



Annual Report 2004



32 federations
in 25 countries.



European
Construction Industry
Federation

FIEC

Created in 1905

Legal personality of French law

25 countries (20 EU, Switzerland, Norway, Bulgaria, Romania and Turkey)

32 national member federations representing firms:

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

Associate member:

EFFC European Federation of Foundation Contractors

Cooperation Agreements with:

ACBI Association of Contractors and Builders in Israel



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



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



Associate member of CEN the European Standardisation Committee



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



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



Close cooperation with EIC (European International Contractors)



Participant in the ECF (European Construction Forum)



Member of ESF (European Services Forum)

The Sector

Total construction in 2003 (EU15):
910 billion €

9,8% of GDP, 51,2% of Gross Fixed Capital Formation

1,8 million enterprises (EU15), of which 97% are SMEs with fewer than 20 and 93% with fewer than 10 operatives

11,7 million operatives:

- 7,1% of Europe's total employment
- biggest industrial employer in Europe (28,5% of industrial employment)

- 26 million workers in the EU depend, directly or indirectly, on the construction sector*
- Multiplier effect: 1 person working in the construction industry = 2 further persons working in other sectors*

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

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

"The Council

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

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President: Wilhelm Küchler

We have pleasure in presenting our Annual Report for 2004, in which are documented FIEC's activities from the 2003 General Assembly in Helsinki through to the 2004 General Assembly in Prague .

The prevailing economic environment during this time, has in general terms failed to develop positively either for the economy in general or indeed for the construction industry in particular. It is pertinent to note that while there are signs of hope, the evolution in the various countries has been very varied. The seemingly interminable and laborious preparations for the enlargement of the European Union came to an end, as foreseen on 1st May 2004. FIEC welcomes these developments and we are very pleased that the construction federations in these countries have either been members of FIEC for many years or will join our European construction federation in the near future.

It is no coincidence that FIEC has come to Prague to hold its 2004 annual general meeting only a few weeks after this historic date and just a few days following the first European elections since enlargement. Since the opening-up of borders, FIEC has always done what it can to integrate contractors from the Central and East European countries into FIEC and its activities.

The congress in Prague is intended as a visible expression of our willingness to confirm these efforts. These will also prove helpful in the discussions concerning such difficult issues as the freedom of movement, market access, working conditions, training, safety etc. The expectations and fears of all participants are considerable.

An honest exchange of opinions and experience among construction firms and their organizations is a very promising means of showing possible solution acceptable to all in this complex situation and that can lead to a solution acceptable to all and result in a common position being agreed across the sector.

In this respect, we must at all times, make every effort in explaining to interested parties in the

political and administrative European arena (European Parliament and Commission) the particularities of our sector, or indeed with other sectoral European organisations representing major industries as well as with horizontal organisations such as UNICE and UEAPME. The fundamental difference as compared to other major industrial sectors of the economy, is that we are constrained to carrying out our activities in pre-determined locations and consequently our activities are inherently local. There is therefore no possibility of changing or moving our production sites. In our case it is specifically the work force which moves around from one site to another, since the latter cannot be moved.

Why is it necessary to stress this point? Misunderstandings continue to arise as a consequence of this elementary fact. At this very juncture we find ourselves at the focal point of a discussion on the topic of a:

Proposal for a Directive on services

This proposal for a directive was put forward by the Commission Services at the beginning of the year. We welcome in principle, the removal of obstacles and the elimination of unnecessary bureaucratic obstacles in the context of freedom of movement and the further development of the internal market. However, this proposal for a directive overturns - lock, stock and barrel - the requisite procedures and measures required for the enforcement of existing regulations in the form of the Posting Directive. The foreseen alternative measures in the country of origin are nothing less than a total illusion in terms of effectiveness. In view of the inherent complexities linked to the stationary characteristic of construction sites, we can never agree that compliance with the law should not be sacrificed in favour of unfair competition, social dumping and undeclared work.

Results of the past year

In the past year, FIEC, working in close cooperation with contractors and experts from the member federations has dealt with many issues and achieved many successes. The main results are presented in the chapters that follow in this Annual Report but

I can limit myself to referring to two particularly important issues:

- **The "public procurement" legislative package** with which we have been dealing since 2000 led, at the beginning of 2004, to the adoption of two Directives, for "traditional" public authorities and "sectoral" public authorities respectively. In these areas we succeeded in overturning worrying developments as well as contributing many practical details. However, from our point of view, the text is still characterized by a lack of clarity and contains impracticable provisions.
- **A reduced VAT rate for construction activity**, in which we succeeded in obtaining at least an extension of the "test phase" by two years. An expected disaster was thereby avoided in those countries which had made use of this test phase. Together with the member federations, we shall now work on ensuring that a permanent VAT regulation becomes effective within this current test phase.

2004-European Week for Safety and Health at Work in the construction sector (ew2004.osha.eu.int)

The Agency for Safety and Health at Work in Bilbao has for the first time devoted its annually organized pan-European campaign to a sector, rather than a theme, under the motto, "**Building in Safety**". FIEC and EFFBW, the two sectoral social partners, are supporting this campaign through their information networks. This campaign is intended to attract the attention of all participants in the production chain, clients, architects and suppliers through to those most directly affected, namely, contractors and workers. Only if all concerned make the greatest possible efforts in their sphere of influence and responsibility, will we achieve the desired progress. Good examples from several countries show the potential for success of such efforts. Our vision is "Zero Accidents": a specific goal in the case of fatal accidents and the dominant theme for all other accidents.

I therefore appeal to all contractor colleagues, employees in construction firms and federations, our partners in the planning professions and to our clients, not only to participate actively in the "Bilbao" campaign but also to make every effort to reduce the number of accidents in the construction sector.

I thank everyone, who during the year have actively advised and assisted in our work: the members of the Steering Committee, the presidents and members of our commissions and sub-commissions, our colleagues in the member federations as well as our own staff members under the leadership of our Director-General Ulrich Paetzold: we have a harmonious, efficient and very well accepted team. We are proud of this. I recommend that readers of this report give their attention to its contents. We are always grateful to readers for any comments they may have on the contents of this report.



Wilhelm Küchler,
President of FIEC





Wilhelm Küchler, D

President



Daniel Tardy, F

Vice-President
(ECO)



Peter Andrews, UK

Vice-President
(SOC)



Giandomenico Ghella, I

Vice-President
(TEC)



Elco Brinkman, NL

Vice-President
(Communication and Image)



Johannes Lahofer, A

Treasurer



José Luis Vega, E
(-9/2003)

Vice-President
(EIC)



Karl Rönnerberg, D
(9/2003-)



Joaquim C. Fortunato, P

Vice-President
(MEDA)



Helmut Hubert, D

Vice-President
(SME)



Eero Makkonen, FIN

Vice-President
(CEEC)



Ioannis Papaioannou, GR

Vice-President
(ECF)

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

President
Wilhelm Kuchler, D

Treasurer
Johannes Lahofer, A

Vice-President (CEEC)
Eero Makkonen, FIN

Vice-President (SME)
Helmut Hubert, D

Vice-President (ECO)
Daniel Tardy, F

Vice-President (Communication)
Elco Brinkman, NL

Vice-President (ECF)
Ioannis Papaioannou, GR

Vice-President (MEDA)
Joaquim Fortunato, P

Vice-President (TEC)
Giandomenico Ghella, I

Vice-President (EIC)
Jose Luis Vega, E (-9/2003)
Karl Rönnerberg, D (9/2003-)

Vice-President (SOC)
Peter Andrews, GB

Economic and Legal Commission (ECO)

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

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

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

Working Group "Statistics"

Temporary Working Groups:
"Accounting and Financing"
Chairman: *Jean-Jacques Massip, F*

"EMAT" (Economically most advantageous tender)
Chairman: *Michel Cambournac, F*

"Late payments"
Chairman: *Chris Harnan, EFFC*

"Remedies"
Chairman: *Philippe Mathéi, B*

Ad Hoc Group "CEEC" Central and Eastern Europe

Chairman:
Eero Makkonen, FIN
Rapporteur:
Hasso von Pogrell, EIC

Social Commission (SOC)

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

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

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

SOC-3:
Economic and Social Aspects of Employment
Chairman:
André Clappier, F

Technical Commission (TEC)

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

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

TEC-2:
Innovation and Processes
Chairman:
Vincent Cousin, F (-03/2004)
Bernard Raspaud, F (03/2004-)

TEC-3:
Environment
Chairman:
Terry Penketh, GB

SME Coordination Group

Chairman:
Helmut Hubert, D
Rapporteurs:
Elmar Esser, D / Ulrich Paetzold, FIEC

EIC – European International Contractors e.V.

President: *José Luis Vega, E (-9/2003), Karl Rönnerberg, D (9/2003-)*
Director: *Frank Kehlenbach, EIC*



Ulrich Paetzold
Director General



Domenico Campogrande
Rapporteur

Economic and Legal Commission



Laetitia Passot
Rapporteur

Social Commission



John William Goodall
Rapporteur

Technical Commission



Joëlle Caucheteur

Secretariat



Maxime Wotquenne

Documentalist



Yasmina Koeune

Secretariat



Sylvie Masula

Secretariat

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

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

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

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

Associate Member

- EFFC
European Federation of Foundation Contractors

COOPERATION AGREEMENT with

- ACBI
Association of Contractors and Builders in Israel



FIEC supports the active role of the EU in developing financing sources for development of Central and Eastern Europe and Russia

FIEC is supportive of the present active role of the European Investment Bank EIB and the European Bank for Reconstruction and Development EBRD in Central and Eastern Europe as well as in Russia. More efforts are still needed, in particular as concerns the European Commission's forthcoming pro-posal for extending the EIB's credit line for Russia. In the absence of major financing institutions, the planned infrastructure investments in Russia will not proceed. This means that differences in living standards between the EU and Russia in the border regions remain high.

FIEC proposes changes in the working methods of the EU financing institutions. Unnecessary bureaucracy and excessive legal costs during the preparatory phase of projects can put the prospects of promising investment projects in jeopardy. This implies the need for efficient working methods and predictable costs during the legal and contractual preparations.

At FIEC's annual congress in Helsinki on 13th June 2003, EU Commissioner **Erkki Liikanen**, responsible for Enterprise Policy and the Information Society, presented new challenges and new business concepts for the construction industry following EU enlargement.

"ICT is a key driver for innovation and the construction sector can benefit from them. Construction companies are able to arrange their capabilities in a flexible way building upon their ability to define and re-define multiple cross-functional and inter-organisational teams and thus respond to changing market requirements rapidly and flexibly" said Commissioner Liikanen.

The EIB's activities in Eastern Europe and Russia in the context of the EU's Northern Dimension were explained by Mr. **Ewald Nowotny**, Vice-President of EIB.

Ms. **Noreen Doyle**, Vice President of European Bank for Reconstruction and Development EBRD, described the role of the EBRD in Russia and accession countries as providing a new market potential for European contractors.

Skanska's President responsible for the Baltic States, Russia, and other CIS countries, Mr. **Martti Rautee**, highlighted contractors' experiences with the EU's programmes for the "Northern Dimension" and in particular the first PPP-project which started in



December 2002, the St Petersburg waste water plant. He also commented on the problems which companies have with their investment projects in Eastern Europe and Russia. "The EIB's presence is essential in order to bring Russia closer to the European Union" said Mr. Rautee and continued "We appreciate the dedication that the EBRD has shown towards their activities in Russia". Mr. Rautee reminded though that EU financing tends to be bureaucratic and time consuming. "I think that we should find a more cost efficient way to work in the future, especially as cost and time effectiveness in the legal services which are needed for project preparations" said Mr. Rautee.

Bidder's proposals should be better respected in public projects

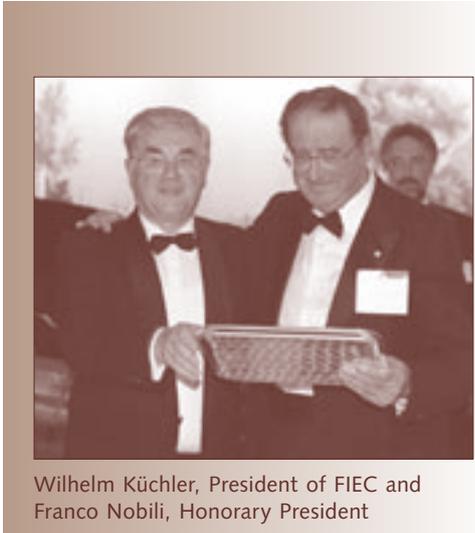
FIEC also stresses the need to respect the confidentiality of bidders' proposals prior to the award of contracts for public projects. Should guarantees not be given that an initiator's ideas will be protected, the prospects for the successful implementation of investment projects are likely to be compromised. This is extremely important where the CEEC countries and Russia are concerned and especially true in the case of complex PPP projects.



Wilhelm Küchler,
President of FIEC



Lauri Ratia, President of our Finnish member federation RT



Wilhelm Küchler, President of FIEC and Franco Nobili, Honorary President



Erkki Liikanen,
Member of the EU Commission



Ewald Nowotny,
Vice-President of EIB



Ms. Noreen Doyle,
Vice-President of EBRD

Photo Studio Heikki Tulli



Martti Rautee,
President of Skanska

Kiitos!





President:
Mr. Daniel Tardy, F

Rapporteur:
Mr. Domenico Campogrande, FIEC

Sub-commission ECO-JURI

“Legal Affairs”



Chairman:
Mr. Heinz A. Schüssler, D

Rapporteur:
Mr. Martin Freitag, D

Sub-commission ECO-DEV

“Economic Development”



Chairman:
Mr. Jean Schellenberger, F

Rapporteur:
Mr. Roger Fiszelson, F

Temporary Working Groups:

“Accounting and Financing”



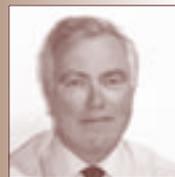
Chairman:
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“EMAT” (Economically most advantageous tender)



Chairman:
Michel Cambournac, F

“Late payments”



Chairman:
Chris Harnan, EFFC

“Remedies”



Chairman:
Philippe Mathéi, B

1. Construction activity in Europe: after the stagnation observed in 2003 (+0,1%) a moderate recovery is expected for 2004 (+0,8%)

The overall economic slowdown which affected the European economy during 2003 had a significant impact on construction activity and the first signs of recovery which appeared in many countries arrived too late to change the developments observed during the period.

The rate of increase of construction activity from one year to the other, which has been decreasing since 1999, indicated in 2003 an almost unchanged level of activity (+0,1%) when compared with 2002.

The private non-residential sector was the worst affected with a decrease of 4,1%, mainly due to the significant decrease or postponement of investments by private enterprises in most countries. Even an increased level of activity in the public non-residential sector (+3,2%), in particular in some countries such as the United Kingdom (+17%) and Spain (+9,4%), did not succeed in counterbalancing this overall negative development.

Following 2 difficult years, the new housebuilding sector performed better overall (+3,6%) thanks to various fiscal incentives or specific policy measures applied in several countries (United Kingdom, Ireland, Greece, Austria), whilst at the same time in other countries the uncertainty regarding similar incentives (Germany, Italy, Portugal) had diverging effects.

The difficult situation of public indebtedness in several EU countries, which implied a decrease in public investments, was the principal cause of the overall stagnation observed in civil engineering (+0,1%). The most significant exceptions were observed in Spain (+6,5%), which continued to benefit from EU structural and cohesion funds, and in Greece, where the works regarding the Olympic Games had a significant positive impact.

A moderate improvement which should affect almost all the various sectors of activity, although with differing intensity, is expected for 2004 (+0,8%) in most countries, thanks to the overall economic recovery.

Finally a few words concerning some of the countries which have joined the EU on 1st May 2004. Although the situation may vary significantly from one country to another, there are some common patterns that can be identified.

Despite the significant needs in new housebuilding and in rehabilitation and maintenance works, the level of activity in this sector is expected to remain weaker than in the other sectors, mainly because of decreasing public investments which will instead be focused on the development of infrastructure.

Civil engineering investments will increase markedly in most countries, in particular for transport infrastructure. To varying degrees, the limited national public resources will be complemented by EU funds, in some cases, and by an increased use of private capital through Public-Private Partnership arrangements.

In general, it has to be hoped that the governments take the use of PPP schemes more systematically into consideration, both for building and civil engineering projects, in order to mobilise public and private expertise for a sound development of Europe's infrastructure, economy and society.

2. Legislative package: the new public procurement directives are finally adopted

By pursuing its targets of simplifying, restructuring and clarifying the existing legislation, the EC presented in 2000 a proposal for a directive which effectively merges the three current directives, i.e. "services" (92/50/CEE), "supplies" (93/36/CEE) and "works" (93/37/CEE). It has also introduced a certain number of important new elements, including the following: electronic procurement mechanisms, a new procedure aimed at particularly complex projects ("competitive dialogue"), a reinforcement of the provisions relating to award criteria and to the selection of candidates.

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

These two directives make up what is commonly called the "legislative package".

After long and sometimes difficult discussions, at the beginning of 2004, at the end of the "conciliation procedure", the European Parliament and the Council found an agreement and both directives were finally adopted on 2/2/2004. Following the publication in the Official Journal on 30/4/2004, the Member States have to implement these directives by 31/1/2006.

FIEC has been lobbying on this issue ever since the publication of the initial Green Paper entitled "Public procurement in the European Union: Exploring the way forward" in November 1996. During all this period, regular contacts took place with the Commission (Commissioner Bolkestein, DG MARKT), the European Parliament (the Rapporteur, the various Committees concerned, the key MEPs in the various political groups) and the Council of Ministers, through our member federations. Many position papers and press releases, all available on the FIEC website (www.fiec.org), on the main issues of interest for our sector were issued and discussed with the various people concerned.

Without any doubt, this issue has been one of the most demanding and labour intensive themes on FIEC's agenda for the last 5 years.

Although we believe that further improvements should have been achieved and despite some unclear provisions still remaining in the adopted text, the final result is acceptable: whilst on some issues FIEC's requests were not (fully) taken into consideration, on several others, we have achieved our objectives on behalf of our members.

