Priority Projects);
- supported the planning of a Core Network that would ensure a coherent continuity with the ongoing projects;
- supported the introduction of additional measures or projects as long as they aim at fostering the

development of a stronger and more integrated transport network;

- advocated for the political coordination in Commission activities, as well as for the reinforcement of the role of the TEN-T Executive Agency in technical coordination.

In parallel to this contribution, FIEC participated in the TEN-T DAYS 2010, which took place on 8-9/6/2010 in Zaragoza, Spain. At this occasion, Christine Le Forestier, Rapporteur of the ECO Commission, made a statement focusing on the need for a strong political commitment from Member States towards well identified infrastructure projects, the need for a coherent continuity between the existing 30 Priority Projects and the future Core Network, so as not to send the wrong message to project owners and investors, and the need for an appropriate financing framework, in line with the ambitious objectives of the Commission.

In addition to this involvement, Jean Delons (FR-FNTP), an economic expert mandated by FIEC, had the opportunity to participate in a Commission's expert group dedicated to the financing of TEN-T, which provided, in Summer 2010, a series of proposals focused on innovative financial instruments.

Finally, in reaction to a Commission Staff Working Document on "the new TEN-T policy – planning and implementation issues", dated 19/1/2011, FIEC recalled during a constructive meeting held on 1/3/2011 with Jean-Eric Paquet, Director at DG MOVE, that:

- matching the objectives of transport infrastructure development on the long-term (by 2050) and the necessary financial means is a crucial priority;
- creating a real integrated network, articulated with entry points, multimodal platforms and corridors is obviously a good planning strategy;
- promoting an ambitious modal shift in medium-distance transport (over 300 km) towards more "environmentally friendly" modes requires appropriate accompanying measures;
- innovative financial instruments must be used as a complement to ambitious European and national public co-financing, and not as an alternative option; and
- the "user pays" and "polluter pays" principles should be implemented in all modes, with

earmarking of the generated funds towards transport infrastructure.

### **c) Eurovignette: towards the adoption of the 3<sup>rd</sup> version of the directive**

The current "Eurovignette" Directive allows charges to be applied on heavy goods hauliers on the basis of the infrastructure cost, but not on the basis of environmental "external costs". New elements were proposed by the Commission in June 2008 for a revised "Eurovignette":

- Integrate air pollution, noise and congestion ("externalities") within the infrastructure charging;
- Integrate lorries from 3.5 to 12 tonnes in the scope of the directive;
- Extend the scope of the directive beyond TEN-T to roads of international relevance;
- Earmark the additional revenues generated to measures in favour of sustainable transport.

The Commission expects that this new scheme will generate €10 to 30 billion per year and is also willing to extend this scheme to all transport modes in the future in order to help "greening" transport.

After adoption of the Parliament's resolution, on 11/3/2009, the legislative procedure was blocked due to a persisting opposition from peripheral Member States. The Council finally adopted on 14/2/2011 a political agreement – with a fragile majority – on the basis of a compromise proposed by the Belgian Presidency. This political agreement contains many exemptions which weaken the original legislative proposal. It namely drops the mandatory earmarking of additional revenues generated by the internalisation of external costs towards sustainable transport. Only a simple recommendation to do so is maintained.

FIEC reacted to this political agreement in a press release, dated 18/10/2010, by stressing that without the mandatory earmarking of the revenues from these additional charges for the development of sustainable transport infrastructure, the directive would miss its target, in particular taking into consideration that the internalisation of external costs should not be an end in itself, but aimed at supporting the development of efficient and sustainable infrastructure and reducing the external costs of road transport.

Entering now into the 2<sup>nd</sup> reading phase, Rapporteur MEP Said El Khadraoui (S&D-BE) proposed a more pragmatic approach in a draft recommendation dated 18/2/2011 – supported so far by the Socialists, Conservatives and Liberals – in order to rapidly reach an agreement with the Council.

In a press release dated 15/3/2011, FIEC expressed its support to the Rapporteur, in particular regarding the proposal to earmark at least 15% of the revenues generated by the external cost charge and the infrastructure charge to financially support TEN-T projects. FIEC also recalled that in the context of the economic and financial crises and considering the difficulty in financing certain transport infrastructure projects, the internalisation of external costs would also represent a complementary resource for financing sustainable transport projects.

The vote within the TRAN Committee took place on 12/4/2011 and the vote in plenary session is expected to take place in June this year.

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

- It actively participated in the legislative procedure on the consumer rights directive and successfully advocated for the exclusion of construction from the scope of the directive's problematic provisions.
- It increased FIEC's visibility on the "European infrastructure scene" through active participation in the TEN-T DAYS 2010 and the Economic Euro-Mediterranean Forum 2010
- It provided its expertise on Public-Private Partnerships to the EPEC "Private Sector Forum"
- It served as a platform for exchanging information about construction activity in the various Member States throughout the year.
- It contributed to reinforce FIEC's warnings and proposals regarding third country state-owned enterprises entering the EU public procurement market in all relevant position papers.

### Position Papers

FIEC Message to the European Parliament in view of the vote in plenary session of the IMCO report on the consumer rights directive (2/3/2011)

FIEC Messages to the IMCO and JURI Committees on the consumer rights directive (23/11/2010 and 18/1/2011)

FIEC Amendments' proposal to the IMCO Committee draft report on the consumer rights directive (14/10/2010)

FIEC Comments on Revenue Recognition in contracts with customers – IASB Exposure Draft, June 2010 (30/9/2010)

FIEC Position on the Commission's proposal for a Directive on consumer rights (29/9/2010)

FIEC Input to the Construction Competitiveness Study (2/7/2010)

FIEC Letter to Mrs. Joanna Szychowska, Head of unit DG MARKT/C/2, about the Commission's initiative on concessions (21/6/2010)

FIEC Message to the European Parliament in view of the trialogue negotiations on the Late payments Directive (17/6/2010)

FIEC Position Paper on European Parliament's IMCO Committee draft report on new developments in public procurement (22/3/2010)

### Press Releases

FIEC press release – FIEC President meets Transport Commissioner Kallas: "An ambitious transport policy requires the matching financial means!" (4/4/2011)

FIEC press release – Commission's Roadmap to a Single European transport area: Ambitious goals require ambitious means! (29/3/2011)

FIEC press release – European Parliament 2<sup>nd</sup> reading on the "Eurovignette III" directive – Without earmarking generated funds for sustainable transport, "Eurovignette" will miss its target again! (15/3/2011)

FIEC Press Release – Adoption of the 2011 budget: Once more, investment expenditures in the TEN-T programme suffer the most! (15/12/2010)

FIEC press release – Political agreement on the "Eurovignette" Directive: Without earmarking to sustainable transport, the "Eurovignette" will miss its target! (18/10/2010)

FIEC press release – FIEC applauds the important role given to the European construction industry in President Barroso's outline for "making Europe fit for the future" (7/9/2010)

FIEC press release – Annual figures from the European Construction Industry (2/6/2010)

### Answers to (public) consultations

FIEC Preliminary position on Green Paper on Policy options for progress towards a European Contract Law for consumers and business (31/1/2011)

FIEC responses to the "Conclusions of the 5<sup>th</sup> report on economic, social and territorial cohesion: the future of cohesion policy" (28/1/2011)

FIEC contribution to the Commission's Green Paper on: "Expanding the use of e-Procurement in the EU" (26/1/2011)

FIEC contribution to the business consultation on an EU initiative on concessions (30/9/2010)

FIEC contribution to the Commission's consultation on the future TEN-T policy (15/9/2010)

FIEC answer to EC public consultation on a future trade policy (28/7/2010)

### Others

Presentation by Vincent Piron – Towards a common methodology for PPP projects (13/12/2010, EPEC Private Sector Forum)

Speech by Luisa Todini – Infrastructure in the Mediterranean region: networks development projects and sources of financing (13/7/2010, Milano Med Forum)

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

## FIEC input to the Construction Competitiveness Study (DG ENTR)

2/7/2010 (The following are extracts. The full version can be found on the FIEC web site : [www.fiec.eu](http://www.fiec.eu))

FIEC considers that an EU industrial policy for construction should focus on areas where it can bring real added value to the industry, in order to meet challenges facing society and to ensure a level playing field among all enterprises operating on the EU internal market, rather than simply seeking to address short-term issues such as the effects of the financial and economic crisis. Furthermore, additional measures are also necessary at national level.

### III. Recommendations for improving EU's construction industry's competitiveness

#### 2. Improving practice among public and private procurers:

##### a) By promoting innovative solutions:

- **Systematically favour the "Most Economically Advantageous Tender" to the lowest price offer**  
→ This approach should be used systematically to award the contract, rather than only basing the award on the lowest price criterion. Only the former enables procurers to properly take into account the whole life-cycle cost of the building or infrastructure (from the design to the end of life of the asset), as well as those additional aspects, e.g. social or environmental aspects, which the directives allow. This is a key condition for more sustainable public procurement, especially in the context of the current economic crisis. By contrast, using the lowest price criterion can lead to the acceptance of abnormally low tenders, which do not guarantee the promotion of sustainability in public procurement.
- **Systematically allow, and even encourage, the presentation of alternative offers ("variants") in order to promote innovative solutions**  
→ A company should be free to present an alternative offer, and not only in cases in which this is specifically permitted by the client which is the case in the current directives.
- **Improve the training of public procurers dealing with construction contracts in order to better take into account "sustainable construction" whilst respecting the EU directives in force**  
→ Ensuring contracting authorities are sufficiently trained and competent is essential to guaranteeing the overall efficiency of public procurement. It is obviously the role of each Member State or contracting authority to ensure that projects are correctly prepared and civil servants involved in public procurement are competent enough to deal with the types of procedures they use. This is a key condition to ensuring the success and good quality of the projects.

##### b) By the strict respect of the rules:

- **Ensure the strict respect of the confidentiality of offers**  
→ This is of particular importance when contractors present alternative offers, as well as in the special case of the competitive dialogue procedure. It is unacceptable that contractors' ideas are cherry picked or stolen. In a market economy, no contractor can afford to invest in financial and human resources if the result is made available to competitors, which did not have these expenses to pay. Such improper practice discriminates and financially disadvantages inventive contractors, as well as discouraging them from participating in future calls for tenders organised by the same client. This restricts both the client's choice and competition.
- **Ensure the systematic rejection of Abnormally Low Tenders (ALTs) by setting up stricter mechanisms**  
→ In theory, setting the price of an offer is the responsibility of the contractor, independently of the cost estimate made by the client. In practice – and particular against the backdrop of the economic downturn, where resources are scarce – clients tend to put pressure on contractors, trying to award contracts to the lowest possible price. This phenomenon, which is accentuated by the fact that contracting authorities tend to award contracts according to the lowest price criterion only, rather than the "MEAT" criterion, does not provide "best value for money", which should be a priority of contracting authorities, in particular during periods of economic downturn. For this reason again, contracts should be awarded on the basis of the "MEAT" criterion. Contracting authorities should also be obliged to systematically exclude all identified ALTs.
- **Ensure the strict respect of payment periods**  
→ Irrespective of size, it is important for all construction enterprises that their clients – and in particular public clients, which have sufficient financial resources available and are supposed to show the right example – pay invoices in due time. The respect of fair payment period rules should then be ensured all along the payment chain. Especially during the current economic crisis, no construction enterprise can afford to receive late payment and be used as the equivalent of a cheap credit source, i. e. as a replacement bank, which would grant credit to the client only in return for paying an adequate fee. FIEC therefore welcomes the recent Commission's proposal to improve the provisions of Directive 2000/35/EC in order to prevent the delayed payment of invoices, but expresses major concerns regarding the outcome of the on-going negotiations at Parliament and Council level.



**Thomas Schleicher, DE**

**President**

*Domenico Campogrande, FIEC  
Rapporteur*

**Sub-Commission SOC-1**

**"Vocational Training"**



**Alfonso Perri, IT**

**Chairman**

*Rossella Martino, IT  
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**Jacques Lair, FR**

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*Odette Repellin, FR  
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**Sub-Commission SOC-2**

**"Health and Safety"**



**José Gascon y Marin, ES  
(-9/2010)**

**Chairman**

*Ricardo Cortes, ES  
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**Sub-Commission SOC-3**

**"Economic and Social  
Aspects of Employment"**



**André Clappier, FR**

**Chairman**

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## A. INVESTING IN VOCATIONAL TRAINING AND EDUCATION: THE ANSWER TO SKILLS NEEDS

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

Many jobs have been lost and in several Member States the construction industry continues to suffer from an almost constant shortage of qualified workers. There is therefore a significant need to increase investments in training and to adapt the vocational training facilities.

