

Annual Report 2005

100
FIEC
1905 - 2005

34 federations

in 27 countries

100 years

European
Construction Industry
Federation

FIEC

Created in 1905

Legal personality of French law

27 countries (22 EU, Switzerland, Norway, Bulgaria, Romania and Turkey)

34 national member federations

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

Associate 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 2004 (EU22):
1.004 billion

9,9% of GDP, 50,8% of Gross Fixed Capital Formation

2,4 million enterprises (EU22), of which 97% are SMEs with fewer than 20 and 93% with fewer than 10 operatives

14,0 million operatives:

- 7,2% 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

I have pleasure in being able to present to you the new FIEC Annual Report, at the half way stage of my second term of office as President of FIEC. The activities of FIEC are presented in their political and economic contexts from the 2004 General Assembly in Prague to the 2005 General Assembly in Brussels. The activity of FIEC in this connection focused on the interests of the European construction industry, that is to say, the priorities which were laid down by the member federations in the business plan. In my message, I would particularly like to emphasize a few points.

During this period, the economic environment did not generally develop positively everywhere and especially for the construction sector. Nevertheless, it can be recorded that there are signs of hope, although naturally developments in the various countries took different courses.

1905-2005

2005 is for FIEC a very special year: we can look back on 100 years of federation activity which was interrupted only by the two world wars. During the first half of the last century, the destiny of Europe, its citizens and states was marked by terrible catastrophes. Following the second world war, the net result has on the whole, been positive, even if at different rates across the Continent, whether economic, social or political. During this entire period, the European federation of building contractors and its national member federations time and time again succeeded, through the commitment of contractors and federation staff, in making their precious contribution in order to competently protect the specific interests of this important economic sector. This fascinating history of a federation of enterprises in the image of the times is being published, on the occasion of the annual Congress, in a chronicle drawn up by Rolf Bollinger, long-standing manager of overseas construction in the Hauptverband der Deutschen Bauindustrie and Director of the European International Contractors, with the support of the FIEC office and the member

federations. Here I would like to thank all of them sincerely. We shall be pleased to send you a copy of this book on request.

The survey of the past 100 years has not, however, prevented us from also dealing with the present and future of the European construction industry.

The proposal for a Directive on services

Together with the Directive on posting in the mid-1990s, this project is certainly one of the most political topics of recent years for the construction sector. Since the initial final drafts became known, FIEC and its member federations have intensively worked on this question, both in the field of social policy and in the field of economics and law. In this situation, the two social partners, FIEC and EFBWW, found that they were of the same opinion regarding this issue and could therefore jointly represent the interests of the construction industry in many related events and opinions. This circumstance is astonishing only for those who do not remember that it is thanks to the intensive joint efforts of FIEC and EFBWW that the Directive on the posting of workers was adopted at all by the Council of Ministers in 1996.

To make this very clear, this does not involve a partition of the market or a rejection of the internal market in the construction industry, as is sometimes held against us. It is a question of ensuring that compliance with applicable law can be checked by the authorities of the host state in order to avoid a situation in which law-abiding contractors suffer (in some cases existence-threatening) competitive disadvantages and the door is left wide open to illegal practices. This is particularly important in a sector which differs from practically all others in that it produces immobile products using mobile factors of production. In the construction industry, it is the workers who move from site to site, not the products that physically move when being delivered to clients.

Further details and the FIEC position papers will be found on the following pages of this Annual Report.

Reduced rate of VAT

This question has been on FIEC's agenda for many years. The test phase that was decided upon several years ago will be concluded at the end of 2005. Six countries made use of the experimental application of a reduced rate of VAT for construction services. According to our calculations, at the end of 2005, 250.000 construction jobs in the six countries concerned are at stake in the construction sector, if this possibility of applying a reduced rate of VAT for construction services is no longer maintained. This is being discussed in the Council of Ministers as part of a more comprehensive Directive, but the problem is that the unanimity required for decisions on tax questions does not currently prevail in the Council of Ministers. In view of this deadlocked situation, FIEC and its national member federations are making every effort at European and national level to bring about a decision on at least a renewed extension of the test phase (for which unanimity is likewise required).

Financing of transport infrastructure - PPPs

These two questions have for years been a priority in FIEC's work and I am glad that we can report on several positive developments.

Research and development in the construction industry

As construction is primarily a technical activity I am very glad that progress is being made with this question of cooperation with many other construction participants within the framework of ECCREDI and with great commitment and much expertise. It is essential to unite all forces so that the construction sector will also receive in future a share of European research assistance appropriate to its importance. The official launch of a Technology Platform for the construction industry at Maastricht in October 2004 marks a new milestone that we hope will serve in achieving this objective. The international competitiveness of a whole sector is at stake here.

Sustainable development and corporate social responsibility (CSR)

Various aspects of this range of questions have been dealt with in past years in several FIEC opinions, publications and events. At the same time, it became clear that, while the construction industry and its companies practise much of what is concealed within these concepts, it does not always correspondingly communicate them. For this reason, FIEC has drawn up a set of "sustainability principles". Together with an explanatory introduction it is designed to show construction firms of every size the ways to voluntary and consistent compliance with sustainability principles and to the corresponding reports on the practice of their social responsibilities. The "FIEC sustainability principles" will be presented officially at the conclusion of the conference in Brussels on 17 June 2005 before being printed in their final form.