Amongst the issues which do not give full satisfaction, we would like to mention the following:

- **The reduction of the time limits for presenting a tender in case of electronic transmission of information:** in most cases, preparing tenders for construction contracts consists of individual, "once only" forms of activity necessitating considerable research in order to determine the technically and commercially best solution; on the other hand, it should not be forgotten that the directive also requests to set "adequate" deadline. Hopefully, the public clients will see their interest in actually setting such "adequate" deadlines.
- **The fact that unless not specifically authorised by the contracting authority in the tender notice, the presentation of variants (or alternative solutions) shall not be permitted:** with a view to encouraging innovation and inventiveness by economic operators, the authorisation of variants should have been the rule, rather than the exception, unless otherwise indicated in the tender notice; also on this issue, we hope that the public clients will see their interest in admitting variants;
- **The possibility of excluding from the scope of the EU directives some works "...awarded by a contracting entity to an affiliated undertaking or by joint venture, formed exclusively by a number of contracting entities...to an undertaking which is affiliated with one of these contracting entities":** such practices undermine the basic principles of transparency, non-discrimination and

fair competition; these provisions compromise the chances of private construction enterprises participating in public works in a fair way.

On the other hand, as major successes of our lobbying actions we would like to mention:

- **Maintaining the directives' neutrality as regards design and execution of works to be awarded either separately or jointly:** the mandatory separation of "design" from "build", as was proposed by the Rapporteur of the European Parliament, would have caused a major obstacle to the development of some construction projects, in particular in the field of large infrastructure projects and turnkey facilities; "design and build" contracts are a real incentive for contractors to provide clients with innovative and efficient solutions in terms of design, building techniques and also financing schemes, which are all key elements for the competitiveness of European contractors; it is the task of the public clients to choose the best contract made for each individual project, as there is none that is suitable for all projects;
- **The fact that the contracting authorities have to specify in the contract notice or in the contract documents the relative weighting of each of the award criteria** chosen to determine the most economically advantageous tender: this is certainly one of the key elements for achieving an increased transparency in the award procedures;
- When, from the point of view of the contracting authority, the award is made to the tenderer presenting the most economically advantageous solution, **the possibility of including social and environmental aspects in the award criteria, on the condition that they are linked to the subject matter of the contract in question:** public procurement procedures aim on the one hand at transparent and fair competition and, on the other, at providing best value for the taxpayers' money; consequently, the introduction of award criteria or of other general policy issues without any direct link with the subject of the contract, however valuable they may be, would have made the procurement decisions unpredictable and unverifiable and would therefore have been unacceptable;
- Despite some remaining unclear aspects, **several improvements in the "competitive dialogue"** (when compared with the initial versions), the newly introduced procedure for particularly complex projects, as for example: a better safeguard of the confidentiality of the information provided by the candidates and the elimination of the possibilities of "cherry picking" by the contracting authority; the possibility of clarifying aspects of the tender, provided that this does not have the effect of modifying basic features or substantial aspects of the tender and does not risk distorting competition or causing discrimination.

3. Reduced VAT rates: major success of the joint efforts of FIEC and its member federations

In July 2003, the European Commission adopted a proposal for amending the main "VAT directive", as concerns the possibilities of applying reduced VAT rates. In this respect, the intention of the Commission was to simplify and harmonise the existing structure of VAT rates, avoiding a multiplication of the possible derogations which are in use with the current structure.

FIEC warmly welcomed the Commission's new proposals, which, as far as construction activity is concerned, contained an extremely positive modification to the current "Annex H", i.e. the list of activities to which a reduced VAT rate can be applied. According to these proposals, each Member State would have had the possibility to apply a reduced VAT rate to housebuilding in general ("supply, construction, renovation, alteration, repair, maintenance and cleaning of houses") and not only limited to "housing provided as part of a social policy". As these proposals would finally take the form of an EU directive, which has to be implemented into national law, each Member State would have had, on the one hand, the possibility to decide whether or not to apply a reduced rate and, on the other, also the possibility to restrict the scope of its application (for example to rehabilitation and maintenance only or to social housing, etc.) according to its own wishes/needs.

The discussions within the Council of Ministers on this matter, in which decisions require a unanimous vote by all the Member States, have been extremely difficult and confusing until the end of 2003:

The Ministers therefore unanimously asked the Commission to propose another extension of the current directive of 1999 (the "test period"), which should have come to an end on 31/12/2003. Under such strong political pressure, the Commission agreed to propose a further 2 years extension until 31/12/2005 and the Council accepted it unanimously. Consequently, the "test period" can be continued by all those states that had already made use of this possibility. We are content that the massive joint efforts of FIEC at the EU level and its member federations at the national level have succeeded in obtaining the best solution which was possible at that time. Now the efforts have to concentrate on a real, long-term solution.

Had the current "reduced VAT" directive ("test period") come to an end without the Commission's proposals being adopted, this could have led to

disastrous consequences for our sector in terms of jobs. In France alone, where the "reduced VAT" directive was fully applied, the Building Federation (Fédération Française du Bâtiment) had estimated that this could have resulted in the loss of more than 50,000 directly created jobs as from 2004 in the building sector as a whole and this would have meant more than 80,000 jobs when account is also taken of those which have been created indirectly.

Quite obviously, FIEC can only be delighted at the decision taken to extend once again, albeit for just two years, the provisions of Directive 1999/85/EC which foresees the possibility of applying a reduced VAT rate to housing renovation works.

However, FIEC cannot be content with endless provisional solutions and has been arguing that ultimately a permanent position should be determined. Furthermore FIEC is convinced that the difficulties will only increase when, instead of 15, such a decision will have to be taken unanimously by 25 ministers.

In order to overcome these difficulties, currently, at the request of some Member States, the discussions between the Council of Ministers and the Commission are focussing on the possibility of delegating more autonomy on this issue to the Member States, without giving rise to undue distortion of competition within the Internal Market.

In this respect, the Commission recognised that there are effectively a number of areas where this increased autonomy in the reduction in VAT rates could be applied.

In fact, as Vice-President Daniel Tardy stated in a hearing at the European Parliament on 7th October 2003: *"As in our sector it is not the final product that moves around but rather the production tool which moves to where the service - in this case, the dwelling - is to be provided, application of a reduced VAT rate or the differences in rates between Member States will never give rise to a distortion of competition and therefore does not represent an obstacle to free movement"*.

In a discussion document elaborated by the Commission, it is clearly stated that: *"It could be argued that the application of reduced rates to the provision of all services which cannot be delivered from a remote location gives rise to little or no danger of cross border distortion and there is therefore no justification to refuse an option in such cases. This would be the case, for example, for all transactions linked to real estate. Thus rather than limiting the reduced rate to social housing, we could allow reduced rates for all work related to immobile property. The same approach could be followed for all purely local services (such as labour intensive*



Vice-President Daniel Tardy, Hearing at the European Parliament on 7th October 2003 on reduced VAT rates



Photo Y. Glavie

services), even if any social character is absent.
Do all – or indeed any – Member States want such freedom?”.

FIEC and its member associations continue lobbying, in order to make sure that a definitive solution is found on this issue.

4. Transport policy: FIEC presents to the Italian Presidency its 5 proposals to reinvigorate investments in infrastructure

The intensification of efforts for the construction of major infrastructure projects is in the political limelight at the European level: the works carried out by the High Level Group chaired by Karel Van Miert; the proposals of the European Commission concerning the revision of the priorities for the development of the Trans-European Transport Network (TENs-T), in other words the revision of the list of priority projects, which is being examined and discussed by the European Parliament and the Council of Ministers; the European Commission initiatives for the promotion of economic growth, etc...

It is a well-established fact, that investments in transport infrastructure generate economic growth because they facilitate the development of trade. Moreover, an improvement in communications between the new Member States and the ones which were part of the EU15, will certainly constitute a central element of cohesion in the enlarged Union. In effect, the existence of efficient transport infrastructures linking the new Member States with the EU15, will constitute an essential

condition for convergence of the GDP/inhabitant of these countries towards the present European Union average.

It is for these reasons, that in Rome on 20th October 2003, a FIEC Steering Committee delegation met representatives of the Italian Government, which was holding the EU Presidency at that time, in order to present the 5 proposals of Europe's contractors for the re-invigoration of investments in infrastructures and namely:

1. **Increase the budgetary provisions allocated to the TENs, and in the first instance concentrate the use of these funds on the priority projects.** At the present time, the amounts (€ 1.8 billion for the period 1994-1999 and € 4.2 billion for the period 2000-2006) currently provided by these funds represent globally about 5% of the amount of investments carried out in these networks and appear therefore to be inadequate in order to generate a leverage effect on investment.
2. **Increase the level of financial intervention represented by these funds for the TENs to 30%** of the costs of the projects for the cross-border sections and for the bottlenecks on the transit routes.
3. **Set up a coordination body** for those transport corridors crossing several states, making it responsible for coordination between the states concerned of both the financial and operational aspects, including the consolidation of the various Community funds as well as determining the project priorities.
4. **Promote the use of Public-Private Partnerships (PPPs)** whilst recognising that the participation of the private sector can only represent about

15 to 20% of project costs bearing in mind their weak financial viability, which is much lower than the economic viability that they represent in the public sphere as a whole. This promotion could for example be based on the setting-up of an appropriate regulatory framework as concerns PPPs and concessions.

5. **Interpret the framework of the Stability Pact in such a way that it encourages investments.** It is economically unjustified to put current expenditure on the same level as expenditure that produces returns over several years, namely investments in infrastructure for which economic theory as well as good sense justify payment over time with specific borrowing.

5. The FIEC "Blue Book": works worth more than €84 billion still remain to be done, just for the 14 so-called "priority" projects

The results of the 10th annual survey on the state of progress of the 14 so-called "priority" projects, known as the FIEC "Blue Book" were published during 2003. These projects form part of the Trans-European Transport Networks (TENs), whose role in the long-term development, competitiveness, cohesion and enlargement of the European Union has been highlighted on several occasions, both at the level of the summit meetings of the Heads of State and Government as well as by the European Parliament and the Commission.

This survey takes stock of the situation at 31st December 2002.

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

The following emerges from the survey:

- 1) the overall projected budget for 13 of the 14 projects is around €132 billion (not including project no. 8, the multimodal link between Spain and Portugal, for which only partial information was available),
- 2) although the financing of such projects is as always a major obstacle, today only 2 projects, drawn from those for which sufficient information is available, have funding available of less than

50% (on average, 62,4% of the whole financing for the projects is already provided for);

- 3) if compared with the results of the previous surveys, the annual rate of progress accelerated in 2002, to a rate of approximately 7,3% per annum of the total estimated budget for the 14 projects. At the end of 2002 this amounts to a cumulative progress of 36,9%, which corresponds to an amount of approximately 49 billion €;
- 4) € 84 billion of works still remain to be done.

6. IAS accounting rules for concession contracts may hinder the development of such contracts in the EU

An EU Regulation of July 2002 (Regulation Nr. 1606/2002) requires that starting from 1/1/2005 all publicly traded companies in the EU will have to apply the accounting standards defined by the IASB (International Accounting Standards Board).

This obligation may have very damaging effects for companies involved in concession contracts and on the development of concessions in the EU.

This is due to the fact that there are, at the moment, no specific accounting standards for these forms of contracts and therefore the companies involved in concession contracts will have to apply an existing endorsed standard or a combination of existing endorsed standards but which are not adequate for taking into account the economy of a concession contract, which is characterised by .

- The form of remuneration paid to the concessionaire:
 - by the user of the service provided (supply of water or gas, toll motorways, marinas, urban heating etc.),
 - by the grantor on the basis of various performance evaluation elements (state of upkeep and maintenance of the road network or building, public lighting, degree of availability of the infrastructure or the property, temperatures, consumption etc.);
 - by the grantor in the form of a fixed sum, participation in the initial investment, payment in cash or in kind or participation in exploitation.
- These various forms can co-exist within the same contract.
- The need to proceed to an initial investment which is
 - either a major one in the case of the provision of new infrastructure such as motorways, tunnels, bridges, nuclear power plants etc.;

- or insignificant, if the activity concerned does not require it, or if this investment has already been made by the contracting authority prior to conclusion of the contract;
- The existence or otherwise of regulations governing this activity;
- The clauses of the various contracts and the regulatory environment;
- The extent of the commitments relating to coverage of the risk of repayment of the loans and financial assistance by the lenders and/or insurers and/or grantors;
- Whether or not there is a need for renewal of components of the initial investment throughout the period of operation of the concession;
- The cost of refurbishment/rehabilitation at the end of the concession.

This situation would lead these companies to recognise huge losses during the first years of the concession, followed by significant profits only in the latter years, with all the negative effects that this situation will have on their relationships with the financial sector and the investors.

The existing international accounting standards should be interpreted in such a way that they allow a more even repartitioning of both aspects over the duration of the concession, i.e. effectively offset revenues against costs. FIEC is acting to achieve this target.

A Working Group with the aim of dealing with this complex issue was therefore set up within the ECO Commission. Various initiatives have been undertaken (letters to President Prodi and Commissioners Bolkestein and De Palacio; position paper,...) and several contacts were made with the main actors concerned with this matter:

- The IASB, through its IFRIC Committee (International Financial Reporting Interpretations Committee)
- The EFRAG (the European Financial Reporting Advisory Group)
- Key persons in the EC (DG MARKT)

Without entering into technical details, a study is currently being prepared and will be explained and discussed with the IFRIC in March.

7. Environmental liability directive: the first Community legislative instrument based on the "polluter pays" principle

The European Commission presented in 2002 a proposal for a directive on "Environmental liability with regard to the prevention and restoration of environmental damage". At the core of this proposed directive is the principle according to which the polluter should pay, which is at the root of Community environmental policy.

Although construction activity is only rarely directly concerned by this proposed directive, which mainly addresses activities such as recovery and disposal of hazardous waste, transport of dangerous or polluting goods, etc., the provision could have effects on contractors and therefore a FIEC position paper was finalised.

Amongst the 6 key issues mentioned in our position paper, we have been insisting on the following 2 in particular:

1. the request of exemptions for those activities for which an authorisation permit was awarded to the operator by the competent authority and/or which are not considered as being harmful according to the state of scientific knowledge at the time that the emission or activity occurred.

FIEC considered that it should be possible for operators to be exempted from their liability in the event of emissions or activities which are not considered likely to cause environmental damage according to the state of scientific knowledge at the time of the emission or the activity. It is unrealistic to ask operators to foresee risks which, by definition, are still unknown and to ask them to bear the consequences when they arise and for which insurance companies would refuse to provide cover.

The final text recognises the possibility for the Member States to allow such exemptions.

2. the question of costs allocation in cases of multiple party causation: when a case of damage is caused by several operators, a direct and certain causal link between the damage and the work of each party involved must be clearly established; in the context of the polluter-pays principle, the operator's liability must always remain in proportion to his share of the damage; it would be unfair to burden an operator with a joint obligation to restore damage which he is only partially responsible for causing.

IAS – IASB – IFRIC – EFRAG
improving transparency

FIEC considered that European harmonisation with regard to proportional distribution in the event of multiple party causation is necessary because the application of the various national provisions on this subject do not appear to be consistent with the spirit of the internal market.

The final text recognises the principle of subsidiarity in this respect and indicates that this Directive is without prejudice to any provisions of national regulations concerning cost allocation in cases of multiple party causation especially concerning the apportionment of liability between the producer and the user of a product.

In March 2004, at the end of the conciliation procedure, the European Parliament and the Council adopted the directive, which will enter into force on the day of its publication in the Official Journal of the European Union. From that day, the Member States will have 3 years for implementing it into their national legislation.

8. Further activities of the ECO Commission: 3 new Temporary Working Groups are set up

In order to tackle new issues of interest in line with developments at the EU level, 3 new Temporary Working Groups (TWG) were set up within the ECO Commission:

1. TWG "Late payments"

The EU directive on "late payments" (2000/35/EEC) adopted in 2000, provides for an evaluation of its efficiency, to be carried out by the Commission, 2 years after the deadline for implementation into the various countries national legislations which became effective on 8/8/2002.

The task of this TWG is to carry out a survey in order to collect specific information on the efficiency of this directive in the construction sector and, if needed, to propose specific modifications to the directive.

2. TWG "Economically Most Advantageous Tender"

Following the adoption of the "legislative package" this TWG was reactivated. Its task is to elaborate a practical FIEC guide/handbook aiming at encouraging and at helping the contracting authorities to increasingly award public contracts according to the principle of the "economically most advantageous tender" and not just on the basis of the lowest price.

3. TWG "Remedies" (public procurement)

At the end of 2003 the European Commission (EC) launched an on-line consultation on the 2 existing "Remedies" directives (public procurement: one for "classical" and one for "special" sectors). The objective of this consultation is to get some feedback concerning the efficiency of these directives. The EC is *inter alia*, interested in possible actions undertaken by companies in the framework of these directives not only at the national level, but also in another Member State.

The task of this TWG is to elaborate a FIEC position on this issue.

LEGISLATIVE PACKAGE

Letter to the MEPs members of the Conciliation Committee

Brussels, 3/11/2003

[...]

FIEC has closely followed the discussions on the "legislative package" since the very first phases and, in view of the forthcoming meeting of the "Conciliation Committee", on Tuesday 4th November, we would like to address you, in your capacity of representative of the European Parliament in the above mentioned Committee, the following comments on some key issues that are still under discussion:

1. The exclusion of "works" from the scope of "electronic auctions":

The proposed electronic (or "reverse") auction process is completely unsuited to the specific nature of works contracts, which never constitute a standardised activity, even when the contract specifications can be precisely drawn up. Furthermore, in the case of works contracts, an electronic auction would serve as an incentive to submit "abnormally low tenders" and therefore lower service quality and lower quality of the constructions erected and the works performed.

[...]

2. Contracts awarded by a contracting authority to a public(ly financed or controlled) entity should not be excluded from the scope of the directive:

These provisions reduce the chances of private construction enterprises to participate in public

work tenders in a fair way. They considerably limit the possibility of being awarded a public work contract due to the absence of any tendering at all. Where construction contracts are tendered, any "in-house" tenders must be subject to the same rules and treated equally to those received from private tenderers. Any public "cross-subsidisation" must therefore be ruled out.

[...]

3. "Social considerations" should not be used as award criteria:

It is self-evident that the European Union and its Member States have to have an active and strategic policy on social affairs. Over many years, FIEC has given tangible proof of its commitment to this cause as a sectoral social partner (officially recognised as such by the Commission). Public procurement procedures aim on the one hand, at transparent and fair competition and, on the other hand, at best value for the taxpayers' money. Consequently, it is essential to guarantee that any award criteria, social, environmental or other, be directly linked to the subject of the contract concerned. If this cannot be guaranteed and if general policy issues, however valuable they may be, are introduced into public procurement, then procurement decisions will become unpredictable and unverifiable. This would be unacceptable.

[...]