Substantial efforts will therefore have to be made at EU and at national level, in order to ensure, on the one hand that workers have the adequate skills required by future market drivers, such as climate change and accessibility concerns brought about by demographic changes whilst, on the other hand, facilitating labour market transition and strengthening construction workers' skills.

The priorities for FIEC in the area of vocational training and education have been set according to this framework.

### 1. Improving the image of the sector

In most countries the construction industry still suffers from a negative image which affects its attractiveness and which, to some extent, explains the difficulties in hiring and in keeping young people as well as skilled workers. Whilst in some areas further improvements certainly need to be made, many of the stereotypes that are still used to describe the construction industry do not correspond to reality.

This situation is largely due to a lack of information and to bad communication and information provided to the outside world and in particular to young people in schools.

Initiatives will therefore be undertaken in this area. However, young people are only one target amongst others and therefore these initiatives will need to have a wider scope and will also address issues such

as how to attract more women to the sector, as well as how contractors themselves can play a role in improving the image of their industry by paying attention to the quality of their work, the way their workers are dressed, the tidiness of their building sites, etc.

Several initiatives in these areas have already been undertaken in many countries and therefore, together with EFBWW (European Federation of Building and Woodworkers), it is envisaged to develop in the second half of 2011 a website presenting such national best practice examples.

Furthermore, FIEC is promoting amongst its members the "Eurosills" ([www.euroskills.org](http://www.euroskills.org)) and "Worldskills" ([www.worldskills.org](http://www.worldskills.org)) events. These initiatives take the form of biannual international skills competitions among young people, with the aim of improving the quality, the results and the attractiveness and promotion of vocational education and vocational skills.

### 2. Anticipating future skills and qualifications needs

At the end of 2010 the European Commission issued a Communication entitled "An agenda for new skills and jobs", which is one of the so-called "flagship initiatives" in the framework of the EU 2020 Strategy.

In this Communication the Commission highlights the fact that 23 million people are currently unemployed across the EU, 10% of the active population, with serious consequences for European competitiveness, growth and welfare systems. At the same time, employers are reporting difficulties in recruiting in particular high-skilled workers. The Communication addresses this problem and sets an ambitious target namely to boost the EU employment rate to reach 75 % of men and women by 2020. In order to reach this goal 13 key actions have been identified aiming at reforming labour markets, upgrading skills and matching them with market demand to boost employability and make it easier to move jobs, to improve working conditions and job quality, and to create jobs.

In order to achieve a better anticipation and skills needs, as well as their matching with the effective needs of the markets, the Commission encourages and supports the creation of sectoral skills' councils at European level. It is not the intention of the Commission to impose anything in this respect and therefore this initiative should be undertaken directly by the social partners concerned.

The aim in supporting these sector skills councils is therefore to deal with one specific sector of the economy, to gain an insight into the likely developments in employment and skills needs with the aim of assisting policy making within or for this sector. This is done through analysis of developments on the sectoral labour market. They are intended to function as a platform in which at least two types of stakeholders are involved (employers, trade unions, governmental bodies, training-related bodies, etc.) and should work in a structured and continuous way.

EFBWW and FIEC addressed this issue during the meetings of their Social Dialogue "Vocational training" working party, as well as with representatives of the Commission.

In order to investigate further the opportunity and feasibility of setting up an EU Sectoral Skills Council for the construction industry a questionnaire has been circulated amongst the respective affiliates and the majority of the answers indicated the willingness to try to set up such a body at the EU level.

Discussions between FIEC, EFBWW and the Commission are therefore taking place in order to proceed in this direction.

### **3. Install-RES" project: Training for meeting the environmental objectives**

The quality and quantity of installed renewable energy systems should be improved and enlarged by adaptation and development of adequate education and training means in order to reach the 20-20-20 targets set in the European Energy and Climate Change package, namely reducing greenhouse gas emission by 20%, increasing the share of renewable in energy consumption to 20% compared to 8.5% today and improving energy efficiency by 20%, all by

2020. In this framework, the qualification of trainers and installers is determining the quantity and the quality of the installed Renewable Energy Systems (RES).

The Install+RES project, in which FIEC is participating, aims at providing highly qualified trainers and installers of small-scale renewable energy systems (biomass, solar, PV and heat pumps) for buildings in several European member States (Germany, Bulgaria, Greece, Italy, Poland and Slovenia).

This will be done by establishing high quality training courses for trainers and installers in the field of small-scale renewable energy systems in buildings. Training courses for trainers will be offered in the first part of the project in German and English languages.

In the second part of the project, the trainers will then train the installers in their national languages for the renewable energy systems most relevant for their specific national needs according to the National Action Plans (NAP) required by the European Commission in the framework of Directive 2009/28/EC on the promotion of use of energy from renewable energy sources.

The Install+RES project will therefore give a relevant contribution to reach the targets of the various National Action Plans by providing the adequate skills and competences to highly qualified trainers and installers.

Further information on this project can be obtained on the following website: [www.resinstaller.eu](http://www.resinstaller.eu)

### **4. Facilitate the recognition of qualifications: the "Bricklayer" project**

In contrast to other industrial sectors, in construction it is not the "final product" that moves within the single market, but rather the enterprises and their workforces that have to move to where the "product" is to be constructed. Such mobility plays a crucial role in the competitiveness of the sector and should therefore not be hindered by training and education policies, which are national competences, and which

– due to the specificities of each country – sometimes differ significantly one from another.

For these reasons, the transparency and the mutual recognition of qualifications is a priority on the agenda of the European Social Partners for the construction industry, FIEC and EFBWW, who have finalised a joint pilot project focusing on the mutual recognition of qualifications for bricklayers/masons.

The objective of this project is to set the basis for a possible framework to be applied in the assessment of bricklaying qualifications, to analyse and compare the nature, content and regulation of different qualifications and vocational training systems for bricklaying in eight EU countries (Belgium, Italy, Germany, the Netherlands, Denmark, the United Kingdom, Poland and France) and to identify the learning processes whereby qualifications are acquired in each country, including formal and informal learning.

From the national reports of the eight countries examined it is possible to discern three predominant models of VET associated with different bricklaying qualifications and variously reflecting distinctions between: narrow and broad range of activities; work-based and school-based elements, etc.

These three distinct groups of VET systems suggest that equivalence cannot easily be established, either in terms of a core bricklaying qualification or individual pathways and curricula. Regarding the qualification it is also important to consider how bricklayers who have not carried out part of their initial VET in operational conditions can be compared with those who have had similar school or workshop-based input but have work-based experience as well through following an apprenticeship-type qualification.

The project findings will facilitate discussions both at the European and national levels. However, the results achieved so far apply only to the eight countries directly involved in the project. This raises the question of how to adapt the project's conceptual framework in such a way that it can be applied in other countries and in relation to other sectors and occupations.

In order to achieve this one option envisaged by the study, which is below the threshold of mutual

recognition, is the development of "Zones of Mutual Trust" (ZMT) between those countries having similar VET systems.

A ZMT is defined as an agreement between individuals, enterprises and other organisations concerning the delivery, recognition and evaluation of vocational learning outcomes (knowledge, skills and competences). They offer practical help with decisions about the value of qualifications and certification, further learning and recruitment into employment. They may be dynamic in nature and may become more or less formal in scope and form according to the mutual confidence and needs of the stakeholders involved.

This option will be further discussed at the European sectoral Social Dialogue level.

Another issue that will have to be addressed within the European sectoral Social Dialogue, in collaboration with the academics involved in the project, concerns the conclusions that can be drawn from this "Bricklayer" project with respect to another project in which FIEC participated aiming at defining a Sectoral Qualification Framework for the construction industry.

What is clear is that in order to make practical and efficient use of the results of this "Bricklayer" project, co-ordinated discussions between the European and national social partner organisations, together with other stakeholders, will be needed.

The detailed national reports as well as the comparative analysis are available in various languages on the following website [www.bricklayer-llp.eu](http://www.bricklayer-llp.eu)

In addition to this project, FIEC is also collecting information on the various national training bodies and institutions in which the social partners are involved, as well as the ones recognised by them, with the aim of facilitating the contacts and the exchange of best practice between them.

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

Despite the overall reduction in the number of work related accidents and illnesses, statistics clearly indicate that construction is still among the sectors where further improvements are needed.

One of FIEC's main priorities is the improvement of health and safety, not only through legislation and schemes at EU and Member State level, but also through promoting the development of a real culture of health and safety within each company. In order for this to be achieved, all concerned stakeholders should be actively involved.

Since the signature of the "Bilbao Declaration" in 2004 on "Building in Safety", FIEC and EFBWW, the European Sectoral Social Partners, have continued to develop their joint and individual activities on H&S with the aim of implementing the objectives of this declaration.

### **1. Facilitating the development of a H&S culture amongst SMEs through a European guide**

In several countries, clients are increasingly insisting that companies prove that they have set up H&S management systems and actually comply with them. In most cases these management systems are specific to each client and therefore companies have to draw up a large number of different specific sets of documentation.

Therefore, on the initiative of FIEC, a joint working group with EFBWW was set up in order to draw up a European guide for encouraging and helping companies to introduce and develop a H&S management system. Such a system, to be endorsed on a voluntary basis, would take into account the needs and capacities of SMEs and would be flexible enough so as to take into account measures already existing at national level.

This guide describes the basic steps and requirements necessary to develop a H&S system in a construction enterprise and is intended to be complemented by a series of fact sheets and practical examples, with the

aim of promoting a H&S culture amongst companies and workers.

A joint FIEC-EFBWW working group finalised the guide, which was then approved during the Social Dialogue Plenary meeting in June 2010, following the consultation of the respective affiliates.

In order to support the dissemination of this guide at the national level, a request for financing by the EU Social Dialogue budget line has been submitted to the European Commission with the aim, amongst others, of translating it into various EU languages.

It will then be the responsibility of the national affiliates of FIEC and EFBWW to promote it towards their members and, where needed, to adapt it to the requirements of the national legislation.

### **2. Support for OSHA (European Agency for Safety and Health at Work) campaigns**

The European Agency for Safety and Health at Work (OSHA) was set up in 1996 as a tripartite organisation, in which representatives of governments, employers and workers are present.

Its mission is to make Europe's workplaces safer, healthier and more productive by bringing together and sharing knowledge and information, and to promote a culture of risk prevention.

Since 2000, in order to achieve its objectives, OSHA has launched several European thematic awareness raising campaigns. FIEC has actively supported the OSHA campaigns, mainly since the 2004 campaign on "Building in Safety", which was the first to be focused on a specific sector, until the 2007 "Lighten the Load" campaign on musculoskeletal disorders.

Along these lines FIEC was partner to OSHA's risk assessment campaign, which was run through 2008 and 2009. The main objectives of this campaign were, amongst others, to raise awareness of the statutory responsibility and the practical need to assess risks in the workplace, to promote and demystify risk assessment, to encourage enterprises to carry out their own risk assessment and to promote the

involvement of everyone in the workplace in risk assessment, not only employers.

FIEC is also partner of the 2010-2011 campaign of OSHA on "Safe maintenance".

The main message of this campaign is that without proper maintenance things can go dramatically wrong in the workplace. Regular maintenance is essential to keep equipment, machines and the work environment safe and reliable and it helps to eliminate workplace hazards. Lack of maintenance or inadequate maintenance on the other hand can lead to dangerous situations, accidents and health problems. Maintenance is a high risk activity and it therefore has to be performed in a safe way.

### 3. Forthcoming EU activities on H&S

FIEC is also closely following with attention other EU initiatives that could have a significant impact on contractors in the coming years.

The European Commission envisages on the one hand to revise the "Carcinogens" Directive (2004/37/CE), with a possible extension of its scope in order to include, amongst others, respirable silica dust.

In addition, the Commission also envisages a new legislative initiative, in order to cover musculo-skeletal disorders or "MSD" (i.e. problems of the locomotor apparatus resulting from repeated exposure to high or low intensity loads during a long period of time). The MSDs are of particular concern for the construction industry and only some of them are currently covered by a EU Directive, for example by the Directives on "Manual handling of loads" (90/269/EC) and on "Vibrations" (2002/44/EC).