EUROPEAN PARLIAMENT – Committee on Economic and Monetary Affairs

Reduced VAT rates: the European Commission's proposals

Public hearing on 7 October 2003, Brussels

Intervention of Daniel Tardy – Vice-President of FIEC

[...]

In 2002 the activity in our sector reached € 905 billion, in which the subsectors "housing construction" and "renovation and maintenance of dwellings" together accounted for nearly half (49%) of activity, in other words, more than € 440 billion. This explains the careful attention which FIEC has always paid to the discussions concerning a reduction of VAT, as it plays an extremely important role in this type of activity.

In October 1997, during the initial discussions concerning the Directive on a reduced VAT rate, FIEC already took a clear position in this matter by showing the positive impact which a measure of this nature could have on our sector, particularly in terms of job creation and the fight against undeclared work. Assessments made by our Federation have shown that if all Member States had decided to apply a 6% VAT rate to works relating to the renovation and maintenance of dwellings, this measure would

have made it possible to create around 240,000-270,000 permanent jobs across all the 15 countries which are members of the European Union. To these directly created jobs should be added the knock-on employment effects in the upstream and downstream sectors as well as a corresponding reduction in the unemployment benefit burdens for Member States.

[...]

In June 2003, the Commission published a globally negative evaluation of the effectiveness of the Directive of 22 October 1999. Without wishing to undertake a detailed critical analysis of the Commission's evaluation, I would nevertheless like to emphasize that the following points should be noted:

- (a) It is clear that a monitoring period of such short duration (1999-2002) diminishes the value of the tests designed to measure the impact. Moreover, the temporary nature of the Directive was undoubtedly a disadvantage because, in particular, it did not encourage private individuals to embark on long-term works.
- (b) The diversity of the experiments in terms of both sector and scale make an overall judgment difficult.
- (c) In addition to this global evaluation, the Commission's report notes that the housing renovation and repair sector is the only one in which professionals passed along the reduction in the VAT rate to the price paid by the final consumer.

The impact of this experiment therefore should be assessed by sector and not on a global basis.

Thus the studies carried out by some of our member federations in those countries where the Directive has been applied, have clearly shown a positive impact in terms of an increase in activity and an accompanying creation of jobs.

[...]

In addition, the ensuing reduction in undeclared work has led to an improvement in safety on construction sites.

On the basis of these results we can only give a favourable reception to the new Commission proposals, which, as concerns our sector, consists of an enlargement of the scope Annex H. Thus, as regards the housing sector, these proposals would enable Member States, which so desire, to apply a reduced VAT rate not only to housing "provided as part of a social policy" (as provided in the current version of Annex H) but to any "supply, construction, alteration, renovation, repairing, maintenance or cleaning of dwellings".

In view of the specific features of our sector, in which it is not the final product which is mobile but the production tool which moves to where the goods (in this case dwellings) will be "consumed", the application of a reduced VAT rate or any differences in rates between Member States will never give rise to a distortion of competition and will therefore not constitute an obstacle to the free movement of goods.

We would therefore like the Council of Ministers for Finance to approve as soon as possible, and in any case before 31 December 2003 (the date which the 1999 Directive and its Annex K will expire), the provisions relating to a reduced VAT rate for the housing sector as proposed by the Commission.

[...]

It would therefore appear that there is nothing to prevent Member States from adopting the proposed provisions, in view of the positive impact which they would have and to the extent that they are not binding.

If the Commission proposals are not adopted, this could have disastrous consequences for our sector in terms of jobs. In France alone, where the 1999 Directive was fully applied, the Building Federation (Fédération Française du Bâtiment) has estimated that this could result in the loss of more than 50,000 directly created jobs as from 2004 in the building sector as a whole and this would mean more than 80,000 jobs when account is taken of those which were created indirectly.

[...]

It is our wish that this should absolutely not happen at a time when Europe is seeking, by every means, to give a boost to growth.

**Letter from Mr. Wilhelm Küchler, President of FIEC,
to Mr. Romano Prodi, President of the European Commission****IAS accounting rules for concession contracts
28/11/2003**

Dear President,

In a recent report on the European Action for Growth, the ECOFIN underlined the importance of facilitating the use of private capital participation in infrastructure, in particular, *"In order to secure private sector funding in this initiative, the Council invites the Commission to explore, in collaboration with International Accounting Standard Board, IASB, the special financial aspects related to the accounting treatment of infrastructure projects with a back-loaded revenue profile."*

The construction sector also attaches a particular importance to the realisation of the transport infrastructure projects recently approved by the European Commission as part of its "growth initiative" in relation with the Trans-European Transport Network. The participation of the private sector, by way of concession contracts and Public-Private Partnerships, is expressly mentioned by the Commission as an important condition for the success of this initiative. Our sector is thus particularly aware of the obstacles that could hamper their realisation. In this respect, the accounting method for such concession projects, should it not be applied adequately, would constitute such an obstacle.

This is the reason why it is of crucial importance that the accounting standards (IAS standards) which will be of mandatory application in the European Union in 2005, as well as their interpretation guidelines, do take the specificities of such projects into account.

[...]

The interpretation guidelines under discussion are very general and, as a result, do not lend adequate attention to the accounting conditions for concession and PPP projects. As they stand, they are likely to lead to inaccurate representations of the economics of such contracts, which would induce very significant losses during the first years of the concession, and at worst, the bankruptcy of the concession. In addition, the disadvantageous accounting treatment of financing would result in lower solvency of the companies involved, which would lead them to reduced financing capabilities and therefore higher vulnerability.

Should the guidelines remain as they stand, they would significantly reduce the European contractors' ability and interest to undertake the infrastructure

projects concerned in the timeframe and extent recommended by the Commission. The consequential reduction of the number of projects finally completed will have an inevitable negative impact on economic growth in an enlarged Europe.

The accounting method applied to such projects, which are not current commercial practice, should take the complexity and particular characteristics of the various contracts into account. This is a pre-requisite for the accuracy of balance sheets of groups involved in concession projects. The application of accounting standards should in particular reflect those contractual clauses and conditions which have an influence on the risks supported by the concessionaires and the level of control they exert over the projects. In this respect, the following are of particular importance:

- traffic and/or revenue guarantees granted to the concessionaire by the concession granting authority;
- the conditions of recourse from lenders against the borrowing concessionaire;
- the conditions of purchase, pursuit of activity, rescission and indemnification of the concession;
- the conditions of transfer of the repayment of the loan to the concession-granting authority.

For these reasons FIEC, the European Construction Industry Federation, asks that the Commission formally expresses its concern on this matter to the international accounting institutions (IASB and IFRIC) and requires that the specificities of concession contracts be taken into account in order to safeguard the participation of the private sector in the realisation of the Trans-European Transport Network.

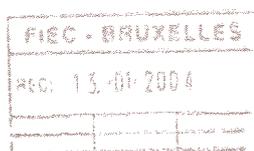
[...]

Yours sincerely,
<signature>

Wilhelm Küchler

CC: Mrs Loyola de Palacio, Vice-President of the
Commission
Mr. Frits Bolkestein, Member of the Commission

**Letter from Mr. Romano Prodi, President of the European Commission
to Mr. Wilhelm K uchler, President of FIEC
IAS accounting rules for concession contracts
8/1/2004**



Brussels, 08-01-2004
SG(2003)D/897820

Dear President K uchler,

Thank you for your letter of 28 November 2003 in which you draw my attention to the accounting treatment of concession contracts in the construction industry.

At present, International Financial Reporting Standards (IFRS) do not specifically cover service concession arrangements. For this reason, in 2002, the International Accounting Standard Board (IASB) asked a task force comprising standard-setters from Australia, France, Spain and the UK to carry out basic research in this area.

The task force suggested that the IASB should ask its interpretations committee, IFRIC, to examine whether a solution could be developed for service concessions in the short term. The technical debate within IFRIC started in September 2003 and will be carried on until 2004.

I can assure you that the Commission will continue to closely monitor any significant developments in the work of IFRIC on this issue. I would also like to add that IFRIC interpretations, like any standard, only become mandatory after their endorsement by the European Commission. This endorsement process enables EFRAG, the European Financial Reporting Advisory Group, which is the technical advisor to the Commission on international accounting issues, to provide an opinion on the technical quality of a draft interpretation or a draft amendment to a standard.

I would therefore advise you to contact Johan van Helleman, the Chairman of EFRAG, or Paul Rutteman, EFRAG's Secretary General, in order to convey your concerns and to keep the services of my colleague, Frits Bolkestein, who is responsible for accounting matters within the Commission, informed about further developments in this area.

Yours sincerely,

Mr. Wilhelm K UCHLER
President
European Construction Industry Federation
Avenue Louise, 66
1050 BRUSSELS

SOC



President:
Mr. Peter Andrews, GB

Rapporteur:
Mrs. Laetitia Passot, FIEC

SOC



Executive President:
Mr. John Stanion, GB

Sub-commission SOC-1

"Vocational Training"



Chairman: Mr. Alfonso Perri, I

Rapporteur:
Mrs. Rossella Martino, I

Sub-commission SOC-2

"Health and Safety"



Chairman: Mr. José Gascon y Marin, E

Rapporteur:
Mr. Alejandro del Valle, E (-5/2004)
Mr. Ricardo Cortes (5/2004-)

Sub-commission SOC-3

"Economic and Social Aspects of Employment"



Chairman: Mr. André Clappier, F

Rapporteur:
Mr. Jean-Charles Savignac, F

Foreword

This is the second year that the UK federation has held the presidency of the Social Commission and after a successful first year, during which we developed and agreed a Business Plan, the Commission continues to tackle issues that directly affect more than 11 million employees across the European construction industry.

The Social Commission through its three sub-commissions has responsibility for training, health and safety and the economic and social aspects of employment. With such a wide and critical brief in the industry, an essential part of our work is covered through 'social dialogue' – which involves working with the European Commission and the European trade unions.

During the first year of our Presidency, after consulting member federations, contractors within the SOC Commission agreed a dynamic business plan. This has helped us to focus over the past year on clear priorities and set lobbying objectives across all three sub-commissions. This year, we have just updated the plan – which Council has already agreed. I am sure this will once again help us in the coming year to remain focused in our efforts.

With numerous challenges across all the three key areas it is impossible for us to detail every aspect of our work over the past year. However, one key issue, which is common to all and will continue to be fundamental this year, is EU Enlargement. We look forward to an exciting and challenging year ahead, particularly in view of the dynamic changes in Brussels and the opportunities this may present for the construction industry.

Peter Andrews

SOC-1: Vocational training

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

The following topics and projects have been given high priority in 2003-4:

1. Exchange of good practices between FIEC member federations: Thematic visits "training and education"

FIEC considers that it has a potentially beneficial role to play in encouraging the exchange of experiences and good practices between its member federations. For this purpose and since 2002, the FIEC Commission for Social Policy Affairs has organised thematic visits outside Brussels to visit training centres and "flagship" construction sites which have shown particular efficiency in the field of vocational training. These visits have included presentations on projects developed by the host federations in the field of vocational training.

Thematic visits last one to two days and bring together around 20-30 participants from various countries of the European Union and candidate countries. They are financially supported by the European Commission as part of the Employment and Social Affairs DG budget line B3-4000. Hitherto, three thematic visits have been organised, one in Paris in February 2002 at the invitation of the FFB (Fédération Française du Bâtiment), another in Rome at the invitation of ANCE (Associazione Nazionale Costruttori Edili) in April 2002 and a third one in Erfurt (Germany) at the invitation of HDB (Hauptverband der Deutschen Bauindustrie) in September 2003. A fourth thematic visit is scheduled for 2004, in the United Kingdom.

The third thematic visit in Erfurt demonstrated the outstanding performances of 2 training centres, one specialised in tunneling work, the other in the use of modern construction equipment. Due to close cooperation with construction equipment producers, both centers provide unique possibilities for tailor-made training courses on the most up-to-date machines.

The visits have been a great opportunity for contractors, training managers in the federations and staff members of training centres to exchange views and collect new experiences, useful for developing their own projects. These visits have also enabled

representatives from the candidate countries to discover new practices and lead to the establishment of common projects, on a bilateral basis or at the European level, aimed at improving vocational training in the sector.

The report on the thematic visits are all available on the FIEC website.

Social dialogue

2. FIEC-EFBWW publish tools to promote the employment of young people in the sector and retain the older workers: tutorship project

The European Construction Industry Federation (FIEC) and the European Woodworkers' and Building Workers' Federation (EFBWW) have developed a brochure in favour of the employment of young people and ageing workers in the sector, with the financial support of the European Commission (Leonardo programme).

The departure of a significant number of young people after just a few years working in the sector represents a serious waste of resources to the various vocational training systems. It means that there is a correspondingly low return on businesses' investments in human resources, and a consequential loss of both skills and finances for the sector. The departure of many experienced workers aged over 50 is also a problem in many countries.

To meet these challenges, the construction sector's European Social Partners have promoted a solution: tutorship, that is to say the establishment of a preferential and structured relationship between an older and experienced worker, the "tutor" and a young worker, or newcomer in the firm.

Many benefits can be expected from tutorship schemes:

- induction of new recruits and monitoring them while adapting to a new working situation;
- capitalisation on the knowledge and experience of the company's more experienced employees who can serve as valuable tutors for young people;
- promotion and development of workers' skills;
- increase in workers' productivity and loyalty;
- stimulation of communication within the company;
- improvement of behaviour and commitment to the company's culture;
- trigger human resources management;
- Improvement of the sector's image.

The Social Partners have published a brochure to assist construction companies to develop their tutorship systems, which provides them with:

- a description of the key stages to be envisaged for putting this system in place, information regarding the characteristics of a "good" tutor,

the competences which he must possess and management of a tutorship relationship;

- five specific examples of good tutorship practice from five countries of the European Union: Germany, France, Italy, Belgium and the United Kingdom;
- practical information sheets for the employer, the tutor and the young person.

The European Social Partners have also developed a training module to train the tutors, as well as additional tools exclusively dedicated to the tutor and the young person, such as interview assessment scales and notebooks.

This brochure could be especially useful for SMEs which do not always have the time and resources to develop their own tools. The contractors interested in these tools will be able to use them as such or modify them in order to adapt them to the needs of their companies.

The brochure is available in English, French and German in printed and electronic versions (on the FIEC website at www.fiec.org – click "Publications", then "Other Publications").

3. FIEC-EFBWW pilot project on the transparency of qualifications

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

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

At a later stage, we will be looking at the possibility of extending the project to other branches of the construction sector. The deadline for this project is 2005-beginning of 2006.

Integrate young people

SOC-2: Health and safety

The role of SOC- 2 is to develop health and safety in the construction sector through the development of adequate training policies and schemes as well as through the exchange of best practices between FIEC and its member federations. Increased health and Safety in the construction sector is a key factor in improving the image of the sector.

Social dialogue

1. Reaction to EU legislation: Cement – discussions on workers' safety

In the context for a proposed directive on "packaging and labelling" approved in July 2002, the Commission has recently dealt with 2 dangerous substances, one of which, namely hexavalent chromium (Cr. VI), is important for construction as it is a component in the composition of cement.

When mixed with water, Cr. VI can cause allergic reactions if it comes into contact with the skin, also known as "mason's dermatitis" (which used to be called "cement itch"). A working group with representatives drawn from FIEC, EFBWW, the cement (CEMBUREAU) and concrete industries (BIBM, ERMCO) came to the provisional conclusion that the possible theoretical reduction of Cr. VI levels in cement would only provide a partial protection against dermatitis risks.

The working group was unable to reach a consensus before the end of the legislative procedure but it has continued working and a common position was drafted in February 2004 . The text underlines the shared responsibility of all actors in the fight against dermatitis and stresses the need for additional studies on the measures leading to a reduction of allergic dermatitis. An "in principle" agreement of all participating organisations was reached in a working group meeting, but ultimately FETBB withdrew.

2. Research project on stress at work

Following the consultation by the Commission on stress at work, the EFBWW made a proposal to FIEC relating to the launch of a joint project on "stress". The aim of this initiative was to study the extent to which the construction sector is affected by stress. Taking into account that the problem of stress will become more and more important in the coming years, especially as regards insurance claims, FIEC has accepted to participate in the steering group responsible for piloting the project. The European Commission agreed to finance this project in September 2003. The interviews and the drafting of the study were then subcontracted to a research

institute, CLR. The first and second meetings of the steering group took place in mid-November 2003 and end of March 2004: The study which should be ready in Autumn 2004 will be presented during a seminar due to take place at the end of 2004. This could lead to a possible FIEC-EFBWW common position on stress and a written contribution to the discussion between UNICE and ETUC at the interprofessional level.

3. 2004: European year of health and safety in the construction sector

By decision of the European Agency for Health and Safety at Work, 2004 has been designated the "Year of Health and Safety in the construction sector". The aim of this campaign is to raise awareness of everybody concerned in the construction sector about the need for correct protection and prevention measures against accidents and illness at work. This campaign also intends to promote good practice solutions in all EU-countries (decentralised actions). In the beginning of October 2003, FIEC and EFBWW officially gave their support to the European Agency for Health and Safety at Work for the organisation of the event.

The campaign for Health and Safety in the construction sector ("Building in Safety") has been launched on 30 April 2004 in Dublin (Ireland). On this occasion, FIEC and FETBB, the social partners of the European construction industry issued a joint statement, highlighting the following points:

1. We welcome EOSHA's decision to devote the 2004 European Week to the construction industry, because this awareness raising campaign will give a boost to all those in the sector who have been working enthusiastically on this crucial issue for many years.
2. EFBWW and FIEC have been active in S&H matters for more than 15 years, in the Social Dialogue, and jointly published last year, assisted by the S&H consultant SEFMPE, the "Guide of Best Practices on the Coordination of S&H", especially useful for SMEs (97% of the sector).
3. In addition to all the negative consequences for the persons concerned, the number of accidents in our sector contributes to its image and also leads to loss of time, know-how and money.
4. Only joint efforts of everyone in the entire production chain, from clients, architects and suppliers to the ones most directly concerned, contractors and workers, everyone in his own area of influence and responsibility, will achieve the best possible results in reducing the number of accidents.

The campaign will be formally closed in Bilbao (Spain) on 22 November 2004. The principal event planned during the campaign is the European Week due to take place from 18-22 October 2004, but



Pictured from left to right are:

Frank Cuneen – Chair Health and Safety Authority of Ireland,
Ulrich Paetzold – Director General FIEC,
Pat Cox – MEP President of the European Parliament,
Bertie Ahern – An Taoiseach Irish Prime Minister,
Hans-Horst Konkolewsky – Director European Agency for
 Safety and Health at Work,
David Byrne – EU Health and Consumer Protection
 Commissioner,
Harrie Bijen – General Secretary EFBWW,
Tom Beegan – Chief Executive Officer Health and Safety
 Authority of Ireland



construction concerns will be highlighted by the agency throughout the year.

Each FIEC member federation has been invited by FIEC and national contact points to:

- Organise special health and safety events during 2004: workplace safety demonstration campaigns, open days, training sessions, TV advertising campaigns, seminars and workshops, organisation of awards/competitions, exhibitions, press conferences...
- Brand their material with the European Week logo
- Get in contact with national focal points (Agency affiliates at national level), to organise events at national level, and disseminate information on behalf of the agency on the prevention of accidents on site (posters, case studies, leaflets, fact sheets on prevention of accidents, available in 20 languages).
- Nominate health and safety good practices for participation in an EU-awards competitions,
- Send to FIEC campaign information material which are used by their federation to be put on the agency website
- Inform FIEC about construction fairs or General Assemblies, colloquia at which the presence of an agency stand presenting the Year 2004 campaign could be organised.

Candidate and accession countries have of course also been invited to take part.

For more information see: <http://ew2004.osha.eu.int>

4. Safesite R&D project

FIEC has been invited by GTM (a member of the VINCI Group) to participate in a project known as "Safesite" aiming at developing tools to help construction firms set up comprehensive Health and

Safety Systems and improve health and safety on sites.

This project will be supported by a consortium composed of several companies which are members of FIEC members federations, research institutes and construction and safety RTD providers. The innovative contributions of "Safesite" would be to create and develop new management tools for re-engineering business processes within construction firms (of all sizes) so that these processes integrate health and safety issues and become inherently safe. The result expected will be a drastic improvement and breakthrough in the H&S records of the construction sector from its present level of twice the EU-15 average for all sectors to a level well below this average moving towards 0 accidents.

The project at the time of reporting was being evaluated for financing by the EU Commission under the 6th framework programme. Should the project be accepted by the EU Commission, FIEC and EFBWW would participate in the project as partners for the dissemination of the results.

SOC-3: Social and Economic Dimension of Employment

The role of SOC-3 is to improve the social and economic aspects of employment in the construction sector through the development of adequate policies and schemes and through the exchange of best practices between FIEC member federations. Better working conditions in the construction industry is a key factor in improving the image of the sector.

1. Reaction to EU consultation/ legislation

a) Consultation of the Commission regarding working time

The Commission published a Communication in December 2003 to launch the first stage of a consultation of the need to revise Directive 93/104/EEC on working time.

The working time directive plays a vital role in protecting the health and safety of workers from the effects of working excessively long hours. This consultation is aiming at:

- reviewing the working time directive on the question of an "opt out"¹ and on the "reference periods" used for calculating working hours (in fact, the UK is the only country which has applied the "opt-out" possibility for all sectors of activity);
- adding some measures to the directive in order to ensure a better balance between family and professional life; and
- modifying the definition of working hours according to the recent rulings of the Court of Justice as concerns hours when workers are "on call".

According to the member federations, several provisions contained in the Directive pose a problem: the weekly work limit of 48 hours which is too strict; the reference period for calculating this limit – in principle set at four months – which should be extended; and finally the concept of working time which should not result in including breaks. A FIEC response to the consultation was sent to the Commission on 31/3/2004 setting out the observations of the sector.

b) Consultation of the Commission regarding the portability of supplementary pension rights

Cross-border mobility, as well as mobility within a given country, are in fact still faced with important obstacles in relation to supplementary pensions.

On 12 April 2002, the European Commission launched a first stage consultation to consult the social partners on how the portability of pension rights could be improved. In their answer to the Commission's consultation in October 2002, FIEC stressed that a EU initiative in this field should in no way interfere with the organisation of supplementary pensions arrangements in Member States but could consist of an exchange of best practices and information on the experiences developed by member states in creating links between different supplementary pension schemes at the national level.

On 15 September 2003, the European Commission launched a second stage consultation to ask whether the Commission should create a general framework of minimum standards and whether collective agreement was the correct tool of negotiation for the European social partners in order to create such a general framework. Questions were also raised such as the possibility of reducing the period requested to benefit of a pension (waiting period and qualification period, age conditions), the possibility of an automatic re-evaluation upon inflation of the rights gained, the possibility of choosing between the maintaining of their pension rights as gained in the original system and the transfer of such rights towards another system.

At the time of reporting, FIEC and EFBWW were examining the possibility of launching a survey in order to build up a clear picture of the situation in the European construction sector. Once this survey is completed, the social partners may work on a common answer to the EU Commission.

c) Working conditions for temporary agency workers

On 20th March 2001, the Commission adopted a proposed directive on the working conditions for temporary workers (COM(2002)149) aimed at guaranteeing a minimum level of protection for temporary workers throughout the European Union whilst encouraging the agency work sector to develop as a flexible option in the labour market.

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

Given the important role played by temporary workers in the construction sector in certain countries, a restricted working group met within the framework of SOC-3 in order to look at the proposed directive in detail and to prepare an appropriate reaction. A FIEC paper was developed and submitted to the European Parliament prior to the first reading in July 2002. Most of the member federations' concerns were taken into account by the European Parliament when it looked at the proposed directive in its first reading.

A revised FIEC position paper accepting the Commission's amended proposal for a Directive was disseminated to the Council and the Commission as well as to the European Parliament in April 2004 before the Council issued its common position on the text. At the time of reporting, the temporary agency workers Directive was blocked in the Council.

¹ possibility of derogation from the weekly work limit provided that the worker agreed and certain conditions are respected

Social dialogue

d) Conditions of Entry and Residence

In July 2001, the Commission published a proposal for a directive (COM(2001) 386 final) aiming at harmonising the criteria for entry and residence and the procedures for issuing documents and permits for nationals of non-EEC countries. This proposal makes provision for a single national application procedure, leading to the issuance, in a single administrative action, of a unique combined document which acts as both a residence permit and as a work permit. The main aim of this proposed directive is to do away with bureaucratic obstacles and to make Member States' immigration procedures more transparent. In no case does it introduce an automatic right of access for nationals of non-EEC countries.

Given the high degree of mobility shown by workers in the industry, SOC-3 and the social dialogue committee for the sector looked closely at this directive in 2001. Considering the illegal activity of workers falsely claiming self-employed status, FIEC has developed a common position to provide this proposal for a directive with a clear definition of the status of a self-employed person. This position, which has been agreed by EFBWW, was made public in June 2003 and disseminated to the European Commission and to the Council.

FIEC member federations were then encouraged to lobby their own governments at national level in parallel fashion, in order to ensure that the definition of the status of a self-employed person should be included in the Directive.

The first reading was completed in February 2003. The text is awaiting a final decision in the Council. The FIEC-EFBWW position paper will be re-confirmed before the next Council on the issue.

e) Proposal for a directive on Services in the Internal Market

On 13/1/2004, the Commission adopted a proposal for a Directive on Services in the Internal Market (COM(2004) 002). The aim of this proposal is to dismantle most of the remaining obstacles to the freedom of establishment and to the provision of cross-border services, with a view to creating a genuine internal market for services by 2010.

In fact, the directive goes much further than removing obstacles and raises many questions, particularly in relation to the posting directive. Some FIEC Member Federations have already lobbied (successfully) their Commissioners, before the proposed text was officially issued. FIEC has developed a position paper as well as a joint position

with EFBWW on the issue, to provide the required "specific knowledge" on the construction sector to the EU-Commission.

Two EP hearings (social matters, internal market/legislative matters) took place at the beginning of April 2004 during which the social partners FIEC/EFBWW were asked to present their views. Their position was in line with those of other sectors and ETUC but in conflict with those of UNICE and EUROCOMMERCE, which largely welcomed the proposal.



Mr. Wilhelm Küchler, FIEC President during the hearing at the European Parliament "EMPL" Committee on 6th April 2004 on the proposed "services" directive.



Mr. Wilhelm Küchler with MEP Anne Van Lancker, Rapporteur on the "services" directive of the Employment and Social Affairs Committee

Photo Y. Glavie

The proposed text falls under the co-decision procedure. The first reading of the text is expected in Autumn 2004. Extensive negotiations are expected since the proposal has far-reaching implications for service industries.

2. Exchange of best practices

a) *fighting against Undeclared labour*

The black economy has numerous negative consequences for the sector:

- unfair competition due to the breaching of collective agreements on the minimum wage and statutory obligations,
- random compliance with health and safety rules,
- ...

During the last FIEC Council meeting in March 2003, FIEC decided that the fight against undeclared labour would be a SOC "priority issue" and that common actions should be taken, if possible with EFBWW.

Various solutions exist to effectively combat undeclared labour: reinforcement of penalties and checks especially in the evening and at weekends, exchanges of information, preventive action with workers and especially with immigrants, the involvement of the social partners

The FIEC working group set up to deal with this issue is drawing up a code of best practices on the basis of those presented by FIEC member federations and answers received to several questionnaires. The code will make some recommendations to the sector on several activities to be carried out to fight against undeclared labour. The idea of this code is not to generalize national practices which do not necessarily suit all countries and, on the other hand, create new obligations for enterprises, but rather to encourage FIEC member federations, enterprises and public authorities to take actions on this issue. The code of best practices should be finalised by the end of 2004.

b) *database*

Following the work carried out on the directive 96/71/CE on posting in the mid 90's, FIEC has identified the need to create a database, in order to facilitate the posting of workers within the European Union. In Autumn 2002, this database project was considered as a top priority project by the FIEC member federations when responding to a questionnaire on the SOC-Commission priority actions.

This database effectively consolidates the national legal and conventional provisions which have to be respected during posting. The aim of the database would not be exhaustive but would enable firms that wish to find out about the broad parameters involved and in particular identify the persons or organisations from whom they could obtain detailed information.

The database includes information on minimum wages, holiday pay, compensation for bad weather and unproductive working time. The database is almost complete, however, to ensure there is a uniform and consistent presentation of the data, the sub-commission has agreed to appoint an external consultant. A working plan including financing is currently being developed in order to facilitate completion of the project as early as possible.

3. Corporate social responsibility

In July 2001, the European Commission published a Green Paper entitled "Promoting a European framework for corporate social responsibility", in which it proposed that companies consider social and environmental questions in addition to their economic concerns. The European Commission considers that these three elements can be adjusted to generate more productive and more profitable activity. After consulting its members, FIEC responded in December 2001 to the Commission consultation. In the statement of its position, FIEC declared itself to be in favour of having the concept and practice of corporate social responsibility promoted by the European Commission and the Member States, provided that these bodies confine themselves to an exchange of good practices between companies. FIEC is not in favour of the idea that having social and environmental questions taken into account by companies should be made mandatory.

Having been on the agenda for the meeting of Council and General Assembly of FIEC in Helsinki in June 2003, the issue of CSR was the topic of a dinner-debate organised on 23 June 2003, with MEP Philip Bushill-Matthews, the EP rapporteur on this issue. In the discussion it became apparent that parts of the construction sector have already been active in the areas of CSR for many years, but has not communicated this sufficiently.

One of the biggest and most important challenges for FIEC is helping SMEs, who numerically dominate the construction sector in all countries, to develop realistic and relevant policies on CSR activities and reporting. FIEC is studying to which extent it would make sense to develop, at the European level, adequate tool-kits such code of conducts, leaflets for helping SMEs both to identify and publicise their CSR activities.

PRESS RELEASE

The European social partners in the construction sector publish a brochure in favour of the employment of young people and elderly workers

24/3/2004

[...]

To meet the challenge of the sustainable integration of young people into the sector, the social partners are proposing a solution: "tutoring", that is to say, the establishment of a preferential and structured relationship between an older and experienced worker, the "tutor", and a young recruit starting out in the company.

With a view to assisting construction companies to develop their tutoring systems, the brochure provides them with:

- a description of the key stages to be envisaged for putting this system in place, information regarding the characteristics of a "good" tutor,

- the competences which he must possess and management of a tutoring relationship;
- five specific examples of good tutoring practice from five countries of the European Union: Germany, France, Italy, Belgium and the United Kingdom;
- practical information sheets for the employer, the tutor and the young person.

The brochure, a training model and specific tools for the tutor are available in French, English and German in printed and electronic versions on the FIEC website at <http://www.fiec.org> and of EFBWW at www.efbww.org.

[...]

FIEC position on the Commission's communication regarding the re-examination of Directive 93/104/EC concerning certain aspects of the organization of working time.

First stage of the consultation of the social partners

30/3/2004

[...]

FIEC welcomes the Commission's consultation and wishes to convey the observations of the construction industry specifically as concerns any possible revision of Directive 93/104/EC

[...]

I/ OPT-OUT OPTION AND REFERENCE PERIOD:

1. The possibility, for reasons of flexibility, of obtaining an opt-out from the maximum working period of 48 hours a week is absolutely essential for the construction industry. [...] Construction workers must have the possibility to work more than the maximum working time of 48 hours per week in order to meet deadlines during periods of intense activity. [...] Such opt-out must be considered in parallel with an annual reference period
2. [...] The implementation of this opt-out should be strictly limited so that it remains an exception to the basic principle that workers should not normally work more than 48 hours per week. [...] It could therefore be envisaged that the consent of a worker who wishes to work more than 48 hours

per week should not be determined at the time of recruitment, but only after a reasonable lapse of time. Provision could also be made to the effect that his consent has a specific validity period that could be periodically renewed over a period of time to be defined.

3. The reference period fixed in principle at 4 months (although it can be extended to 6 months and even to 12 months under a collective agreement) is not satisfactory¹ mainly due to cultural differences between member states of the European Union. Whilst the possibilities for invoking an opt-out by mutual or collective agreement are in fact a good solution for certain countries in which negotiations with social partners form part of their legal and political tradition, the case is different for other countries in which the rate of unionisation is very low and this negotiation procedure is hardly used. The reference period provided for in the actual text of the Directive should therefore be extended to 1 year in any situation, irrespective of the Commission's final decision regarding the use of the opt-out option (i.e. it remains the same, is amended or deleted).

[...]

¹ The same Council meeting (on 4th March 2004) reached a consensus on a reference period of 1 year.

CEMBUREAU, BIBM, ERMCO, FIEC joint approach concerning Health & Safety when working with wet cement preparations
23/12/2003

On 17 July 2003, the European Directive 2003/53/EC on the restrictions to the marketing and use of cement with more than 0.0002 % (2 ppm) soluble Chromium VI was published in the Official Journal of the Commission. In this context CEMBUREAU, BIBM, ERMCO and FIEC, representing, at European level, respectively the producers of cement and concrete and the contractors (employers), have developed the following approach, which goes beyond the scope of this Directive, vis-à-vis this issue of health & safety when working with wet cement preparations.

It is the common aim of the four organisations, further to the efforts already undertaken by the industry and workers organisations in various Member States, to reduce the health risks for construction workers, namely of contracting eczema when working with wet cement preparations on construction sites, in precast concrete or ready mixed concrete factories.

The facts are:

1. The term "cement eczema" covers two distinct types of dermatitis:
 - a. irritant dermatitis, caused by the alkaline nature of cement mixed with water
 - b. allergic dermatitis, caused by water soluble Chromium VI in the cement
2. The alkaline nature of cement mixed with water is a natural fact and cannot be avoided. The producers already clearly indicate the potential risk (in Material Safety Data Sheets and labelling according to Directive 1999/45) and the means of protection against irritant dermatitis.
3. Allergic dermatitis is linked to the presence of Chromium VI in cement. Since cement is produced from natural raw materials its Chromium content may vary considerably but is, depending on the circumstances, unavoidable.

[...]

In order not to create a false feeling of safety and in order to achieve real progress in diminishing the number of workers suffering from any such cement dermatitis, it is necessary to tackle the problem from all angles in a co-ordinated manner. Limiting the efforts to one issue only, viz. the reduction of the Chromium VI content, could only produce part of the envisaged result, this being the reduction of cement dermatitis amongst construction workers on sites, in precast concrete or ready mixed concrete factories.

Consequently,

- the producers should clearly indicate the potential risk and the means of protection against cement dermatitis by appropriate labelling and Material Safety Data Sheets.
- the contractors (employers) should provide adequate information and related operational instructions to workers about potential risks when dealing with cement preparations
- the contractors (employers) should provide adequate protective equipment (e.g. special Chromium VI-free gloves, boots etc.)
- the workers should effectively follow the instructions received and use the protective equipment correctly.

In other words: only by taking a joint responsibility in this matter the level of cement dermatitis among workers may be managed in a satisfactory manner.

Finally CEMBUREAU, BIBM, ERMCO and FIEC ask the Member States:

- to take these aspects into consideration in the implementation of an effective protection of workers against cement dermatitis.
- to take notice of recent scientific analysis of the causes, impacts and potential remedies;
- to participate with the social partners in industry's awareness raising campaigns and to monitor future developments.

Jean-Marie Chandelle
Chief Executive
CEMBUREAU

Eddy Dano
Secretary General
BIBM

Francesco Biasioli
Secretary General
ERMCO

Ulrich Paetzold
Director General
FIEC

FIEC Position Paper on the Modified Proposal for a Directive of the European Parliament and the Council on Temporary Work (COM(2002) 701 final – 2002/0072/COD – 28/11/02)
April 2004

FIEC considers that the European Commission's modified proposal for a directive on temporary work, taking into consideration the amendments of the Parliament, is in principle positive and fairly balanced, as it would ensure that temporary work remains a flexible option in the European labour market, whilst providing a certain measure of protection for temporary agency workers.

[...]

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

Article 2 of the modified proposal for a Directive: "Aim"

Considering the essential importance for the construction sector of Directive 96/71/CE (relating to the posting of workers), and the fact that reference to such text in the modified proposal for a directive is only mentioned in preamble n°13 and not within the body of the proposal itself, FIEC proposes to add the following paragraph to article 2:

"This present directive applies without prejudice to the Directive of the European Parliament and Council dated 16 December 1996 concerning the Posting of Workers in the framework of the provision of services, in particular the obligation for the service provider to respect the employment and working conditions of the Member State in which the work is executed, including in particular the obligation to

respect minimum salary rates which apply from the first day to temporary agencies which actively post workers in the construction sector".

The intention of FIEC's proposed amendment is to spell out clearly that in the case of posting, the minimum social rights guaranteed by the "posting directive" and its national implementation, have to be respected without exception for temporary workers who are actually being posted.

Article 5 of the Directive: "Principle of non-discrimination"

§4: [...] each member state could have the possibility of ignoring the principle of non-discrimination concerning remuneration, for a six week period, irrespective of the duration of the temporary posting.