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

## C. ECONOMIC ASPECTS OF EMPLOYMENT

### 1. "Posting" Directive: key legislation for the construction industry

The "Posting" Directive (96/71/EC) is a centrepiece of EU legislation for a sector such as construction, which is characterised, amongst others, by the high level of mobility of its workforce. Its application in all the Member States plays a crucial role in preventing social dumping and therefore in the competitiveness of our industry. Mobility is vital to addressing labour shortages and in the Internal Market companies should not be confronted with unnecessary barriers when providing services using posted workers. At the same time, host countries must be able to use proportionate control measures to fight illegal employment and social dumping, whilst ensuring the protection of workers' interests.

Several judgments of the European Court of Justice (ECJ), namely the "Laval" (C-341/2005), "Rüffert" (C-346/2006) and "Luxembourg" (C-319/2006) cases have led MEPs and representatives of the trade unions to question the efficiency of the "Posting" Directive and to lobby for its modification.

On this matter FIEC's position has remained unchanged: the "Posting" Directive does not need to be amended. It is a well balanced instrument for achieving the objectives of cross border service provision, including fair competition and the social protection of workers temporarily posted in another Member State. FIEC considers that the judgments referred to above point to the incomplete or incorrect implementation or application of the Directive by the Member States concerned.

In a recommendation published in March 2008, the European Commission expressed similar views as FIEC and indicated that urgent action is required to remedy shortcomings in the implementation, application and enforcement of the legislation pertaining to the posting of workers, by reinforcing administrative cooperation between the Member States, through using more effective systems of exchange of information, improving access to information and promoting exchange of information and on best practice.

In this respect, a EU “Group of experts”, in which FIEC is represented by its Honorary President Wilhelm Küchler, was set up and started working in March 2009 on the priorities highlighted by the European Commission.

Also with the objective of facilitating the practical application of the “Posting” Directive, FIEC and EFBWW have jointly developed a website ([www.posting-workers.eu](http://www.posting-workers.eu)), co-financed by the European Commission (DG EMPL), which has been freely accessible on the internet since 1/10/2009.



The aim of this website is not to collect general information which may be available from other sources, but to focus on those aspects that specifically relate to posting of workers in the construction sector. It should therefore act as an innovative, important and useful instrument for ensuring an efficient practical application of the “Posting” Directive by providing a centralised source of information, available both for enterprises and workers, on the specific provisions in force in all the EU Member States.

The website presents, in a clear and user friendly manner, information on rules regarding working conditions in the construction industry (minimum wages, working time, health and safety, etc.) applicable in the various Member States of the European Union. In other words, an enterprise or a worker intending to work on a temporary basis in another Member State will be able to find all the relevant information on this website at the click of a button, together with links to national web sites on which further information can be found.

The University of Strasbourg undertook a study on behalf of the European Commission (DG EMPL) regarding the availability of information on the posting of workers. The aim of this study was to make a comparative analytical survey of websites set up by public administrations of several different Member States and it also assessed the FIEC-EFBWW website. In its conclusions the study states that “A comparison between the information given on the websites of the public administrations and the social partners in the building sector has often led us to quote the latter as a model. It is better referenced than some national websites, it sometimes provides exhaustive information and it addresses the practical aspects. It is useful in a sector that is particularly affected by transnational postings of workers...”.

Furthermore a few other studies focusing on the practical application of the “Posting” Directive, also undertaken on behalf of the European Commission (DG EMPL), are currently being finalised. On the basis of the outcome of these studies a legislative proposal aiming at improving the application and the enforcement of the “Posting” Directive should be presented by the European Commission in the second half of the year.

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

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

An “Intra-corporate transfer” is the temporary transfer of a non-EU national, and in particular managers, specialists or graduate trainees, from an undertaking established outside the EU, and to which the non-EU national is bound by a work contract, to a subsidiary belonging to the undertaking or to the same group of undertakings which is established on one of the Member States. In other words, a Chinese construction company having a subsidiary in one of the Member States and wishing to transfer some of its workers for a limited time to its subsidiary would fall within the scope of this Directive.

The EU Treaty provides that the Union is to develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows and fair treatment of non-EU nationals residing legally in Member States.

According to the Commission, these intra-corporate transfers of key personnel result in new skills and knowledge, innovation and enhanced economic opportunities for the host companies, thus advancing the knowledge-based economy in Europe while fostering investment flows across the EU. Well-managed transfers from non-EU countries also have the potential to facilitate transfers from the EU to non-EU companies and to put the EU in a stronger position in its relationship with international partners. Facilitation of intra-corporate transfers will also enable multinational groups to tap their human resources best.

Although all the other sectoral and inter-sectoral employers organisations at the EU level have welcomed this proposal for a Directive, the EU sectoral social partners for the construction industry, FIEC and EFBWW, have identified several issues and proposed provisions that could seriously affect the smooth functioning of construction activities in the EU.

The first main concern is linked to the international negotiations that take place at the World Trade Organisation level and in particular in the framework of the GATS, the General Agreement on Trade in Services. Without entering into the details of an extremely complex matter, it is important to highlight that the GATS defines four ways in which a service can be traded, known as "modes of supply", and that at this stage of the negotiations construction activities, which are part of the so-called "Mode 4", namely "individuals travelling from their own country to supply services in another, are "unbound" under GATS. This means in the GATS jargon that no agreement has been reached yet in the negotiations as regards construction activities.

In this context, adopting such a Directive on ICT would mean opening unilaterally the EU construction markets to non-EU companies and undermining the capacity of the EU to obtain reciprocal commitments under "Mode 4" of GATS or in bilateral agreements.

A second concern regards the categories of workers concerned by this proposal. The definitions of

"specialist" and of "graduate trainee" are unclear and extremely difficult to apply in practice, which could easily lead to abuse.

How realistically and in which time frame could, for example, a labour inspector in Portugal check and verify the level of qualification referring to a type of work or trade requiring specific technical knowledge, which is required for a "specialist", or the higher education qualification, required for a "graduate trainee", of a Ukrainian worker ?

Finally, the proposed Directive also has an impact on the labour market, as it defines, amongst others, which are the working conditions to be applied to non-EU workers that fall within the scope of this Directive.

Although the proposed Directive clearly states that the conditions foreseen by the "Posting" Directive, in other words the working conditions of the country where the works take place as far as construction is concerned, also apply to non-EU workers, a specific provision on "Mobility within Member States" could seriously interfere with the "Posting" Directive and facilitate its circumvention, thereby facilitating forms of social dumping for workers and of unfair competition for companies.

The way in which this particular provision is currently drafted seems to indicate that a company which has temporarily transferred its workers in a first Member State could then transfer these workers to another Member State under the working conditions applied in the first Member State. In other words, an Indian company which has transferred some workers to Poland for example, could then transfer these workers to any other Member State under the working conditions defined by the Polish legislation.

The impact on a labour intensive industry such as construction, which is characterised by the very high mobility of its workforce, can easily be imagined.

For all these reasons and in order not to interfere with the interests of other sectors, which see an interest in such a proposed Directive, FIEC and EFBWW have finalised a joint position paper in which they jointly ask the EU legislator to explicitly exclude construction activities from the scope of this proposed Directive on ICT.

The ball is now in the court of the European Parliament and of the Council of Ministers and a decision is expected probably towards the end of 2011.

### 3. FIEC participation in the Tripartite Social Summit on 24<sup>th</sup> March 2011

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Before each EU Summit, which gather the EU Heads of State and Government, a Tripartite Social Summit is organised. It is a particularly important event in which the delegations of the inter-sectoral social partners meet the highest representatives of the Commission and of the EU Presidency.

The first of these two Social Summits for 2011 took place on 24<sup>th</sup> March in Brussels and the main theme was "Growth and jobs in times of fiscal/budgetary consolidation".

Because of the important role that the construction industry can play in this respect FIEC has been invited to attend the Social Summit in the delegation of BusinessEurope.

The Summit was co-chaired by the President of the Commission, José Manuel Barroso, the President of the European Council, Herman Van Rompuy, and the Hungarian Prime Minister, Viktor Orbán, who holds the current EU Presidency.

On this occasion Elco Brinkman, FIEC Vice-President, conveyed the messages of the EU contractors focusing in particular on the need for investing in infrastructure and buildings, in order to secure the long term sustainable development of the EU economy, as well as in adequate skills and training policies, in order to ensure that the EU meets its climate and energy objectives whilst improving competitiveness.

Elco Brinkman also addressed the need to adequately take into account all aspects linked to the globalisation of markets. He underlined that the sustainable growth of our economy depends on international competitiveness and that in this respect it is crucial for EU contractors to ensure fair competition from third country companies.



Thomas Schleicher and Domenico Pesenti (EFBWW President)

Photo: © Yvan Clavier

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

- Finalisation of the "Paritarian funds" website ([www.paritarian-funds-construction.eu](http://www.paritarian-funds-construction.eu)), presenting an overview of the paritarian funds existing in the various member States in the construction industry.
- Participation in the Committee of Experts on "Posting" set up by the European Commission.
- Partner of the OSHA (European Agency for Safety and health at work) campaign on "Safe maintenance".
- Promotion of the Euroskills events (biannual international skills competitions among young people, with the aim of improving the quality, the results and the attractiveness and promotion of vocational education and vocational skills: [www.euroskills.org](http://www.euroskills.org)).
- Partner in the "Install-RES" project aiming at developing trainings for trainers and installers of small-scale renewable energy systems (biomass, solar, PV and heat pumps) for buildings in several European member States ([www.resinstaller.eu](http://www.resinstaller.eu)).
- Finalisation of the FIEC-EFBWW project on the recognition of qualifications for "Bricklayers" ([www.bricklayer-llp.eu](http://www.bricklayer-llp.eu)).
- Participation in the Tripartite Social Summit on 24/3/2011.

### Position Papers

FIEC-EFBWW position on the proposal for a Directive on "Conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer" ("ICT") (28/2/2011)

FIEC-EFBWW position paper on the proposal for a Directive on "Conditions of entry and residence of third-country nationals for the purposes of seasonal employment" (21/2/2011)

FIEC-EFBWW Joint statement on third-country contractors and workers in the EU (19/10/2010)

FIEC-EFBWW Joint position paper on the findings of the "Stoiber" High Level Group on the Action Programme for reducing Administrative Burdens in the European Union (30/6/2010)

### Press Releases

FIEC press releases : Construction should therefore be excluded from the scope of the proposed Directives on "Seasonal workers" and "Intra-corporate transfers" from third-countries (4/4/2011).

FIEC-EFBWW press release : The sectoral Social Partners for the construction industry launch their website on "paritarian social funds" (17/3/2011)

FIEC-EFBWW press release : Only strong Social Partners can develop a strong and efficient Social Dialogue (19/10/2010)

### Initiatives financially supported by the European Community

FIEC-EFBWW report "Bricklaying qualifications in Europe" (11/2010)

FIEC-EFBWW 2nd conference on "paritarian social funds in the construction industry" Bucharest - 10/2010)

Update of the FIEC-EFBWW website on "Posting" (on-going)

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

## FBWW-FIEC position on the proposal for a Directive on "Conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer" ("ICT") COM(2010)378

21/2/2011 (The following are extracts. The full version can be found on the FIEC web site : [www.fiec.eu](http://www.fiec.eu))

### 2. EFBWW and FIEC concerns

[...]

#### a) The scope of the Directive should be aligned to the commitments of the Union in application of international or bilateral trade agreements

The international agreements signed within the framework of WTO (World Trade Organisations) or the bilateral ones spell out common principles of liberalisation and the permitted exceptions. They include individual countries' commitments...thereby setting a basis for transparency and reciprocity.

[...]

The scope of the proposed Directive however is broader than that implied by international or bilateral trade commitments, in particular with regards to the EU commitments under the GATS (General Agreement on Trade and Services).

In particular, EFBWW and FIEC draw the attention of the legislator on the fact that at the moment the construction sector is not covered by the GATS Mode 4 ("presence of natural persons").

[...]

The EFBWW and FIEC therefore raise a warning about the unilateral opening of the EU construction markets which, as currently foreseen by the proposed Directive, could affect the competitiveness of EU companies, social protection/standards of workers and weaken the bargaining position of the EU in ongoing and future negotiations.

#### b) Any interference with and circumvention of the "Posting" Directive (96/71/EC) must be avoided

[...]

The scope of the "Posting" Directive concerns any kind of worker without any reference to a specific category (skilled or unskilled, managers, specialists, graduate trainees, etc). It is also fully applicable to third countries companies transferring temporarily workers on the EU market, independently of whether or not they have a subsidiary within the EU.

The "Posting" Directive therefore clearly defines which provisions, including working conditions, must be respected in the host country, both by EU as well as by third country companies.

The proposed "ICT" Directive states that intra-corporate transferees should benefit from the same working conditions as posted workers whose employer is established on the territory of the EU, as defined by the "Posting" Directive.

[...]

However, Art. 16 of the proposed "ICT" Directive on "Mobility within Member States" creates an unclear framework, which undermines the application of the provisions of the "Posting" Directive and facilitates its circumvention.

[...]

**For these reasons the European sectoral social partners for the construction industry, EFBWW and FIEC, consider that as far as construction activities are concerned request that construction activities be excluded from the scope of the proposed "ICT" Directive.**

EFBWW and FIEC will follow with attention the development of the debates on the proposed Directive and will undertake further specific actions on issues that are of concern for the construction industry in case the request for a sectoral exclusion is not accepted.

## Joint Position Paper of the European Social Partner in the Construction Industry in the findings of the High Level Group (HLG) on the Action Programme for reducing Administrative Burdens in the European Union [COM(2007) 23 final]

30/6/2010 (The following are extracts. The full version can be found on the FIEC web site : [www.fiec.eu](http://www.fiec.eu))

EFBWW and FIEC share the view that further steps are desirable in the reduction of administrative burden for companies, in particular SMEs, but these steps should not be done at the detriment of the positive achievements reached so far in health and safety policies.

For these reasons, EFBWW and FIEC consider that the adoption of the recommendations as proposed by the HLG could endanger one of the main EU social policy pillars, namely occupational health and safety.

On this basis EFBWW and FIEC are open for a possible constructive debate with the HLG in order to review the recommendations put forward. [...]

### II. No exemptions from the obligations laid down in the directives

6. EFBWW and FIEC believe that it is the duty and the responsibility of each company, independently of its size, to take care about the health and safety of its workers and therefore there shouldn't be any distinction between the levels of risk for different sizes of firms. [...]

8. However, EFBWW and FIEC recognise that further improvements can be achieved towards a better application of the obligations foreseen by the Directives in question, taking into account the needs and the possibilities of SMEs, thereby effectively reducing their administrative burdens. [...]

### III. No real progress can be achieved without the involvement of the social partners

10. The construction industry is characterised by some specificities, which make it very different from the other industrial sectors. It has also some particular working and employment conditions and the social partners play an important role in regulating such conditions. They are best placed for understanding the requirements and the needs of enterprises and workers and for defining the most adequate answers. Therefore, real progress can not be achieved without their involvement.

[...]

## EFBWW-FIEC joint statement on third-country contractors and workers in the EU

19/10/2010 (The following are extracts. The full version can be found on the FIEC web site : [www.fiec.eu](http://www.fiec.eu))

EFBWW and FIEC, the European sectoral social partners for the construction industry, observe that the globalisation of the world's economies has led to an increasing number of enterprises and workers from third-countries on the EU construction market

Competition, provided it is fair and healthy, contributes to progress and innovation, whereas unfair and unhealthy competition, based on the lowest price only, endangers the respect of social rights and environmental considerations.

EFBWW and FIEC therefore underline the need to ensure an economic and social level playing field framework, which provides the ground for a fair competition between companies and the respect of the social achievements reached so far within the EU. This concerns both international trade and the Internal Market.

Therefore, EFBWW and FIEC ask that:

a) The effective application, control and enforcement of article 1(4) of the Posting of Workers Directive be strengthened. Specific concrete preventive, control and enforcement measures, including

sanctions, should be introduced to safeguard the effectiveness of the said provision.

b) The EU public procurement legislation be amended in order to ensure an effective level playing field for all potential EU and third-country tenderers and in particular avoiding unfair forms of competition between private and state owned companies, including third-country companies. [...]

d) As a matter of principle, construction contracts for EU co-financed projects should be awarded only to contractors from the EU or EEA countries or from countries having joined the GPA (Agreement on Government Procurement) or with which bilateral agreements exist.

e) The award of European funding (EIB, Structural funds,...) be subject to a preliminary control of an effective economic and social level playing field, in particular the proven absence of third-country state-aid which otherwise escapes all EU rules in this matter.



Kjetil Tønning, NO

President

*Frank Faraday, FIEC  
Rapporteur*

Sub-Commission TEC-1

"Directives, Standards  
and Quality Assurance"



Jan Coumans, BE

Chairman

*Eric Winnepeninckx, BE  
Rapporteur*

Sub-Commission TEC-3

"Environment"



Jan Wardenaar, NL

Chairman

*Paul Schumacher, NL  
Rapporteur*

Sub-Commission TEC-2

"Research, Development  
and Innovation"



Bernard Raspaud, FR

Chairman

*André Colson, FR  
Rapporteur*

Sub-Commission TEC-4

"Plant and Equipment"



José Ramón Yannone, ES

Chairman

*Ricardo Cortes, ES  
Rapporteur*

## 0. Introduction

The following is a brief outline of the areas of activity for FIEC's Technical Commission detailed in the report.

- 1. Forging a Sustainable Construction Sector**
- 2. Energy and Climate Action: Towards the Low Carbon Economy**
- 3. Harnessing the energy saving potential of existing buildings**
- 4. Expanding the EU's Energy Networks**
- 5. FIEC's promotion of construction research and development**
- 6. CE marking: Defending the interests of construction product users.**
- 7. Striking the right balance for SMEs: the Commission reform of the ESS.**
- 8. Work to ensure the safety and security of construction sites.**

### 1. Forging a Sustainable Construction Sector (see also ECO Commission)

Sustainability goes to the heart of the work of FIEC's Technical Commission. Independently of other initiatives promoted through international and European standardisation or through European Commission initiatives such as the upcoming communication on construction sector competitiveness, FIEC's members are seeking to define their own vision of sustainability. The aim is to ensure that construction enterprises remain at the forefront of the drive towards sustainability and can fully grasp the market opportunities that will be created through new drivers for change. Such drivers include increased interest in carbon footprinting and energy efficiency measures among both public and private-sector clients and more stringent regulation from both European and national legislators linked to carbon emissions reductions targets and increased environmental protection. Work on sustainability related issues takes place throughout FIEC's commissions and working groups but is the main focus of the Technical Commission's Environment Sub-Commission chaired by Jan Wardenaar (NL).

### FIEC's "Sustainability Forum"

Whether it be initiatives to promote the uptake of energy efficiency measures in existing buildings or best practice with regards to the waste recycling techniques, FIEC's Environment Sub-Commission unanimously decided on March 18<sup>th</sup> 2011 to establish a regular forum of FIEC's members to exchange best practice in lobbying activities on sustainability at national level and attempt to showcase construction enterprises that have seized these new business opportunities. Such a forum seeks to build on the very successful conference on creating a business case for sustainability among construction companies that was held during FIEC's 2010 Congress on Cyprus (see specific chapter).

### 2. Energy and Climate Action: Towards the Low Carbon Economy

FIEC made a historic appeal during the Copenhagen UNFCCC Summit in December 2009 for Europe to show leadership in finding a global agreement to mitigate the effects of climate change through its own example of reducing greenhouse gas emissions within the EU. The appeal detailed how the construction sector can contribute to this fight and what regulatory framework will help the industry in contributing to the low-carbon society. FIEC monitors issues linked to energy and climate change mitigation through the Technical Commission's Environment sub-commission chaired by Jan Wardenaar (NL).

#### Construction and the Low Carbon Economy Roadmap:

The European Commission, on 9<sup>th</sup> March 2011 unveiled the Low Carbon Economy Roadmap. The Roadmap details how the European Commission sets out to reach a 80-95% reduction in carbon dioxide emissions by 2050. The milestones on the cost-effective pathway are domestic CO<sub>2</sub> emissions reductions of the order of 25% in 2020, 40% in 2030 and 60% in 2040. This goes beyond Europe's commitment to reduce greenhouse gas emissions by 20% by 2020 under the Climate Change Package adopted at the end of 2008. The Commission has singled out the potential of the building sector for reductions in CO<sub>2</sub> emissions and claims that emissions can be reduced cost-effectively by 37 to

53% by 2030 and 88 to 91% by 2050. Crucially, the European Commission acknowledges that financing needs for reducing the carbon intensity of existing buildings will need to be increased by around €200bn annually over the next decade. Specific measures for the construction sector will be articulated in the upcoming communication on construction sector competitiveness expected for the end of the year.

**At the time of writing FIEC's Environment Sub-Commission is preparing the response of FIEC's members to the Roadmap and what the construction sector believes is the right regulatory and financial framework to achieve these aims.**

### Energy Efficiency

FIEC supports the view that no effort to bring down emissions of greenhouse gases will succeed without reducing global demand for energy. In this context, FIEC has been a keen supporter of the EU's Energy Efficiency Action Plan that was launched in October 2006. "The Action Plan outlines a framework of policies and measures designed to realise the estimated savings potential of over 20 % of the EU's annual primary energy consumption by 2020". As far as buildings are concerned, the potential for gains in efficiency are, according to Commission figures, around 25-30%. On 8<sup>th</sup> March this year, the Commission launched a new **Energy Efficiency Plan** building on the previous action plan but with more ambitious language.

While FIEC congratulates the recognition of the potential of the existing building stock in meeting the 2020 targets for energy savings and applauds the Commission for seeking to tackle the problem of split incentives between building owners and tenants, FIEC remains disappointed that the ambition is not matched with a bold vision on channeling sufficient public and private funding into refurbishment and retrofitting activities.

### 3. Grasping the energy saving potential of existing buildings

July 2010 saw the entry into force of the recast **Energy Performance of Buildings Directive**. The previous Directive had been difficult to implement, in large part, through a lack of trained energy certifiers. One of the major innovations of the recast has been to effectively scrap the threshold that applies to certification of existing buildings undergoing major renovation. One of the priorities behind the amendments tabled by the European Parliament to the Directive is moving towards nearly zero energy new buildings by 2020.

FIEC continues to emphasize that **the most cost-effective solution for securing gains in the energy efficiency of buildings is when they undergo major renovation**. FIEC therefore is satisfied with the new Directive as it recognizes the need for a solid financial framework to encourage renovation works for energy efficiency especially in privately owned homes. In this regard, the role of **reduced VAT** for renovation works as it is practiced in some countries cannot be underestimated.

**In tackling the huge potential of existing buildings, FIEC continues to believe that a systematic and methodological approach is required to addressing existing buildings. Such an approach should seek both to reduce the building's demand for heating or cooling by sufficient insulation and glazing before new technical systems and micro-renewables such as solar panels and ground/air source heat pumps are promoted.**

### 4. Expanding the EU's Energy Networks

FIEC's working group on Energy Networks under the aegis of the Environment sub-commission is now two years old and, through the work of Daniel Boscarri (FR) and his team, produced in June 2010 a detailed position paper on what is needed to secure the **vital investment in new electricity and gas grid infrastructure** in order to reduce Europe's demand for imported energy and to prepare the grid for the coming on stream of large scale low carbon generation. Investment needs for new energy infrastructure in the EU are estimated by the European Commission to amount to €1 trillion

over the next decade. **Barriers to the transformation of the EU's grid remain however in over-zealous planning rules and in a lack of large scale financing.** An excerpt of this position paper can be found at the end of this report.

FIEC is currently developing its detailed response to the Commission's latest consultation on planning permits for energy infrastructure projects and awaits a detailed proposal on this before summer.

## 5. FIEC's promotion of investment in construction research and development

FIEC's activities in the field of research and development have long taken place within the Research, Development and Innovation sub-commission chaired by Bernard Raspaud (FR). FIEC's work in this area is based on strong cooperation with the European Council for Construction Research, Development and Innovation (ECCREDI) which has as its mandate to represent the interests of European construction sector associations with regards to EU research and development and seeks to bring the results of research in the field to the vast majority of "technology followers" in the industry. FIEC is also a member of the European Construction Technology Platform which aims to guide the European Commission in choosing themes for research calls for proposals under the Seventh Framework Programme (FP7). Both ECCREDI and the ECTP are joining forces to clearly voice the needs of the construction sector with a view to the next framework programme from 2014.