In fact, this provision would be only a possibility to be used by a member state, without prejudice to the national rules of other member states which already apply, from day one, the principle of non-discrimination concerning the remuneration of temporary workers.

Such a position clearly demonstrates the opinion of the majority of FIEC member federations, with the exception of the United Kingdom's Construction Confederation, which <...> rather holds the view that the possibility of ignoring the principle of non-discrimination concerning remuneration, should remain open for a period of at least 12 months.

Joint FIEC-EFBWW declaration regarding the Proposed COM(2001)386 – 2001/0154/CNS Directive of 11th July 2001 relating to entry and residence conditions for workers who are nationals of other countries

24/6/2003

The Construction Sector's European social partners,

DEPLORE the fact that, within the Union, their sector is one of those worst affected by cases of employment fraud,

WOULD LIKE TO REITERATE that, as a result of this regrettable situation, they have already made a previous joint Declaration, on 24th January 2000...

DEEM that, as this highly damaging situation still persists, the adoption of the "Entry and residence" Directive, as proposed on 11th July 2001 would be particularly appropriate because, by setting ourselves the target of "establishing joint definitions" (c.f. § 3.1 of the explanatory statement) shared by all of the Member States, through a "harmonised legal framework", it would finally provide a way of doing away with these divergences which are all too often made use of for cases of employment fraud in transnational situations.

FEARING, however, that the authorities responsible in each Member State for examining applications relating to entry and residence will – because of the definitions proposed for activity as an employed person or as a self-employed person – be able to find only insufficiently clear and certain arguments for the purpose of effectively thwarting and rebuffing any attempt at fraudulently representing as "self-employed" a worker who in fact would be only a disguised employee (and therefore not protected);

REQUESTS, on the welcome occasion of the proposed Directive of 11th July 2001:

- that in Article 18 stricter conditions should be laid down for the issue of the "residence permit self-employed person" (a certain length of residence in the country of origin, occupational insurance etc.), thus enabling attempts at fraud to be foiled even more effectively;
- and that, in particular, the distinction drawn between activity "as an employed person" and activity as "a self-employed person" should, from a legal point of view, be protected more securely against any loophole or tendentious interpretation.

WE SUGGEST the following:

- in Article 2 (b): "activity as an employed person", means any remunerated economic activity accomplished in the service of another person under that person's authority or supervision and with sole economic dependence on that person;
- in Article 2 (c): "activity as a self-employed person", means any remunerated economic activity not accomplished in the service of another person or under that person's authority or supervision and without sole economic dependence on that person.

With a view to ensuring that these definitions should in this way:

- not only be made applicable with a degree of precision common to all Member States;
- but should also be restricted and clarified with a view to being uniformly applicable to any third country.

FIEC's initial position paper "Social and Employment issues" on the European Commission's proposal for a Directive of the European Parliament and of the Council on services in the internal market COM (2004) 002, dated 13.1.2004

30/03/2004

[...]

I. General Observations

1. [...]
2. The proposed directive promotes a number of objectives and aims which FIEC wholeheartedly welcomes, in particular:
 - a) to achieve a genuine European Internal Market in services,
 - b) the large-scale administrative simplification,
 - c) to get rid of questionable restrictions (so called "name and shame process"),
 - d) to kick off a large scale information exchange,
 - e) to reduce unnecessarily complex and duplicate administrative procedures,
 - f) to improve mutual trust between the Member States.
3. However, FIEC is fundamentally opposed to those elements in the proposed text which are likely, not only to fail in achieving the envisaged aims and objectives, but also to lead to highly dangerous, counterproductive consequences in the construction industry, which is one of the largest, most labour intensive and most predominantly SME-structured sectors of the European economy.

II. Employment, Social Policy, Fight against undeclared labour**The "comprehensive approach"**

1. The general difficulties arising with the proposal appear to be that it is based on a comprehensive approach, "rather than ... dealing with one sector at a time". This holistic approach fails to recognise that the working method in the construction sector does not correspond to that of other sectors:
 - a) compared with other productive sectors, the construction industry works with mobile production facilities rather than in immobile factories, but the product is not mobile at all.
 - b) compared with other service sectors, construction produces tangible, immobile goods, and not intellectual products such as virtual results, software, reports etc.

Specific aspects concerning the construction sector

2. This specific aspect of the construction sector has been recognised by the European institutions (Commission, Parliament, Council) in the "posting directive", 96/71/EC of 16/12/1996, in particular in its annex which refers to "all building work ..." and mentions 13 construction activities. Therefore, construction is the prime subject matter of this directive!
3. Moreover, the proposal commences by confirming this specific characteristic. Recital (58) of the new proposal stresses that it "does not aim to address issues of labour law as such". In other words, the proposal claims not to interfere with this directive.
4. Consequently, Art. 17(5) of the proposal establishes a derogation from the "country of origin principle" established by Art. 16.
5. FIEC fully supports this derogation, because it is the only adequate manner in which the posting directive can continue to have its intended effect, namely prevent unfair competition and social dumping, as well as undeclared work.
6. In this context, it is interesting to note that both the European Commission and the Parliament have just recently confirmed that the posting directive does currently not need to be amended. Commission reference: communication COM(2003)458, 25/7/2003, p.18; EP reference: resolution 2004(0030), 15/1/2004, item 1.
7. FIEC also fully supports Art. 24(1) 1st sub-paragraph, which is the logical consequence of the principles expressed in recital 58 and Art. 17(5).

Counterproductive wording in the new proposal

8. With respect to this laudable effort of maintaining the posting directive's achievements, it is astonishing to read Art. 24(1) 2nd sub-paragraph and items (a) – (d). This text has, in fact two consequences: it effectively reduces, on the one hand, the practical application of the posting directive to nothing, and, on the other, the intentions expressed in recital 58, Art. 17(5) and Art. 24(1) 1st sub-paragraph to meaningless, empty words. If this proposal were to be adopted, the posting directive and the national

implementing laws would be a mere façade. The control mechanisms, intended to prevent unfair competition, social dumping and undeclared work, would be sacrificed.

9. Whilst FIEC is in favour of reducing/ abolishing unnecessary red-tape, procedures and bureaucracy it is evident that the effective implementation of the posting directive calls for a significant level of efficient control mechanisms and procedures in the host country. However, the home country authorities are too far away from the construction site and do not have sufficient knowledge of the locally applicable law, collective agreements etc.
10. FIEC considers the idea, that better coordination between the authorities of home and host countries could substitute such control mechanisms, an interesting concept. Unfortunately, practical experience demonstrates that actual implementation invariably fails to meet the required standards, despite the express statement contained in Art. 4 of the posting directive ("cooperation on information"). This phenomenon has been confirmed by the EP (resolution, see above 6, item L) and the Commission (communication, see above 6, item 4.2.1)
11. The judgements of the European Court of Justice dealing with such questions provide increasingly precise guidelines that allow the identification of legal and illegal procedures whilst, at the same time, limiting them to the minimum necessary. The attempt at summarising these complex findings and their detailed, thorough argumentation in Art. 24(1) 2nd sub-paragraph (a) – (d) goes beyond these judgements and puts the posting directive into jeopardy.
12. Art. 24(1) 2nd sub-paragraph, in connection with recital 59, is counterproductive for the aims of the posting directive, as is demonstrated by the interdictions contained in items (a) to (d):
 - a) Some kind of authorisation/ registration is necessary for being able to check that mandatory working conditions are respected by posted workers, as well as their employers. The host country has to be aware of their presence, otherwise no real check is possible.

b) The same is true for "declarations" (whatever is meant by this expression).

In addition, it is, at least, surprising that the proposed directive seems to introduce a time limit on the application of the posting directive. Such a measure would violate recent decisions taken by the Commission, Parliament and Council that there was currently no need to amend the posting directive.

- c) Taking into consideration the difficulties of transmitting formal administrative or Court documents to persons in another country, it seems to be absolutely essential that there is at least one person identified and properly mandated to receive such letters and to provide the requested information.
 - d) For control mechanisms to be effective, it seems absolutely necessary that the posted workers, as well as their employers, are able to present the documents with the information mentioned in Art. 24(2) 1st sub-paragraph, items (a) – (f). If such information is not readily available (in the host country language) and has to be provided from another country, then this would lead to unnecessary complications for the posted workers and their employers, perhaps even a suspension of activities until the relevant information is made available to the host country authorities.
13. Consequently, Art. 24(1) 2nd sub-paragraph should either be deleted or adapted to the realities of the construction industry.

Country of Origin principle

14. The rule established in Art. 16(3) will also lead to major problems outside the scope of the derogation concerning matters covered by the posting directive, Art. 17(5).
15. This principle is already today abused through the creation of pure "post-box" companies in a country of convenience. The obvious intention is to avoid having to respect mandatory national rules. Such practice favours in particular unfair competition, social dumping and undeclared labour and should, therefore be forbidden.

Third country nationals

16. Practical experience shows that the rules established in Art. 25 of the proposed directive are unrealistically optimistic. The only state directly concerned and having a direct interest in really checking the correctness of information supplied is the host country. Already today, with the host countries being able to implement systematic checks on third country nationals, it is in practice, very difficult to establish and verify the correct information necessary for such checks.

Note: opposite view expressed by AECOPS (P):

- a) There should be an EU policy for third country nationals' entry into and residence in the EU.
- b) The competence for issuing visa, work permits and authorizations should belong to the home country, i.e. the "Member State of origin", in which the construction firm is established.
- c) Such visa, work permits and authorisations should be recognised by all other EU countries, including host countries to which workers are posted.

Conclusion "Employment, Social Policy, Fight against undeclared labour"

17. Taking into consideration the obvious incompatibility of the proposed directive with the accepted and confirmed principles of the posting directive, the most adequate reaction would be to continue on the straight line of logic set out in Art. 17(5) and Art. 24(1) 1st subparagraph.
18. Art. 24(1) 2nd subparagraph should be deleted.
19. Art. 25 should also be deleted.

[...]

**JOINT STATEMENT of the European Construction Industry's Social Partners
on the European Commission's Proposal for a Directive on SERVICES IN THE INTERNAL
MARKET COM(2004) 002**

02/04/2004



EFBWW

is the European Federation of Building and Woodworkers, representing via its 50 national member trade unions in 17 countries 2.3 million workers from the building and woodworking sector. In its capacity as a European Federation, the EFBWW occupies a key position as observer of the social and economic situation in the construction sector.

EFBWW and FIEC,

recognised by the European Commission as the social partners representing the workers and the employers in the European Sectoral Social Dialogue in the Construction Industry, fully agree, as a complement to their individual position papers, on the following principles:

1. The proposed text, in particular Art. 24 and 25 would effectively eliminate the practical application of the posting directive, 96/71/EC of 16/12/1996, and consequently would facilitate the wrong kind of free movement, namely that of unfair competition, social dumping and undeclared work.
Consequently, these articles should be adapted to the realities of the construction industry, or even deleted.

for EFBWW
Harrie Bijen
Secretary General



FIEC

is the European Construction Industry Federation, representing via its 32 national Member Federations in 25 countries (17 EU & EFTA, Bulgaria, Cyprus, Czechia, Hungary, Poland, Romania, Slovakia, Turkey) construction enterprises of all sizes, i.e. small and medium-sized enterprises as well as "global players", performing all kinds of building and civil engineering activities.

2. The proposed "country of origin" principle, Art. 16(3), would facilitate abusive practices, such as avoiding mandatory national rules by the creation of pure "post-box" companies in a country of convenience.
Consequently, this law avoiding practice should be banned.
3. A better coordination between the authorities of both the home country and the host country is certainly a necessary and laudable aim, but at least in the construction industry, it must not replace adequate non-discriminatory control mechanisms in the host country. Only the host country authorities are aware of the rules which have to be respected in cases of posted workers.
Consequently, the host country authorities should be the leading partner, assisted whenever necessary by the home country authorities.
4. **Issues other than "posting" will be addressed in future position papers.**

for FIEC
Ulrich Paetzold
Director General

TEC



President:
Mr. Giandomenico Ghella, I

Rapporteur:
Mr. John Goodall, FIEC

Sub-commission TEC-1

“Directives, Standards
and Quality Assurance”



Chairman: Mr. Rob Lenaers, B

Rapporteur:
Mr. Frans Henderieckx, B

Sub-commission TEC-2

“Innovation and Processes”



Chairman: Mr. Vincent Cousin, F
(-03/2004)



Chairman: Mr. Bernard Raspaud, F
(03/2004-)

Rapporteur: N.N.

Sub-commission TEC-3

“Environment ”



Chairman:
Mr. Terry Penketh, GB

Rapporteur:
Mr. Andy Sneddon, GB

1. Introduction

The activities of the Technical Commission relate to 3 principal themes:

- The completion of the internal market in construction products;
- Sustainable construction; and
- The promotion of research and development

One plenary meeting has been held during the period under review. Sub-Commission TEC-1 "Standards and Quality Assurance" has met on several occasions to further develop its position paper on the relationship between "CE Marking" and "Voluntary Marking". TEC-3 "Environment" following the appointment of a new chairman, has met and agreed FIEC's response to the Commission's consultation on the prevention and recycling of waste. As concerns "research and development", this continues to be addressed in ECCREDI (European Council for Construction Research Development and Innovation), with a particular focus on the establishment of a European Technology Platform for the construction sector.

2. The Construction Products Directive (89/106)

The on-going implementation of the directive is now focussed on efforts in CEN and EOTA (European Organisation for Technical Approvals) for the production of the long-promised "harmonized technical specifications". CEN has received about 30 mandates and several amendments from the Commission covering the harmonized product standards under the CPD. On the basis of these mandates, CEN is expecting to publish about 550 product standards as well as some 1500 supporting standards principally dealing with test methods and evaluation of conformity. By end March 2004, a total of 272 product standards had either been formally approved or had reached the formal vote stage of which 120 had been cited in the Official Journal. A further 122 had either passed – or had reached the CEN enquiry stage, whilst a further 91 were under preparation for CEN enquiry.

These figures indicate that 15 years after the enactment of the directive, progress is now reaching the point where a critical mass of standards should soon become available. Moreover, the standards finalised so far cover some of the most important

construction products required for achieving the single market in construction products. CE Marking is now obligatory for products falling under 58 standards. This first generation of European Standards will certainly not achieve perfection and indeed some texts have been severely criticised for one or other reason. Some of these criticisms have resulted in standards already agreed, having to be amended. Certain characteristics such as those relating to regulated substances and durability will be addressed in the second generation of standards.

In order to facilitate the practical implementation and application of the Directive, the Commission Services have continued with the practice of issuing "Guidance Papers" as provided for under article 20. of the Directive. These papers are not judicially binding and nor do they modify or amend the Directive in any way. The Commission considers that they are primarily of interest to "those involved in giving effect to the Directive, from a legal, technical and administrative standpoint".

Hitherto, the introduction of the Guidance Papers has indeed served to provide useful information while helping to clarify areas of potential misunderstanding. To date, the Commission has circulated no less than 12 papers covering topics such as:

- The definition of factory production control
- CE Marking under the CPD
- Durability
- A harmonised approach to dangerous substances
- The application and use of the Eurocodes

Whilst much of what is contained in these papers may essentially concern the public administrations responsible for the implementation of the Directive, the sheer volume of the information contained in them is indicative of the complexities involved. The participants in FIEC's Sub-commission TEC-1 are aware that it is only now that the first CE Marked construction products are actually beginning to appear in significant numbers, and the way in which CE Marked products are received by contractors will be crucial to the success of the entire venture.

The Commission is now beginning to look forward to the first revision of the Directive since it was adopted 15 years ago. The relationship between the text of the Commission's forthcoming proposed amendments on the one hand and the various Guidance Papers on the other, will be one essential ingredient. Another will be contractors' experiences with using CE Marked products. FIEC will need to monitor this process carefully, but most important of all will be the feedback of first hand experiences received from contractors through their national federations.

3. CE and Voluntary Marking systems

Not surprisingly, this topic has been at the centre of attention during the period under review. The perceived success or failure of the CE Marking of construction products, is set to become the benchmark against which contractors will judge the efficacy of the single market in construction products. FIEC's concerns in this field have focused on what it believes are increased risks in terms of liability for the contractual performance of construction works where CE Marked products may fail to consistently perform in accordance with contract specifications. Evidence is now emerging – in some countries at least – that these initial fears have started to become a reality on construction sites.

As the Commission admits, harmonisation of criteria across countries of any procedures almost invariably leads to some form of compromise, producing "winners" and "losers". This, the Commission acknowledges, is an inevitable reality of creating a "single market".

The levels of attestation of conformity, determined by the member states representatives in the Standing Committee on Construction in accordance with the Construction Products Directive attaching to the different families of construction products, constitute one of FIEC's principal concerns. Many products – that in some countries were hitherto subject to rigorous attestation of conformity procedures – now only require a comparatively "relaxed regime" of initial type testing and factory production control procedures carried out and declared by the manufacturer alone, in order to be CE Marked. The involvement under this so-called "attestation of conformity system 4" of a third party – such as an official "notified body" – is not required. In these circumstances, contractors in those member states formerly requiring higher levels of attestation of conformity for products now falling under "system 4", are becoming concerned that the emerging single market risks being flooded with products of inconsistent quality, that in order to remain competitive, they will be obliged to use.

Whilst contractors cannot rightly claim that they did not anticipate the disappearance of familiar national marks such as for instance the German DIN and Ü, France's NF and the UK's Kitemark, they are nonetheless dismayed that the CE Marking replacing them, relates to only part of what these long-cherished national marks used to cover. In effect, the CE Marking only relates to the so-called "harmonised" parts of European Technical

Specifications (in most instances a European Standard) that exclusively address those aspects of construction products enabling works in which they are used (and that are regulated in any one member state), to comply with national technical regulations. Consequently, contractors must now accept that the CE Marking relates to only part of what the fast disappearing national marks once covered. This leaves the remaining so-called "voluntary" part of a harmonised technical specification to be covered by means of a voluntary system of marking.

FIEC's position paper included with this year's report calls on the Commission as a matter of urgency, to give substance to the Industry Council's resolution of 10 November 2003 in which it called on the Commission, in cooperation with all stakeholders, to start a campaign to better promote and clarify the meaning of the CE Marking and its relation to voluntary marks.

FIEC hopes that through participating in this campaign, it will be possible to promote a sound system of voluntary marking along the lines of the already established CEN Keymark, thus ensuring that construction specifiers and contractors can have complete confidence in the quality and consistent reliability of construction products.