**FIEC has given strong backing to this initiative and gives its particular support to increasing the level of demonstration projects to feed the dissemination of EU funded projects to the wider industry and reducing the administrative barriers that dissuade many construction companies from considering participating in research projects.**

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

### The Construction Products Regulation

Work on the internal market for construction products takes place within the Directives and Standards sub-commission chaired by the chairman of the Belgian Building Research Institute, Jan Coumans.

The Council and the European Parliament reached agreement at the end of 2010 on the replacement of the Construction Products Directive. Publication of the new regulation is imminent though many of the provisions of the legislation will not enter into force until 2013. The goal of the Commission is drafting this regulation is to complete the internal market in construction products. While FIEC supports this aim, it is essential that simplification of conformity assessment procedures for manufacturers should not lead to the undermining of the CE marking. During the two readings of the legislation, FIEC intensely advocated for obligatory CE marking, a credible testing regime for safety critical products and a CE label that would continue to feature useful technical information for contractors.

### Avoiding double burdens: clarifying the role of the contractor

Despite an article (5.1) exempting non-series products from the obligation to CE mark, the adopted regulation has regrettably not ended the legal uncertainty regarding contractors who manufacture products for use in their own works off-site and concerns still remain that under certain interpretations of the regulation, pre-fabrication activities of contractors may be put at risk. FIEC's members continue to insist that products manufactured by a contractor for own use on construction sites when the company bears liability for those works, should not be subject to CE marking obligations.

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

FIEC was successful, during the second reading of the Construction Products Regulation, in ensuring that the **content of the CE marking label** remains of use to contractors faced with pressure to replace

technical information with a simple barcode and website link. Thanks to the work of FIEC's members, the CE label will continue to give information linked to the intended use of the product as well as key technical characteristics of the product.

**FIEC's message was heeded that the contractor must be able to identify the exact product arriving on site without referring to internet-based information and that essential regulatory information linked to the product's intended use should continue to be delivered with the product itself.**

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

The new regulation introduces a Declaration of Performance that must, by law, accompany each product and that details all declared technical characteristics of the product when it is placed on the market. Questions of how the format is delivered and the use of website storage have been raised by representatives of manufacturers who seek to replace the paper copy of the Declaration of Performance with a link to a website. While open to opportunities brought about by internet data storage, FIEC is reticent about the widespread use of internet information repositories as this transfers the responsibility of the manufacturer to supply information to the responsibility of a product user to consult information on a website and, in many countries, would place a contractor in breach of liability obligations to maintain information in paper format.

A number of meetings have been held between representatives of manufacturers gathered within the Council of European Producers of Materials for Construction (CEPMC) and FIEC on the issue with a view to concluding a memorandum of understanding on the issue of the use of electronic means for CE marking related information.

## **7. Striking the right balance for SMEs: the Commission reform of the European Standardisation System**

### **Construction and Standardisation:**

As of the end of March 2010, building and civil engineering works represented the second largest sector in terms of the volume of documents published by the European Committee for Standardisation (CEN). FIEC has been an associate member of CEN since 1992 and is involved in a number of Technical Committees (TCs) of interest to members. FIEC's member federations are active in national mirror committees.

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

### **FIEC Principles for Standardisation**

In June 2009, FIEC finalised its "Principles for Standardisation" recalling that standardisation is not be an aim in itself but rather must respond to needs of the market. The document that was presented to the Commission on the occasion of World Standards Day in October 2009 voice how the standardisation can best work for the SMEs of the construction sector. At its meeting on 28<sup>th</sup> March 2011, FIEC's Directives and Standards sub-commission decided to update and expand the text in light of the Commission's imminent communication on the future of the European Standardisation System.

### **Commission Communication: Reform of the European Standardisation System**

As of the end of March 2011, the Commission is about to unveil its Communication on the future of the Standardisation with a view to streamlining and accelerating the standardisation process so that standardisation can better serve innovation in products and services. The underlying political aim of the Commission is to boost the competitiveness of the European economy faced with international competition in research and development. Another aim of the Commission is to increase the rate of standardisation in services which remains far behind that for products.

FIEC's members have long held the position that, in most cases, standardisation of services linked to the construction services is unwarranted due to the differing regulatory frameworks in force in the different Member States. Given the reality of different legal traditions and liability rules, FIEC urges the Commission and CEN to exercise the utmost caution when considering increased standardisation of services and processes linked to the construction sector.

### **8. Work to ensure the safety and security of construction sites**

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Sub-Commission TEC-4, established in 2006 and managed by FIEC's Spanish member federation SEOPAN, has been following the pressing issue of theft on construction sites. The loss to the sector is estimated by trade associations at €1.5 billion per annum but the lack of any reliable data prevents a detailed grasp of the problem.

FIEC is therefore currently cooperating with rental associations such as ERA, ECED, the European Confederation of Equipment Producers as well as CECE, the Committee for European Construction Equipment to raise more awareness among law enforcement authorities across Europe to the continued problem of theft of construction equipment from construction sites.

These organisations are currently exploring the feasibility of carrying out an in-depth study into the phenomenon with the possible help of the European Commission. An exploratory meeting with DG Home Affairs was held in their premises on 14<sup>th</sup> March 2011.

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

- Secured a largely satisfactory conclusion to the adoption of the Construction Products Regulation. The CE marking remains obligatory in most cases and vital information linked to a product's performance remains on the product itself.
- Through the consultation process, contributed to the Commission's November 2010 Communication on energy infrastructure requirements for the next decade.
- Worked together with other construction sector associations to define the vision of the Sector on the potential of the deep renovation of existing buildings in order to meet energy savings' targets.
- Gave solid input to the vision of the Construction research community on the needs of the sector for the next framework programme.
- Voiced concerns of many FIEC members on the planned expansion of the structural Eurocodes to the European Commission.
- Joined together with equipment rental organizations to press the Commission for action on construction site theft.

**Position Papers**

Construction Products Regulation [COM(2008) 311] – Second Reading: Voting recommendations from FIEC for the upcoming committee vote on the CPR (18/11/2010)

FIEC Position on Construction Products Regulation [COM(2008) 311] – Second Reading (24/9/2010)

FIEC letter to European Commission on future evolution of the EN-Eurocodes (18/8/2010)

FIEC Position on a Sustainable Energy Supply for a new Low-Carbon Economy "The construction industry has the solution for interconnected environmentally-friendly, and intelligent energy networks" (22/4/2010)

**Press Releases**

FIEC Press Release – New Energy Efficiency Plan – The key to combating climate change, ensuring energy security and forging a low-carbon economy: Europe's Buildings (9/3/2011)

FIEC Press Release – FIEC stresses the crucial role of saving energy in the built environment (4/2/2011)

FIEC Press Release CPR – FIEC welcomes a mostly well balanced vote but warns against creating a legal vacuum for construction enterprises (24/11/2010)

FIEC Press release on Communication from the Commission: Energy 2020 – A strategy for competitive, sustainable and secure energy (10/11/2010)

FIEC Press release – Building an interconnected and intelligent energy infrastructure for a more secure and sustainable energy supply (7/6/2010)

FIEC Press Release – Construction Products Regulation: Political agreement in Council – Concern remains surrounding CE Marking obligation for contractors" (2/6/2010)

FIEC Press Release – Recast Energy Performance of Buildings Directive: FIEC welcomes adoption but stresses proper implementation and matching financing will be Key to success of Directive (18/5/2010)

**Answer to public consultations**

FIEC answer to the Consultation on the seventh framework programme (27/8/2010)

FIEC Reaction to the EC Public consultation on the review of the European Standardisation System (21/5/2010)

**Other**

FIEC Conference 2010 – Message - Sustainability is our business – making the EU market for sustainable construction a reality (26/5/2010)

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

## **FIEC Position on a Sustainable Energy Supply for a new Low-Carbon Economy “The construction industry has the solution for interconnected, environmentally-friendly, and intelligent energy networks”**

22/4/2010 (The following are extracts. The full version can be found on the FIEC web site : [www.fiec.eu](http://www.fiec.eu))

FIEC welcomes the entry into force of the Lisbon treaty, which for the first time gives the EU a shared competence in the field of energy. With its entry into force, and with the nomination of a new Commission for the next five years, the time is now ripe to fully grasp the new energy challenges facing the continent.

We are currently experiencing a number of trends, all serving to underscore the challenge of energy supplies in terms of security, cost-efficiency and sustainability, namely the increase of energy consumption, the critical dependency of the EU on imported fossil fuels, the depletion of oil and gas fields, and above all climate change. For FIEC, these issues underline the crucial importance of:

- **Low-carbon technologies:** developing renewable energy sources while improving the sustainability of other energy sources.
- **Achieving European supergrids consisting in new import routes and energy interconnectors.** Interconnections are a precondition to the development of renewable energy. Achieving a fully integrated and intelligent European supergrid is therefore essential.
- **Smart grids.** Smart grids are, along with interconnectors, indispensable to integrating renewable energy sources. They are the key to optimising energy supply.

Thanks to its technical expertise and its know-how, the European construction industry is ready to fulfil these priorities with due regard to economic viability, social concerns and the preservation of the environment.

**It is now time to make full use of this new EU prerogative with the view to ensuring a sustainable energy supply for Europeans and ensure international competitiveness in the development of low carbon technologies.**

### **Summary of FIEC recommendations:**

- 1. A truly European, fully efficient and competitiveness-oriented energy market**
  - Achieve the single energy market, especially through the implementation of the Third Energy Package.
  - Develop a European supergrid based on ambitious planning and active management at EU level.
- 2. A European Framework Programme for Energy Networks and Low-Carbon Technologies**
  - Create a European Framework Programme for Energy Networks and Low-Carbon Technologies, contributing to the European energy networks masterplan and the Strategic Energy Technology Plan (SET-Plan), and pooling all relevant EU financing resources.
  - Ensure that the programme management focuses on efficiency and value-added, by selecting projects for financing through a competitive application process, based upon cost-benefit analyses in terms of feasibility, socio-economical contribution, and sustainability.
- 3. A strong EU commitment for the development of smart grids**
  - Ensure swift roll-out of smart grids in Europe through a horizontal approach, involving all fields relevant for the issue of smart grids.
  - Continue working on solutions for the large-scale storage of electricity such as hydraulic storage or the storage potential offered by electric vehicles.
- 4. Facilitating the preparation and implementation of energy interconnections of European interest**
  - Ensure sufficient funding for measures addressing the local and environmental acceptability of projects.
  - Speed up the project authorisation and preparation procedures and improve their cross-border coordination.



FIEC PRESS RELEASE – 8/3/2011

**THE NEW ENERGY EFFICIENCY PLAN**  
The key to combating climate change, ensuring energy security and forging a low-carbon economy: Europe's Buildings

**FIEC welcomes the new Energy Efficiency Plan, in particular its focus on buildings and restates the need for an ambitious drive to provide the necessary regulatory and financial incentives to stimulate the market.**

Reducing energy consumption in the building stock (40% of primary energy consumption) has been shown to **represent the most cost-effective way of achieving the 20% EU target for energy savings by 2020** and bring down emissions of greenhouse gases, recognized as responsible for driving man-made climate change.

A clear vision with the corresponding financial resources on how to meet the challenge of retrofitting existing buildings and ensuring progress is made to zero energy new buildings is crucial. **FIEC therefore supports the idea of an EU energy efficiency fund** bringing together existing EU funding channels.

In addition, fostering a skilled workforce in energy efficient techniques and supporting the relevant technological innovation will help to reinforce **Europe's competitiveness while strengthening the small and medium enterprises that make up the backbone of the Union's economy.**

FIEC therefore calls on the EU and the Member States to take the following action:

- 1. Develop balanced, well-considered and progressive fiscal and financial incentives for the owners of existing buildings in the short to medium term in order to develop the market for energy renovation.**

The EU should concentrate funding on those projects that are **exemplary and easily replicable both in new and existing build**. Member States should ensure effective financial mechanisms are in place to cover the up-front cost of renovation and retrofitting works in existing buildings.

- 2. Properly implement the recast Energy Performance of Buildings Directive by ensuring national regulations on thermal efficiency are set at levels that will lead to a tangible reduction in buildings' primary energy consumption.**

Such regulations should apply to all buildings, both new and existing. A whole building approach is needed when considering energy performance to avoid simply addressing one component. As far as possible, the building envelope (insulation, glazing...) must be checked and if necessary improved, before replacing heating systems and considering micro-renewable options.