4. The Environmental Performance of Buildings

The development of "Environmental Product Declarations" (EPDs) has been a topic under discussion between the European Commission, Member States and industry for several years now. In March 2004, the Commission finally adopted a standardisation mandate for the "Development of Horizontal Standardised Methods for the Assessment of the Integrated Environmental Performance of Buildings". Given that the overall environmental performance of buildings is not only dependent on the materials used, but also on energy use, water use, building process, demolition process, etc., this raises the perfectly legitimate question of the link between EPDs on the one hand and the environmental performance of buildings on the other. The answer is of course, that the availability and use of EPDs are just a first step in ascertaining overall performance, and the terms of reference of the mandate reflect the Commission's longer term strategy to raise the overall environmental performance of buildings – thereby reducing their environmental impact – across the EU. Clearly, this is a development that affects all the players in the construction process, including ultimately contractors.

CE and Voluntary Marking

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

The initial results of the first calls for proposals under the theme of "Nanotechnologies, Materials and Processes" (NMP-1) under the 6th Framework Programme came as a shock to the construction research fraternity. Out of a total of 412 eligible proposals received from all sectors, only 77 were invited for the second stage, of which 36 "Networks of Excellence" (NE) and 41 "Integrated Projects" (IP). For this first call of NMP-1, a budget of 260 million Euros was available. In the second step of the evaluation procedure chances for success were thus around 20%. The scores for NE were situated between 16.2 and 19.1 out of 25 (threshold for NE 20/25) whereas for IP the scores were between 14.8 and 20.8 out of 30 (threshold for IP 24/30). This whole scenario was disappointing to the point of demoralisation, particularly in the light on the one hand, of EU policy determined in Lisbon to raise the level of RTD in Europe to 3% of GDP by 2010 and, on the other the exchange of correspondence between the FIEC President and Commissioner Busquin on this very topic just a few months earlier.

FIEC arranged a meeting with Commission officials and ECCREDI representatives on 31 July 2003 in order to discuss this extremely disagreeable situation. The Commission explained that the construction sector was not the only one to be disappointed. However, in FP6 it must be clearly understood that unless a "technological breakthrough", – which is now a key component for the success of any proposal – is convincingly anticipated, the proposal will fail. This almost certainly explains the construction sector's present predicament.

The Commission recommended that the construction industry could benefit through exploiting nanotechnologies, that could give it a competitive edge for many years to come. This implies a "rupture" with existing processes and the implementation of "radical change". Under FP5, it was acceptable to propose "incremental" changes, but the principal difference in FP6 is that changes must be "radical" and proposals are expected to convincingly indicate that a "technological breakthrough" will be achieved. Moreover, it is necessary to achieve "critical mass" that could lead to a considerable amount of "added value". Adding critical mass in conjunction with radical innovation is something that can best be done at European level rather than at national level.

New procedures will apply for future submissions of proposals. Firstly, there will be a pre-screening of outline themes or subjects on a non-committal basis which should indicate to would-be proposers whether

or not they stand a reasonable chance of success. This would be based on only outline information as to what the proposal would put forward. There would then be the actual proposal phase in two steps:

- First step: an outline proposal reduced to three criteria (relevance; impact; innovation) which would require less effort than that was required during the first step of the first call, but would be very selective.
- Second step: would involve a comprehensive proposal. The overall selectivity will be severe as for the first call, but it could be imagined that for the first proposals to be rejected for lack of funds, there could still be small subsidies awarded to keep these good issues alive.

These proposed new procedures reflect what FIEC has been requesting for many years now, namely a means of eliminating unviable proposals at an early stage, thus avoiding a needless waste of resources in their preparation.

Of course, the NMP results are not the whole story. But clearly, construction faces an uphill struggle in making its claims against more immediately exciting developments in nanotechnology and biosciences. But it does have its "breakthroughs" and through ECCREDI the construction research community has already put forward some text more suited to the sector's research agenda as well as proposing changes to the call procedures.

6. European Technology Platform (ETP)

The concept of the "European Technology Platform" was originally defined at the 2003 Spring Council as a forum involving the main public and private stakeholders to address major technological challenges aimed at supporting the EU initiative for growth. This concept in turn also relates to the Lisbon objectives for raising competitiveness, the establishment of the so-called "European Research Area" and the Barcelona target aimed at raising the level of research expressed as a percentage of EU GDP to 3%.

The key concepts are:

- Development of a shared long-term vision by representatives of public and private stakeholders;
- Creation of a coherent, dynamic strategy to achieve this vision;
- A leading role for industry, but as part of a partnership to include research and financial communities, public authorities, users and representatives of civil society.

ETPs are expected to develop or adopt new technologies in order to bring about radical changes,

including the renewal, revival or restructuring of traditional industrial sectors. Clearly the establishment of such a platform for the construction sector may appear to be relatively straightforward, but the development of a vision supported by a convincing coherent and dynamic strategy constitutes a major challenge.

The first priority is to focus on the preparation of a draft "Vision 2020" for subsequent detailed development at a later stage once the ETP is established. The second priority is to identify those public and private stakeholders who should be associated with the ETP once it is formally established. The intention is that the ETP should be formally endorsed and adopted prior to an official announcement being made at the B4E conference in Maastricht in October 2004.

The attitude and conduct of the largest construction firms in the sector, which are expected to take a lead, will be vital to the successful launch of an ETP. Crucially – and this the Commission has made quite clear – the platform once established, will play a pivotal role in determining the content of future European research programmes as they affect the sector. This is something that the industry has never successfully achieved in the past and which should hopefully mark a turning point in the amount of funding allocated to construction in the future.

7. Definition of Waste

FIEC, together with many other European – and indeed national – organizations, has for many years contested the European Commission's "definition of waste". According to Council Directive 75/442/EEC dated 15th July 1975, " 'waste' shall mean any substance or objects in the categories set out in Annex 1 [to the directive] which the holder discards or intends or is required to discard".

Annex 1 to the directive effectively lists all kinds of categories of waste which has since been further developed in the Commission's "European Waste Catalogue" which also defines so-called "hazardous wastes". But it is at this point that what appears to be so simple starts becoming so contentious. In the context of the Directive all products and substances are considered as being either *waste* or *non-waste*, but "waste" is subject to all kinds of regulations, in particular, licensing requirements. The difficulties arise at the moment that a *product* becomes *waste* and conversely – and more significantly – defining the moment at which recovered waste becomes a product again. But the moment of "transformation" when this actually occurs – and consequently when the applicable legislation changes – is often anything but clear.

Inconsistencies in the interpretation of the definition of waste in the Member States have led to a distortion of the Commission's understanding of the significance of waste management in the construction sector. For example, materials arising from selective demolition or dismantling of construction works that are susceptible to re-use (such as granite kerbs, internal joinery, natural stone, tiles, etc.) are considered as being *waste* until such time as they are either put back on the market as *products* or re-used in construction works. FIEC sees no reason why such products should be considered *waste*. Since the predominant part of construction and demolition waste is concrete, bricks and tiles – this tends to compromise the construction industry's efforts when it comes to increasing the amount of waste it directs towards recycling each year.

Another case in point concerns excavated material. When this is re-used on the same site, public administrations generally do not consider it "waste". But when the same material, which is intended to be used for the same purposes elsewhere, is removed from that site, it is considered, in the sense of the Community definition, as being "waste". This change in the status of the material, which is based solely on its destination, is not without its consequences. The considerable administrative burdens laid down in the directive as to its further use or disposal are necessarily reflected in construction prices. The greater the constraints, the more these are reflected in the costs invoiced to the client, not to mention the implications for the local authority. It would therefore seem appropriate to exclude from the definition of waste, natural materials which are not transformed or contaminated, which can be used in their natural state, regardless of their ultimate destination.

Yet another example, namely the impact of European legislation on the recycled aggregates industry can only be described as being "perverse". The Commission's policy is to reduce waste and promote recycling whenever this is economically advantageous. But aggregates recovered from demolition activities (e.g. crushed concrete) are considered as being *waste* and consequently are subject to the regulatory constraints laid down in the directive necessitating the issuance of licenses for storage, transport and use. In many instances this leads to recycled aggregates being more expensive than primary aggregates. The former therefore are more likely to be land filled (or worse still "fly tipped"), while the use of the latter – drawn from virgin sources – are in contradiction with the Commission's policies aimed at reducing resource use. But with the clear benefits of avoiding the re-use of waste products, why would a company wish to use an alternative that increases its risk of exposure

Waste

to criminal liability and overall costs? As long as the definition of waste is interpreted in the member states in such an incoherent manner, recycled aggregate producers are likely to find themselves in a position with no viable market.

In May last year, the European Commission adopted a Communication called *"Towards a Thematic Strategy on Waste Prevention and Recycling"*. This initiative launched a broad consultation exercise on the EU's future policy in this area and invited stakeholders such as FIEC, to comment on the policy options set out in the Communication. These options included issues like: how to avoid generating waste, how to reduce the use of resources, and which wastes to recycle?

FIEC, in its response (extracts of which are included in this report) believes that any future legislative or fiscal measures aimed at improved waste management practices within the EU, will not be wholly effective without revisiting the current framework and its implementation. There is manifest inconsistency in the implementation and enforcement of waste related regulations and directives across the EU member states and much of this stems from the unsatisfactory *"definition of waste"* as subsequently amended by case law and unhelpful (mis-) interpretation by member states' enforcing authorities.

The Commission attitude now appears to be that the current definition of waste will be maintained while its meaning will be clarified. This promised *"clarification"* is expected to address the question of when *"waste ceases to be waste"* hopefully excluding from the definition, those materials destined for re-use or recycling.

However, to assist member states in implementing the directive, the European Commission in January handed a standardisation mandate to CEN to develop a set of draft standards by the end of 2004 for publication in the Official Journal by 2006-2007. The intention is that Member States will be able to include references to these in their national legislation transposing the directive. This is intended to facilitate the directive's harmonised implementation as well as offering considerable cost savings for the Member States.

Clearly the implementation of this directive will be a challenge for all involved, and FIEC and its member federations need to reflect on how well prepared the construction industry actually is, most particularly in terms of the skilled workforce required for its effective and timely implementation, and what could or should be done by way of preparation.

8. Energy Performance of Buildings

The directive (2002/91/EC) published in the Official Journal on 4 January 2003, has a transposition deadline of 4 January 2006. In practical terms, transposition of the directive must start no later than end 2004, implying that considerable time constraints are involved. The directive requires the member states to develop an integrated methodology for calculating the energy performance of buildings, to apply the resulting calculations to new and certain categories of existing buildings in the form of minimum performance requirements, and to certify buildings and carry out regular inspections of heating and cooling systems. Most of the details on exactly how these measures will be implemented have been left to the member states to decide.

FIEC's Position Paper entitled: "Instilling confidence in the CE Marking of Construction Products: The Contractors' Problem"
(Summary of position following the meeting at DG Enterprise on 12/11/2003)
5/3/2004

[...]

1.0 Over-riding concern

FIEC's over-riding concern remains, that following the introduction of CE Marked construction products on the European market, construction enterprises may be exposed to increased risks in terms of liability for the contractual performance of works. It is anticipated that such circumstances could arise where CE Marked products fail to perform in accordance with contract specifications that a contractor is bound to respect in his relationship with his client. It is therefore of the utmost importance that contractors are able to have as much confidence in the reliability of CE Marked products as they did before CE Marking was introduced. Evidence is now emerging – in some countries at least – that this may not be possible. The sole purpose of FIEC's paper has been to examine those circumstances where such confidence may be lacking and to propose solutions aimed at resolving these concerns or at the very least, reducing such risks to the lowest possible minimum.

2.0 Difficulties relating to the level of Attestation of Conformity (AoC)

The decisions taken in the SCC as concerns the level of AoC for the various families of products in the standardisation mandates passed to CEN and EOTA, in many instances represent a compromise for at least some member states, and potentially adversely affects those that hitherto had a higher level of AoC for the products concerned. These decisions that are taken democratically can only be reversed or amended by means of the same democratic procedures.

In those instances where, in a national context for a given family of products, the level of AoC is reduced (from say a product certification system corresponding with the CPD's system 1+ to system 4), there is an increased risk that the factory production control (FPC) procedures are not carried out on such a rigorous basis, thereby increasing the probability of inconsistencies developing in the production line and a correspondingly increased risk of defective products being delivered to construction sites. Whenever this phenomenon occurs, the **confidence** in the CE Marking for the contractors concerned inevitably suffers compared with the

situation before CE Marking and disputes between manufacturers and contractors are more likely to arise.

Conversely, of course, for those member states that previously had lower levels of AoC prior to the introduction of CE Marking, the reverse may also be true. In other words, there may be "winners" and "losers".

3.0 The initial impact of CE Marking

The initial reaction of contractors to the introduction of CE Marking has been the realisation that national voluntary and regulatory marks, in which they have always had so much confidence, are now bound to disappear. For many, this continues to be a "complete surprise" and the need for the disappearance of the old national marks is often not understood and even less appreciated. The further realisation that the CE Marking only relates to the harmonised part (as described in Annex ZA) of the new European Standards is also not readily appreciated, and contractors are understandably left wondering why their long-cherished national marks have been replaced by a European mark that only covers part of what the former national marks (denoting compliance to now defunct national standards) once covered.

4.0 CE Marking and Voluntary Marking

Only a system of voluntary marking "that does not compromise or detract from or confuse the meaning of the CE Marking" can serve to cover the "voluntary" part of a European Standard not covered by CE Marking. Subject to this qualification, both national and European certification schemes may have a role to play in raising transparency and instilling confidence for purchasers. But at the European level, it is the CEN Keymark which has been specially developed to fulfil this role¹. However, in common with all voluntary marks, the Keymark implicitly cannot be made mandatory or used in a mandatory manner. Most particularly, where public procurement is concerned, it cannot be directly referred to in contract specifications by contracting authorities, or their consulting architects

¹ This mark was established in the context of the Council Resolution of 18 June 1992.

and engineers, when to do so involves a higher level of AoC and consequently would create a barrier to trade.

This development, that arises as a result of the introduction of CE Marking, is unfortunate and likely to cause concern, difficulties and misunderstandings for years to come. However, there is broad agreement as to how the difficulty can be addressed in the context of public procurement:

- Contracting authorities and their agents may demand additional requirements over and above that provided for under the CE Marking and they should do so by describing their requirements in terms of words, drawings, diagrams and the like. They may then add the words "compliance to these additional requirements can be demonstrated for instance by the provision of products carrying the CEN Keymark or equivalent", but they cannot insist on products bearing the CEN Keymark where to do so calls for a higher level of AoC, since this would create a barrier to trade in relation to products that are simply CE Marked in accordance with the provisions of the Directive.
- In general terms, the same principles may apply to contractors, although this is doubtful where a contractor has already been awarded a contract in competition with other contractors in accordance with the provisions of the public procurement directives. In case of doubt, it would be advisable for contractors to follow the same principles as apply to contracting authorities, although it is difficult to imagine that any action could in reality be brought against them should they insist for instance, on buying CEN Keymarked products.

The difficulty for contractors rather is that Keymarked products are likely to be more expensive than those that are simply CE Marked. Surrounded by cost pressures, contractors in order to remain competitive when tendering for works, almost invariably have to include for the cheapest solution that complies with their contractual obligations and in such circumstances this is likely to preclude buying CEN Keymarked products where the latter are more expensive than those that are simply CE Marked. Seen from the standpoint of those contractors who hitherto benefited from buying products that were necessarily subject to a higher level of AoC, this is an unwelcome development which exposes contractors to increased risks of purchasing products that may not be consistently in compliance with specifications. Furthermore, these contractors fear that the consequences will be that they may in practice be obliged to accept, for incorporation into works, the "statistically acceptable not to declaration performing percentage" of CE marked building products, that in their perception is unacceptable.

On the basis of the recent discussions with the Commission Services, there would appear to be no satisfactory solution likely to attenuate let alone eliminate, this increased risk.

5.0 Difficulties relating to Market Surveillance and on-site verification methods

Firstly, various points need to be clearly understood:

- Market surveillance is the responsibility of Member States;
- Some countries such as Germany and Austria, have no national systems of market surveillance, preferring to rely on other mechanisms.
- A determination method in the event of disputes over the correctness of the information accompanying the CE Marking is also urgently required for contractors' on-site tests

FIEC has suggested that the European Commission takes an initiative to introduce European recognised systems for "pass/fail tests" of construction products which would have the advantage that they could be developed and agreed for use at the discretion of Member States' authorities and contractors. A more coherent implementation of the directive would be preferable to the Commission simply shutting its eyes to what happens in the Member States.

Contractors have also expressed their concerns about FPC procedures relating to CE Marked products imported into the EEA from third countries. Even although any manufacturer or his agent (Art. 4.6) established in the Community is responsible for the CE Marking of all products imported into the EEA, clearly in practical, logistical and jurisdiction terms, such products are susceptible to present an additional challenge in terms of vigilance where market surveillance authorities are concerned.

Whilst the principal of subsidiarity towards the member states should be respected, FIEC believes that the Commission should take the initiative in developing common approaches to these potential difficulties. Such measures would also give increased credence to Article 15 of the Directive requiring Member States to ensure that the CE Marking is correctly used and that incorrectly CE Marked products are effectively and promptly withdrawn from the market.

6.0 The Way Forward

Almost 15 years has now elapsed since the adoption of the CPD and only now are we beginning to see the first industry reactions to the arrival on the market of a significant number of CE Marked construction products. This is a critical phase for the implementation of the Directive and needs to be monitored by all concerned very closely. Confidence in the CE Marking will be absolutely crucial to the success of the entire venture. Several matters of concern have already become evident and need to be addressed in the most effective possible way:

- The relationship between CE and Voluntary Marking and the role and limitations of both. A widespread awareness campaign is called for;
- The Commission needs a consistent approach to the CEN Keymark. FIEC does not understand why some Commission DGs fight the Keymark, while other DGs support it.
- Clients, their consultants and contractors need to understand the implications of these various marking systems, the rules for their use, their limitations and the liability aspects that may be involved, especially where public procurement procedures are concerned;
- The Commission should not wash its hands as concerns "market surveillance" on the pretext that this is the entire responsibility of the Member States. The Member States should be given guidance on what is required with a view to

developing common procedures that ensure that incorrectly marked products are effectively and efficiently removed from the market in accordance with the provisions of the Directive.

FIEC believes that through the Council's resolution of 10 November 2003 on the Communication of the European Commission 'Enhancing the Implementation of the New Approach Directives' (2003/C 282/02), the European Commission has the means to start tackling many of FIEC's concerns. The Commission should examine why the Ecolabel has been explicitly referenced in the new Public Procurement Directive, while this is a voluntary marking, comparable with the CEN Keymark, while other voluntary initiatives seem to be outlawed.