- 3. Creating an EU-wide framework for training and education in the construction sector value chain.**

European-level action should concentrate on the identification of best practice examples of courses and curricula as well as on facilitating the mutual recognition of qualifications.

**The construction sector is Europe's largest industrial employer and represents nearly 10% of the EU's GDP. FIEC therefore reiterates that whether it be in creating a future resilient green economy in the face of global competition, in reducing carbon emissions through energy savings in existing buildings, or in ensuring new buildings that waste little or no energy, the construction sector offers the solution.**

*FIEC is the European Construction Industry Federation, representing via its 34 national Member Federations in 29 countries (27 EU & EFTA, Croatia and Turkey) construction enterprises of all sizes, i.e. small and medium-sized enterprises as well as "global players", carrying out all forms of building and civil engineering activities.*

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Angelo Provera, IT

**The SME-Envoy**

*Ulrich Paetzold, FIEC  
Rapporteur*

**Micro, small, medium-sized and larger firms**

The European construction industry is overwhelmingly made up of SMEs and family-owned businesses. This reality is also reflected in the membership of FIEC's member federations. This broad membership base ensures FIEC's comprehensive representativeness.

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

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

These enterprises may be family owned or capital stock companies, they may be family managed or by external management, but they are all construction firms having much more in common than issues of conflicting interests.

The unmatched strength of FIEC initiatives and positions are rooted in the fact that they are based on the views and experience of such a wide variety of enterprises from so many countries. In addition to this permanent general consideration given to the interests of SMEs in each individual issue addressed by FIEC commissions, sub-commissions and working groups, FIEC has created, years ago, a specific Vice-Presidency. We have called this task "SME Envoy", taking a denomination that the EU Commission has created initially, in order to point out that FIEC has a special "watchdog" for SME interests. The FIEC SME-Envoy in fact double-checks in each and every case that no FIEC position paper or action contains elements which would be contrary to the interests of SMEs and family owned businesses.

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

The "UEAPME Statement on the European sectoral social dialogue" of 15/9/2010, recognises the exceptional situation of the FIEC/ EFBWW construction social dialogue committee, which is one of only two sectoral social dialogue committees, in which SMEs are not practically excluded.

In this context, FIEC participated in a high-level seminar on "Sector policy, social dialogue and SMEs" organised on 15/9/2010 by UEAPME. In the "construction" roundtable, FIEC Director General Ulrich Paetzold presented the exceptional case of the construction industry sectoral social dialogue committee of FIEC and EFBWW as very successful and a good example of real SME involvement. In fact, FIEC's comprehensive representativeness already ensures the full respect of SME interests in the work of the social dialogue committee and its specialised working groups.

**Enterprise Europe Network (EEN)**

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

As with the Euro-Info-Centre network, FIEC has been accepted by the EU Commission as "Associate Member" of EEN. This means that we do not provide any of the EEN's services ourselves, but we provide the EEN with sectoral advice/ information and cooperate in joint events, training sessions or projects.

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



**President**

*Maria Angeles Asenjo, ES  
Rapporteur*

FIEC MEDA Vice-Presidency continued in 2010 with the follow-up of EU Institutions' activity with regard to Euromediterranean aspects, in order to inform FIEC member federations. The following issues merited special attention:

- The **European Neighbourhood Policy (ENP)**: in May 2010 the European Commission published its annual European Neighbourhood Policy (ENP) reports, including:
  - a Communication entitled *"Taking stock of the European Neighbourhood Policy"* in which the European Commission assessed the ENP's achievements since its launch in 2004.
  - reports on progress achieved in 2009 by those partners having agreed ENP Action Plans (Egypt, Israel, Jordan, Lebanon, Morocco, Occupied Palestinian Territory and Tunisia).
  - a sectoral progress report.
 In March 2010, the European Commission adopted a series of ENPI programmes for the period 2011-2013, among them, new country programmes for the following Mediterranean partner countries: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Syria and Tunisia. For the first time a country programme for Libya was adopted.
- The **Union for the Mediterranean (UfM)**: The Statutes of the UfM Secretariat were adopted in March 2010. The work of the Secretariat, located in Barcelona, has an important role for the implementation of the UfM projects. In 2010, a Summit of Heads of State and Government of the UfM was announced, first in June and after in November but in both occasions it was cancelled.
- During 2010, there were several high-level political meetings, as for example the first **UE-Morocco Summit** held in Granada (Spain) on the 7<sup>th</sup> March; on the eve of this political Summit, an EU-Morocco

Business Summit took place. In November, on the 21<sup>st</sup> and 22<sup>nd</sup> the second **Conference of Ministers for Labour and Employment of the UfM** was held in Brussels (Belgium).

- **European Investment Bank (EIB)**: the EIB's activity in relation to the Southern Mediterranean partners, through the Facility for the Europe Mediterranean Investment and Partnership (FEMIP) is another area of attention for this Vice-Presidency. In 2010 the InfraMed Infrastructure Fund was launched, by EIB together with other financial partners, the first financing facility of the Union for the Mediterranean.
- The **Med Forum 2010**, second edition of the Economic and Financial forum for the Mediterranean, was held in Milan on the 12<sup>nd</sup> and 13<sup>rd</sup> July, with the aim of elaborating and identifying initiatives for the economic development of the Euro-Mediterranean region. On this occasion, FIEC President Luisa Todini presented the FIEC proposals for the issues at stake.
- The **future Trans-Mediterranean Transport Network** and its connection to the TEN-T was one of the subjects dealt with in a parallel session at TEN-T Days 2010 held on the 8<sup>th</sup> and 9<sup>th</sup> June in Zaragoza (Spain).
- **In 2011, developments in Southern Mediterranean countries** have placed these countries in the centre of the political debate in the EU to discuss, among other issues, the future direction of the EU policy. On the 11<sup>th</sup> March there was an extraordinary European Council; in its Declaration the European Council underlined the need of undertaking or accelerating political and economic reforms in all countries in Southern Mediterranean region; the European Council discussed on the events having occurred in Morocco, Tunisia, Egypt and especially in Libya. Besides, the European Commission and the High Representative of the Union for Foreign and Security Policy presented on the 8<sup>th</sup> March the Communication *"Partnership for Democracy and Shared Prosperity with the Southern Mediterranean"*; this document presents the measures adopted by the EU to rapidly respond to the first consequences of the events and raises a new approach for the future in order to support the necessary political and economic reforms in those countries based on their commitment to democracy, human rights, social justice, good governance and the rule of law; there will be a differentiated approach for each country according to specific progress in each of them.
- As usual, several **MEDA Newsletter** are available on FIEC website for member federations.



Martin Lemke, DE

Chairman

*Julia Schöne, BFW  
Rapporteur*

After the accession of BFW as an associate member, the FIEC established a special "housing" working group to also give housing industry interests represented by other FIEC member associations the opportunity for a competent exchange of views and the preparation of specific positions. Cooperation is to be encouraged and overlapping avoided through consistent coordination with the other FIEC working groups. The Chairman of this new working group is Martin Lemke, a German real estate entrepreneur. The first intensive discussions concerned the possibilities of ERDF support for energy-efficient renovation. The support possibilities for private home owners are very limited in all European countries. Up to now it is only France that has set up effective support possibilities for subsidised living space. However, subsidised living space in France is, in contrast to many other countries, mainly provided by public housing associations. The working group will continue to occupy itself with European support possibilities in the future and push for the exchange of tried-and-tested procedures.

Further topics of interest of the FIEC Working Group "Housing":

#### Future Trends in Housing

- Accessibility.
- Ageing.
- Future demographic developments.

#### EU Policy Framework related to housing

- ERDF support for housing and energy efficiency in housing.
- Monitoring of policy developments in housing and urban development.
- FIEC communication towards press

#### Legal and Fiscal framework

- Regulatory framework for cross border investment vehicles.
- Impact of financial meltdown on housing.
- Regulating leverage and equity for projects.
- Regulatory environment for banks and impact on project finance.
- Mortgages and capital/mortgage ratios.

To expand the networks of the FIEC working group on housing and represent the property sector interests of the FIEC more intensively, the members of the working group have decided that FIEC is to become a member of the "European Housing Forum", a discussion platform on European policy topics influencing the housing market. Members include the International Tenants' Federation IUT, the European Federation of Public and Cooperative Housing Associations CECODHAS, as well as UEPC (which also takes part in the European Construction Forum, see ECF section and following pages). Exploratory talks will be held soon with RICS (Chartered Surveyors) and IUT, which presently chair the European Housing Forum.

**BFW (Bundesverband Freier Immobilien- und Wohnungsunternehmen)  
gala dinner – Berlin (Wasserwerk)  
5/5/2011**



Photo: © BFW

Thomas Meier (President BVI – Bundesfachverband der Immobilienverwalter),  
Ira von Cölln (Director General BFW), Luisa Todini, Walter Rasch (President BFW).





Michel Démarre, FR

President



Frank Kehlenbach, EIC

Director

## Organisation

European International Contractors (EIC) was founded in 1970 and since 1984 has been registered as a legally independent association under German law in Berlin, Germany. EIC has as its members construction industry federations from 15 European countries which are directly or indirectly affiliated to the European Construction Industry Federation (FIEC) in Brussels. The association maintains close relations with all international and other organisations whose policy is of relevance for the international construction business, for instance with various European Commission Directorates General (DGs), (Trade, Development and EuropeAid) the European Bank for Reconstruction and Development (EBRD), the Organisation of Economic Co-operation and Development (OECD) and the World Bank.

According to the latest EIC International Contracts Statistics, the total volume of international turnover carried out by EIC member companies in 2009 amounted to some 140 billion €. This excellent result was confirmed by the latest survey on the "Top 225 International Contractors" survey, as published in the *Engineering-News Record* magazine, which illustrates that EIC member companies hold an international construction market share of around 56%.

In 2010, the Members of the EIC Board were the following:

Michel Démarre	(Colas)	France	President
Werner Dekkers	(Besix)	Belgium	Vice-President
Uwe Krenz	(Bilfinger Berger)	Germany	Treasurer
Svend Erik Clemmensen	(Pihl & Son)	Denmark	
George Demetriou	(J&P Avax)	Greece	
Peter De Ridder	(van Oord)	The Netherlands	
Johannes Dotter	(Porr)	Austria	
Enrique Fuentes	(Gruppo Ferrovial)	Spain	
Juha Höyhtiä	(Lemminkäinen)	Finland	
António Mota	(Mota-Engil)	Portugal	
Per Nielsen	(NCC)	Sweden	
Emin Sazak	(Yüksel İnşaat)	Turkey	

President Michel Démarre represented EIC as Vice-President on the FIEC Steering Committee.

## Tasks and Objectives

The three main objectives of EIC are the following:

1. To lobby for a **bigger market**, e.g. by persuading the international financing institutions, and in particular the European donor agencies, to allocate more funds to the infrastructure sector and by promoting the concept of Public-Private Partnerships;
2. To lobby for a **better market**, e.g. by advocating fair and innovative forms of procurement and contracts and by calling for a level playing-field for European

contractors internationally, in particular concerning environmental, social and corporate standards; and

3. To provide for **better networking**, e.g. by offering European contractors a unique forum for the exchange of experience in all matters relating to the international construction business.

Within the broad range of operating conditions influencing the work of European international contractors abroad, the following framework conditions have been identified as priority issues for EIC's activities:

### **I. EU-financed infrastructure Projects in Africa**

The European Union and its Member States are the world's leading donor. The Lisbon Treaty has placed development policy at the heart of the EU's objectives, Article 208 specifying that "Union development cooperation policy shall have as its primary objective the reduction, and, in the long term, the eradication of poverty". Given that global poverty verifiably cannot be eradicated by Official Development Assistance alone, EIC tries to convince the European donors that a modern and effective development policy is aligned first and foremost with the political objective of "wealth creation" rather than "poverty reduction". EIC has therefore recommended to the European Commission that the European development policy be geared towards attaining inclusive economic growth in partner countries as the basis for fighting inequality and improving social outcomes.

Since the year 2007, EIC represents the European construction industry inside the Steering Committee of the "EU-Africa Partnership on Infrastructure" as well as in the EU-Africa Business Fora which convene business leaders, senior officials from the EU, the African Union and other multilateral and regional institutions and African and European business associations. On the occasion of the **4<sup>th</sup> EU-Africa Business Forum**, which was held on 26-27 November 2010 as a side event to the 3<sup>rd</sup> Africa EU (Political) Summit in Tripoli, **EIC organised two Workshops on Capacity-Building and Private Investment in Africa's infrastructure sector**. Both sessions were chaired by high-level international officials, namely by Gary Quince, Director ACP Countries in DG ADICO, and Hachim Koumaré, Chairman of the World Bank's Sub-Saharan Africa Transport Policy Program. The **EIC recommendations**

**formulated during the two Workshops were incorporated in the Forum's Final Declaration** and forwarded to a CEO Round Table with EU Development Commissioner *Andris Piebalgs*. The EIC observations underline the readiness of European international contractors to collaborate with African partners in the construction of the trans-African Networks and also to invest into infrastructure projects provided that the political and financial risks can be properly mitigated. The specific EIC recommendations call on the EU and other donors to:

- Develop human capacity training programmes and include in tender documents requirements for know-how transfer to local contractors;
- Promote long-term construction contract partnerships between African and European companies with a high level of local participation (Joint Ventures, subcontractors and workforce);
- Develop sound investment policies and create an Infrastructure Investment Fund that boosts local private sector participation in infrastructure delivery;
- Enhance EIB's and other European Development Finance Institutions' role to act as lenders and investors for infrastructure projects in Africa;
- Provide Technical Assistance and financial support to African Governments to prepare the legal framework for PPPs and to select bankable projects;
- Participate in risk sharing with local banks to enable financing denominated in local currency and provide foreign exchange coverage;
- Provide separate Political Risk Guarantees (which should not be necessarily linked to a loan or grant) for infrastructure projects.

Moreover, **EIC participated in three consultations on the future of the EU Development Policy** which shall pave the way for a new EC Communication on Modernising European Development Policy which is expected to be published in the second half of 2011. In its reply to the Commission EIC observed that the infrastructure sector should be excluded from budgetary support as African partner governments may not yet possess the necessary capacity skills to effectively manage the complex procurement and contracting process. EIC feels its position being supported by the Special Report No. 11/2010 of the European Court of Auditors in which the Commission was asked to "*strengthen its risk management to give EU funds better protection against leakage, waste and inefficiency*". In addition, EIC argued towards the Commission that the European development policy should be geared towards attaining inclusive economic

growth in partner countries as the basis for fighting inequality and improving social outcomes. This in turn requires partner countries to look beyond the trading of natural resources and instead to build up an adequate infrastructure stock as well as productive industrial capacities as a prerequisite for sustainable development.

## II. Consultation with the World Bank on Country Procurement Systems

The international donor community decided in the context of the "Paris Declaration on Aid Effectiveness" to progressively rely on partner country systems for procurement when the country has implemented mutually agreed standards and processes. The "Piloting Programme for the Use of Country Procurement Systems in Bank-Supported Operations" was adopted on 24 April 2008. By request of EIC and other private sector representatives, however, the World Bank agreed to establish an "International Technical Advisory Group" (ITAG) which advises the Bank in the implementation of the programme. Since the year 2009, EIC delegates the spokesperson of this important advisory committee.

After more than two years into operation and despite the best efforts of the World Bank, by the time of early January 2011 only three pilot countries – namely Rwanda, Senegal and the State of São Paulo for Brazil – had completed the first two assessment levels, i.e. the country-level assessment using the OECD-DAC Methodology for Assessment of Procurement Systems as well as the assessment of the equivalence of country's rules and procedures with the Bank's procurement policy and of the consistency of the country's bidding documents with the harmonised Master Procurement Documents of the multilateral development banks. Further candidate countries were at different stages of progress but not yet ready to be cleared by the relevant unit. Thus the World Bank concluded in its 2<sup>nd</sup> Progress Report in January 2011 that it was unlikely that the third assessment level would be reached by any of the pilot countries and that hardly any project that uses country procurement systems would be approved by the end of the pilot period in June 2011. As a consequence, the World Bank's management concluded that "the program had not been a success" and that it did "not intend to continue the pilot program in its current form after June 2011". At the same time, it was proposed that countries that have completed Stages I and II and

wish to use country procurement systems in individual projects in accordance with the conditions of the program, may do so, even if the approval of the pilot projects takes place after June 2011.

Such proposed policy was not exactly in accordance with the roadmap adopted by the Bank at the outset of the pilot program and, therefore, EIC and ITAG contacted the European World Bank Executive Directors as well as national Ministries of selected EU Member States suggesting that the Bank's Independent Evaluation Group (IEG) be commissioned to investigate the potential flaws in the programming and the implementation of the Pilot Program. As for the future process, EIC and ITAG strongly advised against relinquishing the idea of "equivalence" of national country procurement systems with Bank rules and standard documents and also against proceeding without any involvement of the stakeholders represented in ITAG.

These interventions were, at least partially, successful. Recently, the World Bank's Vice President and Head of Network for Operations Policy and Country Services reassured ITAG that the Bank intended to create another advisory group, to which all ITAG members are invited to participate, in order to debate a wider range of procurement activities and issues. In addition, the recommendation to involve the World Bank's "Independent Evaluation Group" (IEG) was honoured by the World Bank. Whilst the IEG may not have the mandate to analyse the specific reasons for the failure of the Pilot Program, it will receive a broader mandate to review the whole range of the Bank's procurement operations.

## III. International Standard Bidding Documents and Contract Forms

In the area of international procurement and contract documents, EIC analyses since many years the latest World Bank Procurement Guidelines and Standard Bidding Documents. Furthermore, EIC is a "friendly reviewer" of the new or updated FIDIC standard forms of contract, providing feedback to FIDIC throughout the various drafting stages of these standard forms.

In the year 2010, EIC responded to the Proposed Revisions to the World Bank Procurement Guidelines of Goods, Works and Non-Consulting Services and welcomed in this context that the revision finally acknowledge a long-standing EIC demand, namely

to generally *require* – instead of *recommend* – “international commercial arbitration in a neutral venue” as the ultimate stage of dispute settlement. In the view of EIC, this small but important modification will reassure European bidders that the final stage of dispute settlement will proceed in a fair and equitable manner.

In the field of FIDIC standard forms of contract, **EIC analysed the new MDB Harmonised Construction Contract which was launched by FIDIC in June 2010**. This document shall be mandated or at least recommended by most of the Multilateral Banks in their Standard Bidding Documents for the major construction works for which they provide finance. EIC was pleased to note that several of its earlier comments had been incorporated in the 2010 edition, for instance with regard to obtaining the building permit, the time limit for an Engineer’s determination, the conditions precedent for the commencement of the works and the activation of the Dispute Board. At the same time, EIC remains concerned about an increase in the risk for the contractor following from the diminished authority of the Engineer, the unbalanced anti-corruption clause and the confusing wording on international arbitration.

**EIC presented its position on the MDB edition in a FIDIC Contract Seminar in January 2011 in Brussels** which was attended by several Heads of Procurement from the MDBs and by the Presidents of FIDIC, CICA and EIC. We were pleased to note that a large part of the audience endorsed the EIC critique with regard to the bad habits of certain employers which are revising the risk allocation in the Particular Conditions or arbitrarily delete the provisions referring to the Dispute Board. **In April 2011 EIC published the EIC Contractor’s Guide to the FIDIC 2010 MDB Harmonised Construction Contract.**

Just recently, there have been reports that FIDIC conditions are increasingly used also in the EU, notably in Central and Eastern European Countries for public procurement projects including EU financing, where the FIDIC standard texts are considerably changed to the detriment of contractors. EIC has already underlined in its “Blue Book on Sustainable Procurement” that the Particular Conditions should only be employed by the Contracting Authority to regulate the project and the country specifics and should not be used to re-allocate the risks, which is apparently the case in some CEEC countries. Hence,

EIC will contribute its specific experience with FIDIC conditions to the joint action of FIEC, EIC and EFCA.

#### **IV. Third country state-owned and state-aided enterprises in EU public procurement markets**

Considering that this issue also concerns “symmetric access” for European international contractors to the home markets of such third countries, FIEC and EIC address both external trade and internal market aspects in close cooperation (see specific chapter in this Annual Report).

#### **EIC General Assemblies**

Every six months, EIC holds its General Assembly on the invitation of one of its fifteen member federations in a different European country. In connection with these conferences, Business Workshops are organised on issues related to the international construction business.

- At the **spring 2010 General Assembly on 30<sup>th</sup> April in Berlin**, the Workshop examined the **relationship between international contractors and international consultants** and explored whether there are common concerns that could lead the international contracting and consulting associations to join forces on specific issues.
- At the **autumn 2010 General Assembly on 8<sup>th</sup> October 2010 in Athens**, EIC discussed in the Workshop the question of **“Infrastructure Finance in stressful times: What Future for PPP and PFI?”** In the presence of the Greek Minister for Transport, Demetrios Reppas, participants discussed the current global challenge in raising finance for PPP and PFI schemes.

More information on EIC can be downloaded from our website at: <http://www.eicontractors.de>



• EIC Publications



EIC Turnkey Contract, 1994



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



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



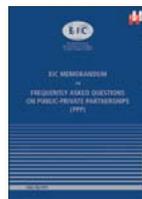
EIC Contractor's Guide to the FIDIC Conditions of Contract for Construction, 2002



EIC Blue Book on Sustainable Procurement, 2004



EIC White Book on BOT/PPP, 2003



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



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



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

For FIEC publications, please refer to p. 64



Daniel Tardy

President



Jacques Bénatar († 1/2011)

Director General



Roger Fiszelson (1/2011-)

Director General by interim

## CICA Events

### • ADB PPP DAYS 2010 in Manila '22-24/3/2010

The first part of PPP DAYS 2010 was a meeting for officials from various Multilateral Development Banks (MDBs); CICA was the only private participant which had been invited as non-MDB participant due to its recognized expertise on PPPs.

The second part was co-organized by ADB and CICA: half a day Roundtables dedicated to the Private Sector. CICA speakers: CICA Honorary President Manuel VALLARINO and Enrique FUENTES, Chairman of EIC PPP WG and Member of CICA PPP WG.

### • CICA Board Meeting, FIIC Annual Congress & 50<sup>th</sup> Anniversary in Santiago - 10-15/5/2010

Besides the CICA Board Meeting which was held in Santiago, Chile, on May 10, 2010, CICA President Daniel TARDY gave an opening speech for the FIIC Annual Congress and 50<sup>th</sup> Anniversary on May 10, and made a presentation on CICA activities to the FIIC Executive Committee on May 11.

### • CICA Mission in Asia - 5/2010

Meetings with the China International Contractors Association (CHINCA) in Beijing and the Overseas Construction Association of Japan, Inc. (OCAJI) in Tokyo

1<sup>st</sup> International Infrastructure Investment & Construction Forum (IIICF) - Beijing, May 11-12, 2010

Mission's objective => to incorporate, as Full Members or Friends of CICA, some of the several National Asian Construction Federations.

Roger FISZELSON, as CICA Special Adviser to the President, and Michel DEMARRE, EIC President, participated in IIICF and gave respectively speeches on "Trends and opportunities of international construction markets" and "Corporate Social Responsibility: a perspective from European International Contractors". Meanwhile, Roger FISZELSON brought a CICA letter proposing CHINCA to apply for Full Membership.

After receiving CICA's proposal, CHINCA's Board requested for more information on CICA before taking a decision on its Membership.

In addition, Roger FISZELSON was received by OCAJI Management Team in Tokyo. Further contacts have to be organized.

### • CICA Events in Paris - 15/10/2010

#### Paris Board Meeting

Hosted by the French Federation of Construction (FNTP) at the Club TP - 90, avenue des Champs-Élysées - 75008 PARIS.