FIEC is willing to support the Commission in this effort.

FIEC position paper on the Commission Communication: Towards a thematic strategy on the prevention and recycling of waste (COM(2003)301 – 27/05/2003)
28/11/2003

[...]

Introduction

FIEC acknowledges that the construction industry is a major producer of waste within the EU. Any future strategy on the prevention and recycling of waste has the potential to impact greatly on the industry and it is for this reason that FIEC welcomes the early opportunity to contribute to the consultation process. The rate of recycling varies considerably between member states, ranging from as much as 90% in some to as little as 20% in others. For instance, scarcity of raw materials for landscaping and road sub-base in the Netherlands, and more recently high landfill taxes, have driven high levels of recycling and reuse. Indeed, in Europe it is now estimated that the recycling rate of core construction and demolition waste (C&DW) now stands at well over 50%. FIEC considers that construction makes a major contribution to the reuse and recycling of materials, and seeks to remove all obstacles to further the adoption of good practice in this area.

There are two key areas of concern. Communication with our members has revealed that:

1. Excavated Material

Where material is re-used on the same site, public administrations generally do not consider it as being waste. But when the same material, which is intended to be used for the same

purposes elsewhere, is removed from that site, it is considered, in the sense of the Community definition, as being waste. This change in the status of the material, which is based solely on its destination, is not without its consequences. It involves considerable additional costs and administrative burdens for the enterprise concerned as to its further use or disposal which is reflected in construction prices. The greater the constraints, the more these are reflected in the costs invoiced to the client not to mention the implications for the local authority. It would therefore seem appropriate to exclude from the definition of waste, natural materials which are not transformed or contaminated, which can be used in their natural state, either on the same site or another production site.

2. Construction and Demolition Waste

Materials arising from selective demolition or dismantling of construction works are susceptible to re-use (such as granite kerbs, internal joinery, natural stone, tiles, etc.). Eventually, following a sorting operation or cleaning (bricks for example), these materials can either be re-used as they were originally used, or be incorporated in the fabrication of new products. Furthermore, C&DW-derived aggregates are still classified as "waste" even though they have undergone recycling and conform to recognized specifications. These materials should not be considered as "waste".

The Way Forward

FIEC believes that any future legislative or fiscal measures aimed at improved waste management practices within the EU, will not be wholly effective without revisiting the current framework and its implementation. There is manifest inconsistency in the implementation and enforcement of waste related regulations and directives across the EU member states and much of this stems from the "definition of waste" as subsequently amended by case law and unhelpful (mis-) interpretation by member states' enforcing authorities.

The "definition of waste" is the keystone of waste legislation and thus irregularities in its interpretation make a mockery of the European Communities' intention to produce a level playing field across Member States. FIEC strongly supports the proposal in the Commission's 6th Environmental Action Programme (6EAP) for "*clarification of the distinction between waste and non-waste*". Further guidance would also be most welcome on when "*waste ceases to be waste*".

Definition of Waste

Inconsistency in the interpretation of the definition of waste has led to a distortion of the EU understanding of the significance of waste in our sector. The inclusion in particular of inert excavated material, (which can be re-used during the construction of works with minimal processing and no adverse environmental impact), within the definition of waste, has given rise to enormous problems in our industry.

In keeping with the policy that waste should be disposed of in such manner as to not harm human health or the environment, the Commission is asked to consider the inert nature of the main constituents of C&DW within the EU – namely concrete, bricks and tiles – when setting any future legislative or fiscal measure for waste management. To minimize impacts to the environment a risk-based approach toward the management of C&DW must be developed.

[...]

Whilst FIEC understands that stringent controls are required to prevent waste causing a negative impact on human health and the environment, the present legal framework is causing more harm to the environment than good. It is clear that the continued over cautious interpretation of the definition of waste in this case will create a commercial impediment to the use of recycled aggregates. Since the predominant part of C&DW is concrete, bricks and tiles – this places the construction industry in an almost impossible position when it comes to

increasing the amount of waste it directs towards recycling each year. Primary aggregates, by virtue of the fact that they do not fall under the definition of waste, are not only cheap but are advantageous in that they do not require a licence to store, transport or use. With these clear benefits, why would a company wish to use an alternative that increases its risk of exposure to criminal liability and overall costs?

Conclusion

To conclude, as already explained, FIEC has two principal areas of concern; namely the classification as "waste" of:

- inert excavated materials removed from construction sites for re-use elsewhere; and
- C&DW destined for recycling or re-use.

With the above comments in mind, FIEC considers that the introduction of new legislation aimed at reducing the volume of C&DW (as proposed by the 6EAP) going to landfill must address these significant obstacles that confront the construction sector. As long as the definition of waste is interpreted in the member states in such an incoherent manner, recycled aggregate producers will find themselves in a position with no viable market. It is vital that a risk-based approach is applied with due consideration of the market realities existing in the sector. Of course regard should also always be given to the prevention of waste at source and the needless use of virgin materials, through the effective utilization of C&DW.

Any further changes to waste management legislation, should encourage developers and designers to consider waste prevention in the context of life-cycle construction strategies. FIEC believes this could facilitate a means to exempt certain construction projects or processes from the administrative burden of existing waste management requirements.

FIEC further believes that the Commission should be cautious about developing new legislation and fiscal measures before the requirements of the Waste Statistics Regulation are able to generate accurate trend data. In the meantime, the Commission could greatly contribute towards improved waste management and recycling within the EU by providing an authoritative restatement of the Commissions original intent with regard to the definition of waste and when waste ceases to be waste.



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

The popular referenda of Malta (8/3/2003), Slovenia (23/3/2003), Hungary (12/4/2003), Lithuania (10-11/5/2003), Slovakia (16-17/5/2003), Poland (7-8/6/2003), Czech Republic (13-14/6/2003), Estonia (14/9/2003), and Latvia (20/9/2003) paved the way for one of the biggest challenges in the history of the EU, leading to the enlargement of today's Europe of 15 to tomorrow's Europe of 25, beginning as of 1/5/2004. It was this goal that was made possible by the EU summit in Copenhagen on 13/12/2002 which marked the conclusion of the accession negotiations with ten candidate countries, eight of them from Central and Eastern Europe.

The negotiations had begun in November 1998 with a first group consisting of Estonia, Poland, Slovenia, the Czech Republic, Hungary and Cyprus. In March 2000, negotiations were begun with a second group of candidate countries consisting of Bulgaria, Latvia, Lithuania, Romania, Slovakia and Malta. With the exception of Romania and Bulgaria (which aim to accede in 2007), all countries, after having signed the accession treaties on 16/4/2003 and having gone through the ratification processes, will become full members of the EU, allowing them to propose a Commissioner and to participate in the elections to the European Parliament in June 2004.

The accession process has resulted in a greater need for information, particularly on the part of the candidate countries, as concerns the "acquis communautaire" which they accept by becoming members of the EU. FIEC is making its contribution to the enlargement process by an exchange of information with its member federations in the candidate countries during the so-called "screening process" which includes an analysis of the compliance of existing national legislation with the *acquis communautaire*.

This support consists of facilitating the better understanding of EU documents by providing additional information and proposals relating to the various construction industry topics arising in

connection both with the screening process and on-going EU-legislation. The following topics were identified as being priority issues:

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

In the "CEEC" Group meetings, on 11/4/2003 in Brno, Czech Republic, on the side lines of the International Building Fair in Brno, and on 25/11/2003 in Brussels, the following priority issues were further identified:

- Discussion on the latest developments at EU level in Brussels, in particular on the legislative package "public procurement" and on issues related to the Social Dialogue.
- Exchange of experience on federation management and services, on the basis of two detailed presentations on these issues made by representatives of the Finnish and German member federations.
- Initial discussions on the summary of the CLR-Study about the Social Dialogue as well as employers' and workers' federations in six CEEC-countries.
- Exchange of information concerning the present status of collective agreements in some CEEC-countries in order to prepare a future workshop on the issue.

In the political context of Agenda 2000, the European Commission has proposed that the PHARE funds be used mainly to prepare the accession candidates for EU membership and that the support be given primarily for the top priorities involved in

New and future EU members

taking on the *acquis communautaire*, for example, institution building and investment support. During the period from 2000 to 2006, the European Union will make EUR 1.5 billion available annually within the PHARE framework, of which amount 30 percent will be allocated to institution-building and 70 percent to the gradual adaptation of the candidate countries' industries and infrastructure to the EU level.

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

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

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

The Ad Hoc Group CEEC has set as its objective to further serve as a specific, dedicated platform in FIEC for the exchange of experience among the FIEC member federations coming from the "old" and the "new" EU countries, both before and following the enlargement of 1/5/2004.



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

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

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

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

Participation of construction SMEs in European standardisation

Initiated by FIEC, the EU-Commission organized, on 16th January 2004 the "European Seminar on the Promotion of Craft and SMEs in the area of standardisation"

In the preparatory discussions it was agreed that this event should give the consortium NORMAPME-UEAPME the opportunity of informing those representative federations which had not yet been included in their activities of the possibility of identifying efficient ways of collaboration. In practice, the main field of activity of NORMAPME-UEAPME is standardisation in the construction industry. In this area, FIEC, the first associate member of CEN, for many years, has been representing the interests

of contractors in European standardization which is heavily influenced by the material producers.

The results of this seminar have been summarised by the EU-Commission in the official minutes (OR=EN) in a list of 12 items, showing the needs and requests identified:

- A European policy strategy must be put in place urgently
- Generate more SME experts in standardisation
- Help remove language barriers both in the elaboration stage of standards and in their practical application by SMEs
- European trade policy must ensure that imported products or services have the same level of quality as European ones
- Standards that require a "level of certification of conformity" incompatible with the sustainability of small enterprises should be reviewed
- Quality management standards are important for small businesses in an enlarged Europe. There should be a Central Unit at the Commission again with contact points in all directorate generals
- ECO-Label and EMAS could be made more attractive for small businesses by providing financial compensations (grants or tax reductions)
- Help with launching a study on a different SME friendly approach to IPP (Integrated Product Policy – from cradle to cradle)
- Promote the training of SMEs via local associations
- Ensure the dissemination of simple and easily understandable information on standards throughout the enlarged EU
- Allow for the participation of SME representatives in a larger number of TCs than hitherto
- Produce and distribute practical guides in local languages

The EU-Commission states that all these identified items call for a concerted effort by all stakeholders, for seminars for SMEs to promote their understanding of the importance of standards, for identifying and if possible pooling resources to further increase the information available to SMEs

97% of SMEs with fewer than 20 operatives

and also to substantially increase their presence in technical committees and related working groups.

Finally, the EU-Commission expressed its satisfaction that the seminar has served its purpose. The Commission will discuss all of this with NORMAPME, in order to eventually improve the current work and to identify some solutions to the issues raised.

The time that has elapsed since this seminar is too short for an evaluation whether these conclusions are being met by corresponding actions. In any case, the aim is to ensure that the European tax-payers' money spent on this is being used, as efficiently as possible, for the promotion of SME participation in standardization work.

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

To an increasing extent, SME building contractors are showing an interest in cross-border activities. The progressive development of the European internal market is therefore clearly leading to a situation in which small and medium-sized construction enterprises are also taking an interest in activities abroad, mostly those close to borders. Unfortunately, in so doing they often encounter problems for which they cannot properly prepare themselves e.g. award procedures and the possibilities of legal protection which, while in line with the basic principles of the EU Treaty, are not in accordance with the much more detailed EU Directives. This problem arises in particular for small and medium-sized construction enterprises as the value of most of the contracts of interest to them is below the thresholds for application of the EU Directives.

It is against this background that, by means of a survey among member federations, relevant information continues to be collected on award rules and on legal protection relating to awards in the case of contracts below the thresholds, with a view to making them available to interested construction enterprises in the form of a database.

The enterprises

Most SMEs do not participate in tendering for larger projects as they do not have the required capacities. As a result, they often find themselves in the role of subcontractor for larger contractors which have been awarded the contract. This type of cooperation has been successfully practised in the construction industry for a long time. Nevertheless,

SMEs are also interested in working with contracting authorities on the basis of a direct contract. This can, in particular, happen through project-related cooperation among several SMEs whose know-how and capabilities complement one another in such a way that all the requirements relating to a larger project are met. The Coordination Group will examine whether a corresponding database or federation network could be of additional assistance to SME contractors.

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

Discussion with the “SME envoy” of the EU-Commission

Some time ago, the EU-Commission created, for the purposes of a better coordination of SME interests and as central contact point, the position of the “SME envoy” in the Directorate General “Enterprise” and charged Mr. Timo Summa, Director in the DG, with this task.

In a discussion on 24th November 2003, a delegation of the FIEC Steering Committee had the opportunity of discussing some specific issues concerning construction SMEs with Timo Summa, e.g. the participation of construction SMEs in European standardization, the participation of construction SMEs in public procurement, in particular the question of the applicable rules below the thresholds, and the consequences of the EU enlargement for construction SMEs in the “old” and “new” EU member states.

In conclusion, there is agreement that all of these issues are, in principle, also known to the Commission. Furthermore corresponding proposals or actions are already under discussion or being prepared and the FIEC contribution will be taken into consideration, as far as this has not already been done.

President:

José Luis Vega, E
(-9/2003)



Karl Rönnerberg, D
(9/2003-)



Director:

Frank Kehlenbach,
EIC



A. Organisation

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

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

In 2003, the members of the EIC Board were as follows:

José Luis Vega	Spain
<i>President (until Sept. 2003)</i>	
Karl Rönnerberg	Germany
<i>President (from Sept. 2003)</i>	
Johan Beerlandt	Belgium
<i>Vice-President</i>	
Esko Mäkelä	Finland
<i>Treasurer</i>	
Per Hofvander	Sweden
Martyn Palmer	United Kingdom
Michel Démarre	France
Alessandro Salini	Italy
Jac. G. van Oord	The Netherlands

President Karl Rönnerberg represents EIC on the FIEC Steering Committee.

B. Tasks and Objectives

EIC has as its objectives to:

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

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

- I. International financing of infrastructure projects, including BOT and PPP;
- II. International tender procedures;
- III. International standard forms of contract (FIDIC);
- IV. International arbitration and alternative dispute settlement mechanism
- V. Export credit insurance;
- VI. Elimination of market access barriers in international construction;
- VII. Relations with the World Bank.

I. International financing of infrastructure projects

At international level, there is a steadily widening gap between the demand for infrastructure facilities and the resources available for financing these types of investments from government budgets. The trend has increased still further following the financial crises in South East Asia, Russia and Brazil during 1998. It is

true that the construction industry is one of the sectors that are the first to suffer as a result of economic stagnation or recession – mainly on account of the cutback of investments in infrastructure. Unfortunately, the pledging of funds by international financing institutions, which in many cases ought to play a role as a catalyst, is shifting away from infrastructure investments to structural credits in order to level out the balance of payments of borrowing countries and reinforce their financial sector programmes.

Seen against this background, the possibility of private financing for complex construction projects in relation to BOT (Build-Operate-Transfer) projects or Public-Private Partnerships (PPP) is becoming an increasingly crucial factor in international competition. In the context of models of this kind, contractors are acting as sponsors themselves, driving forward project implementation on an autonomous basis.

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

In a Launch Seminar on 23 June 2003 in Brussels the "EIC White Book" was presented to representatives of the International Financing Institutions (IFIs), the European Commission and government representatives, mainly from the Central and East European countries (CEEC).

In a seminar organised by the OECD on 11 March 2004 in Paris, EIC presented its understanding of the role of Official Development Assistance (ODA) in PPPs in developing countries. EIC outlined in a Workshop on "Synergies between Official Development Assistance (ODA) and Foreign Direct Investment (FDI)" the potential of ODA to act as a catalyst in triggering private investment into PPPs, e. g. by developing ODA infrastructure funds and/or risk guarantee instruments. The Workshop brought together a diverse group of interested parties around the ODA/FDI issue with the objective to identify key areas to develop and implement ODA/FDI strategies and also areas of co-operation between OECD and other interested parties. It took place in the earliest phase of the project and

can be described as a brainstorming session. EIC based its presentation on the recommendations published in the "EIC White Book" and called on OECD donors to pool some portions of their development aid into credit enhancement instruments or an infrastructure bank. Some OECD donors which already have in place innovative approaches to back up Public-Private Partnerships, were co-operative. It seems that some donor agencies, including those of the European Union itself, are beginning to recognise the need for more support for financial incentives for infrastructure investments.

II./III. International tender procedures and standard forms of contract

Over the past three years, EIC has published three EIC Contractors' Guides to the 1999 FIDIC "Red, Yellow and Silver Books". These EIC Guides which are very critical of the general tendency of the FIDIC "New Books" to burden further construction risks onto the contractor, have been published in the world's leading construction law magazine and are marketed and distributed not only through EIC's own website, but also through the FIDIC Bookshop.

In the coming months, EIC will collaborate with the U.K.'s Engineering and Physical Sciences Research Council on studying the legal framework in international construction. This study will concentrate on the four FIDIC "New Books" of 1999 and it aims at developing and disseminating knowledge of the operation of these contracts and potential sources of disputes. The network comprises academics as well as international contracting companies, consulting engineers, construction lawyers, representatives of project owners and the international development agencies.

In anticipation of this in-depth study on the international construction business, the Working Group "Contract Conditions" has now shifted its focus to the stages before and after contract signature, i. e. the tender stage and dispute settlement. It is the firm belief of EIC that the traditional procurement process for international construction projects, from contractor selection through to contract award, is inadequate for conventional and turnkey work and has not evolved in line with standard contract forms. Meanwhile, even some development agencies admit that the competition for the "lowest evaluated bid" has often not led to the expected outcome. Hence, greater benefit would accrue to international financiers, employers and contractors, if more importance was placed on the pre-qualifications and tendering stages of project implementation through a comprehensive but transparent procedure that results in the pre-qualification of only those contractors with the capacity to successfully complete the project. Moreover, at tender stage, greater care needs to be taken when specifying the employer's requirements, and it should be common standard practice to provide

all necessary data to bidders. The fact that, despite of the many practical guides and recommendations issued by the IFIs, such as the EU, EIB, EBRD, the World Bank, etc. there are still obvious gaps between the – in theory fair, transparent and efficient – tender procedures and their imperfect implementation in practice, has led EIC to start work on a Position Paper on "Best Practice in International Tender Procedures". In fulfilling this task, EIC can draw back on its comments on the Master Pre-qualification documents of the IFIs and Multilateral Development Banks in 2002 and the proposed revisions to the Procurement Guidelines of the World Bank in 2003.