Presentations and discussion on the "Well Prepared Project" (WPP) and "Strengthening the Participation of Local Firms and Staff in the Execution of Large Contracts"

### • Events since last CICA Board Meeting (Paris, 15/10/2010)

- International Chamber of Commerce (ICC) Task Force on Green Economy Meeting (Paris, Oct. 21, 2010)
- CICA Presentation to FIEC Steering Committee (Brussels, Nov. 9, 2010)
- CICA Meeting with Gilles GARCIA, Enterprise Outreach Services Manager, World Bank (WB) (Paris, Nov. 22, 2010)

- Meeting with Silvia SOFT, International Finance Corporation (IFC – WB Group) on the presentation of “2011 DOING BUSINESS Report” (Paris, Dec. 6, 2010)
- CICA-WB Roundtable with Marc JUHEL, Sector Manager – Transport, WB (Paris, Dec. 9, 2010)
- MDB Harmonized Major Works (Construction) Contract Conference (Brussels, Jan. 27-28, 2011)
- ICC Task Force on Public Procurement Meeting (Paris, Jan. 31, 2011)
- Joint ICC-BIAC Meeting on Green Growth (Paris, Feb. 9, 2011)
- CICA Meetings with IDB and WB (Washington, Feb. 9-11, 2011)
- CICA's Mission in Asia (Feb. 20-25, 2011)

#### • CICA Events in Rio – 17/3/2011

#### Rio Board-Council Meeting

Hosted by the Brazilian Chamber of Construction Industry (CBIC). Main Resolutions:

- Roger FISZELSON appointed as New CICA DG by interim
- Upcoming participation of CICA President Daniel TARDY in the 2<sup>nd</sup> International Infrastructure Investment & Construction Forum (Beijing, May 26-27, 2011)
- Approval of the “Construction Industry Sustainability Initiative” (CISI) presented by CICA VP Paulo SIMAO (Brazil), Chairman of CICA Sustainable Business WG
- CICA Meeting/Conference with African Development Bank to be organized in Tunis (2<sup>nd</sup> Semester 2011)
- CICA President's participation in the 50<sup>th</sup> Anniversary of the Construction Chamber of Panama (CAPAC) – Panama, September 14-16, 2011
- Next CICA Board Meeting in Paris on October 20-21, 2011

**Presentations & Discussion on the PPPs (Fernando LAGO), “Well Prepared Project” (WPP) (Roger FISZELSON) and “Sustainable Development” (Paulo SIMAO)**

#### CICA Working Groups

- **PPP Working Group (PPP WG)**  
Team Leader: Vincent PIRON, ex Business Development Director - VINCI Concessions. Several CICA PPP WG Meetings in Paris and by conference call in 2010: finalizing the Table of Contents for the **VADEMECUM on the Conditions of Success of PPPs**, to be drafted in conjunction with International Institutions and Development Banks.
- **Well Prepared Project Working Group (WPP WG)**  
Chairman: Michel DEMARRE, EIC President. Discussion in progress on the **Terms of Reference** of the WPP WG with the **World Road Association (PIARC)** and **FIDIC**.
- **Sustainable Business Working Group**  
Chairman: CICA Vice President Paulo SAFADY SIMAO (Brazil).  
The WG is composed initially of Brazilian Experts and will be opened later to Experts designed by Regional Federations.  
Preliminary Program of Work: drafting a detailed plan on the “**Construction Industry Sustainability Initiative**” (CISI), presented at the CICA Board-Council Meeting in Rio on March 17, 2011.
- **Legal Working Group**  
Team Leader: vacant position since the departure of Jérôme BENET (SOGEA-SATOM) in April 2010. CICA has launched a call for applications and Regional Federations have been requested to designate EXPERTS to cope with important issues, such as the **revision of the UNCITRAL Model Law on Procurement of Goods, Constructions and Services**, as well as the **revision of China's offer to WTO on Government Agreement on Procurement Agreement (GPA)**.

**CICA Fight against Corruption**

**Position Paper on Clause 15.6 on “Corrupt or Fraudulent Practices” of the harmonized Multilateral Development Banks’ Master Procurement Document (October 15, 2010)**

First step: signature on September 30, 2009 of the CICA-FIDIC Joint Statement on Fighting Corruption in the Construction Sector.

Following a number of meetings between MDBs’ Head of Procurements, CICA and the International Federation of Consulting Engineers (FIDIC) which took place over the period 2006/2009, several adjustments to the General Conditions of Contract (GCCs) in the Multilateral Development Banks’ Harmonized Master Procurement Document (MPD) for Civil Works were discussed.

Main clauses of the revised MPD issued in June 2010 were agreed, with a specific exception of the determination of corrupt practices by the sole Employer (GC 15.6).

A CICA Position Paper on such Clause 15.6 on “Corrupt or Fraudulent Practices” of the MPD was adopted by the Board on October 15, 2010 (the document is available on line on CICA website).

MDBs considered that contractors cannot enjoy the same prerogatives than sovereign countries, which means that symmetry to the treatment of fraud and corruption between the parties was not accepted by MDBs.

CICA always made clear that CICA is in total disagreement on clause 15.6 of the MPD.

CICA proposed to include in clause 15.6 of the MPD alternative proposals, such as the mirror clause or, at least, the possibility to involve a third party.

More generally, **CICA calls on MDBs to design and make provision in their procurement standard documents for active tools to Contractors to prevent and fight against corruption.**

CICA Position Paper was presented by Per Nielsen, President of the Joint FIEC/EIC Working Group “Ethics”, during the **MDB Harmonized Major Works (Construction) Contract Conference (Brussels, January 27-28, 2011).**

In addition, the ICC Public Procurement Task Force decided on January 31, 2011 to support CICA concerns on the fight against corruption and requested the additional support of the ICC Anti-Corruption on this issue.

**What’s New on [www.cica.net](http://www.cica.net) ?**

CICA has recently published on its website **Statistics gathering, analyzing & synthesizing information on Activity, Turnover and Employment in construction all over the world.**

CICA Statistics are available by clicking the “CICA Statistics” tab on the CICA website.



## "Friends of CICA"

- **Friends of CICA in 2010:** CICA Honorary President Manuel VALLARINO ([www.nox-crete.com](http://www.nox-crete.com)), KRAKBAU S.A. ([www.krakbau.com](http://www.krakbau.com)), MATIERE S.A.S. ([www.matiere.fr](http://www.matiere.fr)), DEMATHIEU & BARD ([demathieu-bard.com](http://demathieu-bard.com)).
- **NEW!! "SILVER" Friend of CICA Membership Category (annual contribution of 7.500 €).**

Further to the resignation of the "Federation of United States and Canadian Contractors Associations" (FUSCCA) from CICA for budget constraints at the end of 2010, CCA decided to maintain in 2011 the same contribution of 7.500 € to CICA, as "Silver" Friend of CICA.

- The **French International Contractors (SEFI)** confirmed that they will contribute as **"Golden" Friend of CICA in 2011.**
- The "Friends of CICA" are invited to attend CICA Council Meetings and participate in specific CICA contacts with leading representatives (Presidents/ DGs) of International Financial Institutions, the United Nations, OECD, ICC, Government Agencies, etc.

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

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

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

- Contractors who are members of the national federations forming part of the regional Federations which are CICA's full members.
- Institutions related to contractors' activities i.e. insurance companies, banks, construction fairs/ exhibition organizers
- Oil & gas companies
- All related industries, equipment manufacturers and dealers

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

## CICA Management News

CICA had the deepest regret to announce the passing on January 3, 2011 of Jacques BENATAR, CICA Director General since September 2008. It is a great loss to CICA because of his important commitment to the confederation.

All his friends and colleagues in the CICA and FIEC families will always remember his high professional competency, his permanent positive thinking attitude and his strong personal involvement both at the national, European and international levels.

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

The 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.

### What are the aims of ECF?

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

### Building Prosperity for the Future of Europe – A Manifesto for Action from the European Construction Forum

(presented to the EU institutions in the EP premises on 17/11/2010)

*(The following are the "key messages". The full version is available on the ECF web site [www.ecf.be](http://www.ecf.be))*

#### The future of Europe: the indispensable role of the construction sector

Increased activity in the construction sector stimulates Europe's economic growth and job creation, immediately contributing to helping the European Union on the path to economic recovery. The construction sector urges the European Union to set the conditions for the rapid replacement and upgrading of infrastructure to include new transport networks capable of bridging gaps, the building of smart grids for energy distribution and environmentally friendly systems for the disposal of waste.

Additionally, the necessary conditions to ensure high quality, deep energy renovation of existing buildings and the procurement of nearly zero energy new buildings must be implemented.

The construction sector expects these conditions to be based on a whole life cycle approach that balances environmental, social and economic factors.

#### Meeting Europe's climate and energy needs whilst improving competitiveness

Given the significant economic contribution of the construction sector and the need to renovate a significant proportion of existing buildings in order to address the climate change and energy challenges of the EU, the construction sector stands ready to respond by quickly upscaling its activities. This will mean increasing activity in the sector, as well as creating new green jobs that are based on a comprehensive understanding of the techniques and materials used to improve the energy efficiency of existing buildings.

The construction sector points out that this will not be possible without adequate policies on skills and training (as highlighted by the European Commission in its recent study) accompanied by sufficient financial and fiscal means from both the public and private sectors.

#### Stimulating economic growth through increased investment in research and innovation

Along with increased activity, investment in research and innovation needs to be boosted in order to meet the technological challenges of sustainability. The construction sector is already committed to the Energy Efficient Buildings European Initiative (E2B EI) but believes that this initiative alone is not enough. Further development of research and innovation policies is needed to stimulate greater participation in research of the small and medium sized enterprises that make up a significant proportion of the sector. It is also essential that the 8<sup>th</sup> Framework Programme (FP8) dedicates a specific segment to the construction sector.

#### Contributing to a sustainable and prosperous future through innovative ideas and designs

Infrastructure alone is not enough to ensure a sustainable and prosperous future. The construction sector believes that it is necessary to ensure that all works carried out on all new and existing buildings and infrastructure must be of a high level of quality in order to ensure safe and sound structures, low maintenance and a long service life.

This can only be achieved through careful design approaches and integrated holistic thinking.

Innovative approaches to projects are already gaining ground in several European countries.

The construction industry stands ready to share best practices and thereby increase productivity in the sector in order to achieve higher quality at the same or lower cost, thus helping to meet the goals of the EU-2020 Strategy.

**Housing and infrastructure for the wellbeing of Europe's citizens**

Europe's citizens have a right to safe, secure and decent housing, as well as to efficient infrastructure. In order to underwrite a true sense of wellbeing, citizens additionally require well-designed accessible educational, healthcare, cultural and working facilities.

The construction industry has a duty, and an economic opportunity, to provide people with a quality built environment, meeting their future needs, specifically assisting them in adapting to the consequences of climate change.

For many Europeans who live in inner city areas, or who commute daily, an urban design reconciling historical buildings and modern needs, in particular security and mobility, must be developed and built to provide the "Good Life".

These ambitions and goals cannot be achieved without a flourishing construction sector.

**Fostering a skilled labour force**

A skilled labour force is essential to meet current and future challenges. The sector is committed to making careers in construction more attractive to current and future generations.

In addition, it continues to strive for improvements in terms of health, safety and welfare for workers on construction sites.

At the same time, governments must play their part by ensuring that the necessary frameworks for training, education and skills development are available.

**The construction sector – the solution sector!**

The construction sector is a dynamic sector which has experience in understanding how best to exit the current downturn and fully benefit from economic recovery.

Achieving the vision set out in this Manifesto can only be realised through coordinated efforts at all levels of government.

Therefore, the construction sector calls on the European Commission, European Parliament and the Member States to implement coherent and balanced

policies and legislation based on a level playing field between public and private actors.

This will enable the sector to deliver the quality and sustainable buildings and infrastructure that the European Union needs for future growth. In this way, the construction sector will make a valuable contribution to the EU-2020 goals and to the achievement of the strategy set out by the Barroso II Commission to create a sustainable, smart economy.

**In these times of serious challenges that range from the consequences of the economic and financial crisis through to the global issue of climate change and its impact on humanity, the construction sector stands out as a sector that, given the opportunity, resources and regulatory framework, will be a significant contributor to the establishment of sustainable prosperity in the European Union.**

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

website:

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



**www.fiec.eu**

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.

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



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

- **Trans-European Transport Network – Progress update ("Blue Book")**

(latest edition: June 2009)



FIEC publishes the results of its survey on the status of the 30 so-called Priority Projects. These projects form part of the Trans-European Transport Networks (TEN-T), 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.

- **Construction in Europe**

(1/2 years)



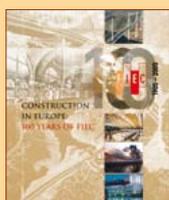
This pocket-sized leaflet gives an overview of FIEC (the voice of construction in Europe), its members and its mission as well as key information on construction industry.

- **Annual Report**

(1/year)



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



**Construction in Europe: 100 years of FIEC (2005)**



**The FIEC Principles for Sustainability (2005)**



**FIEC Declaration: Urban Development: a major challenge for the competitiveness of the EU (2006)**



**FIEC/EIC Statement on Corruption Prevention in the Construction Industry (2009)**

For EIC publications, please refer to p. 57

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

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