IV. International arbitration and alternative dispute settlement mechanisms

Another main priority of the EIC in connection with tender and contract conditions is the promotion of international arbitration and alternative dispute resolution, such as Dispute Review and Adjudication Boards (DRB and DAB). The construction industry, especially on the international level, has always had a special need for mechanisms to resolve construction project disputes quickly, at best promptly on the site. At present, internationally there are two satisfactory, on-site standard dispute resolution mechanisms available in connection with World Bank projects or with projects administrated under the 1999 FIDIC "New Books for Major Works". In May 2003, the International Chamber of Commerce (ICC) presented its own Draft Rules for Dispute Boards which were reviewed and reworked in the following drafts dated 10 October and 23 December 2003.

Upon its drafting, EIC scrutinised the various drafts in detail and voiced its concerns about several provisions and concepts. The most important difference of opinion between EIC and the ICC Task Force arose with the new concept of a Combined Dispute Board which deviates significantly from the Dispute Board arrangements introduced by the World Bank and FIDIC, and thus imposes more risks on both Parties in terms of foreseeability of time and cost incurred and the final outcome. It is vital for the conduct of the DAB procedure that the parties know already at the beginning of the procedure whether they will obtain a Recommendation or Decision at the end. This is particularly relevant for countries or parties which have only a limited tradition to follow Recommendations of neutral bodies.

V. Export Credit Insurance

Over the past decade, a debate has evolved whether export credit agencies (ECAs) should adopt – binding – standards on environmental, social and human rights aspects to be applied to all of their transactions. Since December 2001, 24 out of 26 OECD member countries agreed to apply the so-called "Common Approaches on Environment and Officially Supported

Export Credits" when identifying and evaluating the environmental impact of projects and project related exports, including capital goods and services. The principle objective of the "Common Approaches" is to "develop common procedures and processes relating to the environmental review of projects benefiting from officially supported export credits, with a view to achieving equivalence among the measures taken by the members and to reducing the potential for trade distortion". Since 15 % of projects classified in 2002 in category A ("projects with the potential to have significant adverse environmental impacts, ...including projects in sensitive sectors or located in or near sensitive areas") are concentrated in the construction industry, EIC is highly concerned about the onerous administrative burden involved in the screening at monitoring provisions stemming from the new OECD approach.

On 7 November 2003 the OECD Working Party on Export Credits and Credit Guarantees tabled a revised draft of the "Common Approaches", the adoption of which would lead to even further difficulties when applying for export credit insurance. EIC formulated a Position Paper in which the importance was pointed out to observe the basic purpose of export credit guarantees which was the promotion of export. Given the fact that most ECA involvement is limited to the provision of insurance against political and commercial risks, their power to mitigate environmental, social and cultural risks – unlike that of the international lenders, such as international financing institutions or the international commercial banks, which get involved very early into a project – is almost negligible. The same goes for European international contractors, as the traditional construction activity is, in principle, simply carrying out instructions on the basis of the requirements and technical criteria drawn up by clients and their consulting engineers. Consequently, the ability of contractors to influence environmental aspects of construction works is constrained by the tender documents elaborated by third parties and the national legislation in force in a third country.

Unfortunately, despite of its clear argumentative advantage, EIC was not successful in favourably altering the draft revision of the OECD "Common Approaches". On 18 December 2003, all OECD member countries, including the U.S. which had boycotted the 2001 version for being too lax, adopted the new rules under the appreciation of the international financiers and the environmental NGOs. It is its future implementation which will have to prove whether the "Common Approaches" will remain consistent with the original intention of export credit insurance to promote export or whether they will make it ever more difficult to finance and execute infrastructure projects in developing countries.

Worldwide activity

VI. Elimination of market access barriers in international construction

EIC and FIEC are both members of the European Services Forum (ESF), an informal network of leading European service providers and European associations in the trade services sector which has been set up in 1998 to support the European Commission in the negotiations on the General Agreement on Trade in Services (GATS). GATS is one of the three pillars of the World Trade Organisation (WTO) and aims at the liberalisation of trade in all services sectors, ranging from telecommunications to road transport. The ESF network comprises some 43 companies and 38 European services federations representing 20 services sectors. EIC and FIEC collaborate together in this network and participate at all levels of its work and put forward the European contractors' views concerning further market access and national treatment. Whilst EIC concentrates on export interests of the European construction industry, FIEC, for its part, looks after the aspects linked to the importation of "construction services" into Europe from other regions and countries.

After the failure of the 5th Ministerial Conference in Cancún on 14 September 2003, where the WTO was not capable to get the Doha Development Agenda (DDA) including GATS negotiations on its way, EIC shifted its focus of attention on the commitments of the PR China subsequent to its WTO accession in 2001. China then agreed to open its market to trade and services, which gave cause for high expectations, also in the construction sector. However, with the issuance of new regulations by China's Ministries of Construction and of Commerce (Decreets 113 and 114) aiming at transposing China's WTO/GATS commitments, the European construction sector is faced with new obstacles, preventing its access to the Chinese construction market. While the granting of the possibility for foreign construction companies to establish wholly foreign-owned enterprises (WFOE) in China – two years in advance of the GATS deadlines – poses a step in the right direction, a number of provisions of the new regulations impose constraints that are excessive and not fully in line with China's GATS obligations (e. g. residency requirements, limitations of the number of foreign engineers, capital requirements).

The Chinese "grading" system introduced for WFOE is de facto closing the market to most European international contractors, because it excludes foreign experience, assets and qualification and would therefore award the lowest grade to foreign companies, limiting their scope of business in China to the smallest contracts, regardless of their real capacities. This is inconsistent with the limitation of the scope of business of WFOE to internationally financed and

high technology projects (as described in China's GATS commitments) which are usually large projects. Most importantly, the new regulations eliminate the "foreign contractor" status that had been in place for years (even before WTO accession), and was awarding licenses to EU mother companies on a project basis, thus enabling them to maintain only a representative office in China and to participate in large construction projects in China on an ad hoc basis. The elimination of this very important status clearly contradicts China's commitment listed in the horizontal section of China's schedule of commitments in which it is stated that: "The conditions of ownership, operation and scope of activities, as set out in the respective contractual or shareholder agreement or in a license establishing or authorising the operation or supply of services by an existing foreign service supplier, will not be made more restrictive than they exist as of the date of China's accession to the WTO".

EIC, in an attempt to avert the most severe implication resulting from Decree 113 that is to enter into effect as of 1st April 2004, not only amplified its collaboration with the DG TRADE of the European Commission, but also addressed the subject directly to the Chinese Minister of Construction. The present status is that, while there is little hope for concessions from the Chinese government as to reinstalling the "foreign contractor" status, movement towards the recognising of foreign experience, assets and qualifications when grading their qualification application is not unlikely.

VII. Relations with the World Bank

In order to fulfil its tasks, EIC is in constant contact with all international, European and professional organisations whose policy is of relevance to the international construction business, with a particular focus on the World Bank as the leading development institution.

At the last Meeting of the Confederation of International Contractors' Association (CICA) in November 2003 in Cairo, EIC has taken the initiative to propose – in agreement with FIEC and CICA – to the World Bank the introduction of more transparency into public procurement as an efficient tool to fight corruption. This objective could be achieved by drafting a "Joint Code of Ethics" to be applied by the International Financing Institutions, the borrowing governments, the consultant engineers and the contractors in order to ensure that all parties involved "observe the highest standard of ethics during the procurement and execution of [IFI financed] contracts". As a first step in this direction, EIC and CICA asked the World Bank to implement a full-scale control mechanism from pre-qualification stage down to the final settlement of all disputes in order to achieve

significant improvements of the ethical conducts of all parties involved in its projects.

The bi-annual CICA Meetings with the World Bank and other IFIs are an excellent opportunity to voice the EIC comments and concerns on international construction practices with regard to international financiers. The next meeting between the World Bank and CICA is scheduled for 1 and 2 December 2004 in Washington D.C. It is to be expected to resume the discussion of the November 2002 meeting, where EIC and FIEC representatives made outstanding presentations on topics such as Public-Private Partnerships, Output-Based Aid and Ethical Conduct.

At a high-level forum organised by the World Bank in Prague, Czech Republic, on 27 February 2004, EIC voiced the construction industry's perspective on the opportunities for Public-Private Partnerships in the European transition countries to government representatives from 13 European transition countries. The event helped to put the issue of PPPs high on the agenda of the new EU Member States, the remaining accession countries and other countries in the region with an EU perspective. The Forum dealt with the trade-offs faced by governments which have to deliver a broad scope of high-quality public services in the context of hard budget constraints and at the same time aim to maintain or achieve prudent fiscal management. The event raised awareness about the need for efficiency and transparency in the delivery of public services and provided pragmatic lessons on policy formulation and implementation in the context of EU enlargement.

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

C. EIC General Assemblies

The autumn meeting of the EIC General Assembly took place on 26 September 2003 in Berlin, Germany. The theme of the subsequent Workshop was: "Prospects for European and CEEC International Contractors After EU Enlargement". Representatives of the Czech, the Hungarian and the Polish construction industry expressed their assessment of the impact of EU enlargement on the respective construction sectors, followed by presentations dealing with the overall economic and legal aspects. The Workshop was rounded off by reports on project experience in CEEC from German contractors.

The spring General Assembly was held on 16 April 2004 in Istanbul, Turkey. The workshop dealt with the subject of "Environmental and Social Standards in Export Credit Insurance and Project Finance".

The 2004 autumn General Assembly will take place on 1 October 2004 in Copenhagen, Denmark.

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Mr. Jean-Pierre Migeon



The Confederation of International Contractors' Associations brings together 5 regional federations throughout the world:

1. FIEC for Europe,
2. FIIC for Latin America,
3. IFAWPCA for Asia and the Western Pacific,
4. FUSCCA for North America,
5. FAC for the Middle East, Africa and the Gulf Region.

CICA therefore represents 77 countries in all.

CICA is an extremely light organization, the headquarters of which is in Paris, near Geneva, two cities in which many international organizations have their headquarters, and this permits costs to be reduced. It actively seeks all possible synergies, in particular with FIEC and EIC.

The Director-General is Mr Jean-Pierre Migeon.

The Presidency of CICA is held in turn by a representative of each regional federation. This is the first time that the Presidency has been held by a member of FAC.

Statutes and principles

CICA is a non-profit international association and is organized on a voluntary basis. It is the highest representative body of the construction industry in the world. It defends the principles of free enterprise.

The objectives of CICA under its statutes are threefold:

- to represent the construction industry, serve as its spokesman in questions of international importance, and to offer a forum for the exchange of information, cooperation and interaction among member federations, affiliated institutions and international bodies;
- to encourage the exchange of information and technical knowledge, promote investment in the sectors of civil engineering and building in general and in this way to improve our environment and the quality of life for everybody;
- to improve the image of the construction industry and its contribution to the welfare of all humanity.

Presidency, Vice-Presidency and head office

Since the CICA Board meeting in Cairo in October 2003, the President of CICA has been Dr Ahmed Saif Belhasa, a Dubai national.

The current Vice-Presidents and members of the Board are:

- Mr Ricardo Platt, of Mexico, representing FIIC
- Dr Ing. Karl Rönnerberg, of Germany, representing FIEC
- Mr Awni Saket, of Jordan, representing FAC
- Mr Robert Desjardins, an American, representing FUSCCA
- Mr Tan Klan Hoon, of Singapore, representing FAWPCA

Mr Wilhelm Küchler, President of FIEC, is a Board member and also Treasurer.

The challenges facing the construction industry

The world construction market volume amounts to around USD 3.1 billion. The construction industry

5 continents

employs more than 110 million people. It is therefore the largest industrial production sector.

The construction of infrastructure has been and continues to be an essential condition for the development of all countries of the world, whether emerging or industrialized. Everywhere, the built environment and infrastructure contribute largely to the economic development of countries and to the well-being of citizens, whether this be in respect of their housing, work or their travel. While the relationship between infrastructure and development has been clearly acknowledged for many years, the influence of the construction industry on poverty reduction is now increasingly appreciated.

The construction industry has thus become – along with water and waste treatment – one of the three priorities of the UNEP (United Nations Environmental Programme) in the context of what is called sustainable development which consists of two strands: an ecological strand and a social strand.

Nevertheless, this interest in the construction industry is to some extent double-edged: some international organizations also perceive the construction industry as being one of the least well regulated sectors both from the social standpoint and from the standpoint of the destruction of the environment. Powerful NGOs close to the media have spoken out about these apprehensions, whether justified or not, in order to influence public opinion or international organizations.

Left to themselves, these organizations have a natural tendency to produce or call for more regulation, more control and more bureaucracy to the detriment not only of the industry but also of development and, finally, the well-being of people. This very real risk concerns not only the emerging or developing countries but also the developed countries where, by an osmosis effect, the concepts developed by the NGOs and international organizations end up by being presented as ethical standards which, in a subsequent stage, become the subject of restrictive regulations or national legislation.

A delicate balance therefore has to be maintained between what is desirable and possible and between what is utopian and what is effective and it is necessary to work towards ensuring that the search for a solution to real problems does not lead to formal and counterproductive solutions.

That is why CICA endeavors to develop consistent and constructive relations with the international financial institutions (IFIs) and with international organizations (IOs): they contribute not only to the financing of development projects and lay down rules and guidelines aimed at ensuring proper use of the funds used. They certainly play a vital role in giving advice to the emerging countries and they shape,

in the medium term, public opinion and therefore the policies of both the developed and developing countries.

CICA therefore conducts a dialogue, in a spirit of partnership, with these organizations as regards all matters relating to the construction sector such as: public procurement, the environment, ethics, research, transparency and the improvement of national economies through the creation of public-private partnerships (PPPs), BOT projects and concessions relating to them, etc.

Activities in 2003 and at the beginning of 2004

The year 2003 was a year of transition with the departure of Ms Claude Revel and her replacement by Mr Jean-Pierre Migeon as Director-General. The year was marked by intensive preparations for the Eighth International Congress of CICA (which was held in Cairo on 14-15 October) and also unfortunately by a serious financial crisis – which has not yet been fully solved – due to the development of the activities of CICA and the fall in the value of the dollar – the contribution currency of members – in relation to the euro, the currency in which most expenditure is made.

1) Eighth International CICA Conference

This conference was held in Cairo on 14-15 October 2003 under the patronage of the Egyptian Prime Minister who delivered the inaugural speech in the presence of four other Ministers and around 250 company representatives, mainly from the Arab world.

The conference therefore made it possible to emphasize the representative character of CICA in the Arab world in relation to international organizations. It was also an occasion for deepening the dialogue between CICA and these same organizations through informal contacts on the occasion of the official statements.

2) Dialogue with the World Bank

The year 2003 was marked by a certain measure of disappointment following the hopes which had been raised by the meeting of November 2002 between CICA and the World Bank and, in particular, by the establishment of the CICA/World Bank electronic working groups. Nevertheless, the World Bank has launched an Infrastructure Action Plan which should mark the return of the World Bank as a major infrastructure financier in the developing countries, this being a role which it had abandoned in favour of debt repayment campaigns. It has asked for the

active collaboration of CICA with a view to finalizing tendering procedures which will not be a deterrent for the large international companies which are essential to the success of this infrastructure plan. CICA is therefore currently preparing for the next meeting with CICA which is to take place on 1-2 December of this year in Washington.

The subjects to be tackled concern the Infrastructure Action Plan, the development of PPPs (Public-Private Partnerships) which have been marking time for a while, improvement of the Bank's standard contractual clauses, ethical questions, sustainable development with its two strands – economic and social – as well as the role of NGOs in the decision-making process.

3) Other international organizations

CICA is currently involved with other major institutions, in particular with:

- 1) The ILO, which has launched an action programme relating to five countries (Brazil, India, Egypt, Ghana and Tanzania) aimed at strengthening safety at work, at the development of vocational training, at the elimination of undeclared work without social protection and at the stabilization of employment. Getting this program under way has proved to be a rather slow and hesitant process.
- 2) UNEP which has launched an SBC (Sustainable Building Construction) programme. This programme is supported by an impressive series of meetings throughout the world (Paris, Washington, Seoul etc.). It is striving to find a specific dimension especially as the fall in the value of the dollar is creating difficulties for UNEP. It is nevertheless essential to monitor developments relating to this programme because of the potential misunderstandings that could arise if the specific conditions of the exercise of our activities are not taken into account.
- 3) The UN where, in close contact with the IOE (International Organization of Employers) CICA is closely monitoring developments relating to the "Global Compact" proposed by the Secretary-General of the UN, Kofi Annan, and as far as possible the work of UNHCR (the Committee responsible for widening company responsibility for respect of human rights).

4) With private organizations and NGOs

CICA is in regular contact with the ICC (International Chamber of Commerce) with which it is collaborating, in particular, in drawing up a new standard document for turnkey contracts and in the establishment of new rules for the resolution of conflicts.

CICA also maintains regular contacts and collaborates with other actors in the sector, including the International Organization of Employers (IOE) and the trade unions (IFBWW). All information is regularly forwarded to all members of CICA.

Conclusion

The activities of CICA may appear to be far removed from the concerns of contractors, especially small and medium-sized firms working in a national or provincial framework.

Nevertheless, the role of CICA is essential and vital to the extent that it permits the construction industry to be heard by organizations which to a large extent contribute to drawing up the intellectual, legal and economic framework within which our activities will be carried out in the medium term.

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List of participants

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

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

www.ecf.be

Policy Paper

(29/1/1998)

The construction sector

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

What is ECF?

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

What are the aims of ECF?

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

Key players in the sector

Relationship with other sectoral coordination bodies

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

With which issues will ECF deal?

Cooperation in ECF shall concentrate on

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

Key issues

The participating organisations have identified the following key issues:

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

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

Press Conference 10th April 2004

In the FIEC Press Conference in Brussels on 10th April 2004, the FIEC President Wilhelm K uchler and Vice-President Elco Brinkman (Communication) addressed current European themes relevant to the construction sector, in particular:

1. The economic situation and future perspectives for construction activity in Europe (Construction Activities Report N  47).
2. First FIEC views on the proposed directive of the European Commission on the "Services in the Internal Market", COM(2004) 002 – in particular its relationship with the "Posting Directive" (91/76/EC).

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



www.fiec.org

www.fiec.org

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



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

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

FIEC Periodical Publications

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



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

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



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

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



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

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



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

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



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

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



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