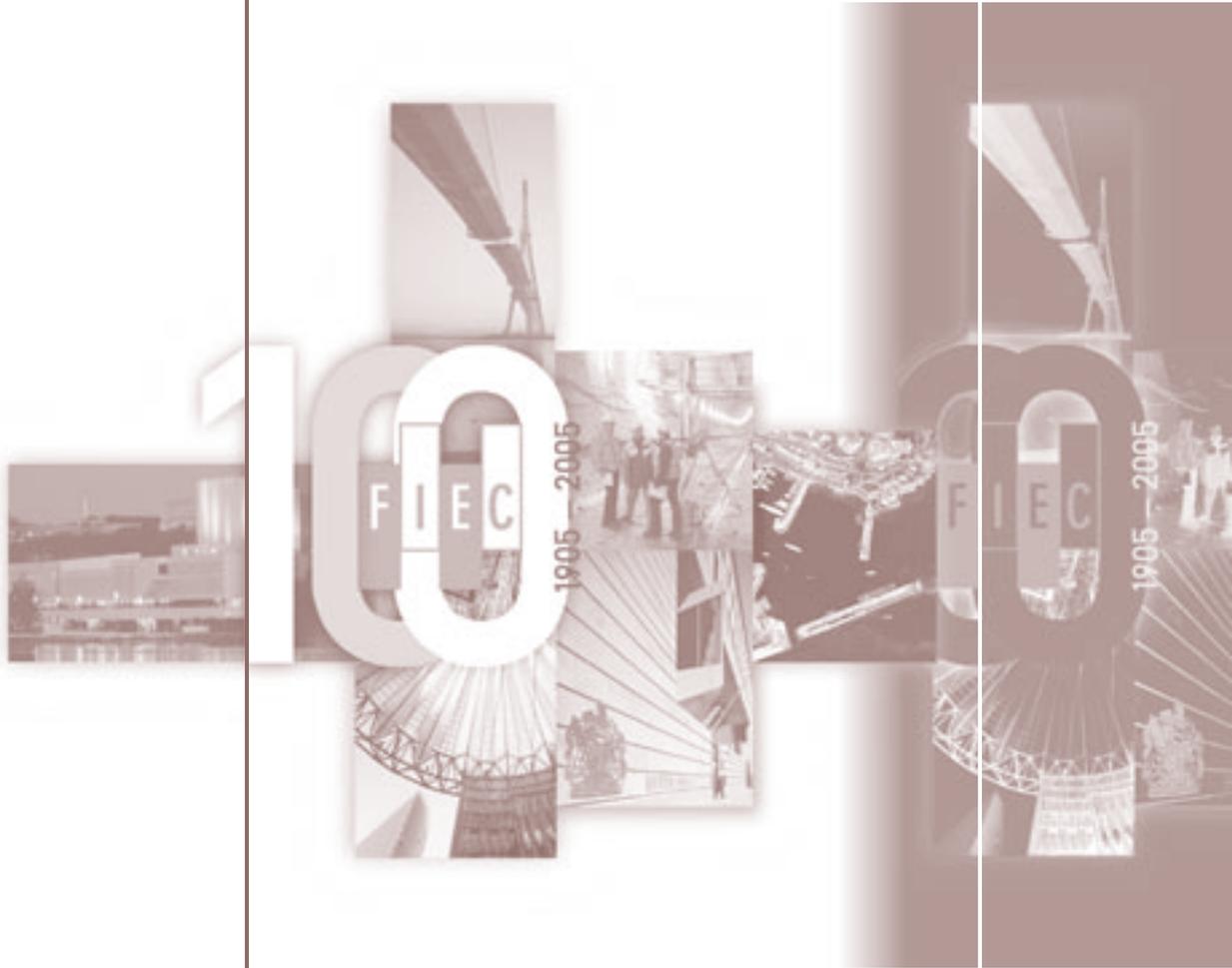
Thanks

I would like to thank everybody who last year collaborated actively and in an advisory capacity in our work: the members of the Steering Committee, the Chairmen and members of the Commissions and Subcommissions, the staff of our member federations and our own staff under the leadership of our Director General, Ulrich Paetzold. We naturally thank all our interlocutors in the European institutions and in the other federations with whom we have cooperated on the basis of trust in regard to the many questions involved.

In conclusion, I recommend to the readers of this report that they pay attention to the activities presented. We shall be grateful to receive any resulting suggestions.



Wilhelm Küchler,
President of FIEC





Wilhelm Küchler, D

President



Johannes Lahofer, A

Treasurer



Daniel Tardy, F

Vice-President
(ECO)



Peter Andrews, UK

Vice-President
(SOC)



Zdenek Klos, CZ

Vice-President
(TEC)



Elco Brinkman, NL

Vice-President
(Communication
and Image)



Helmut Hubert, D

Vice-President
(SME)



Vassilios
Karampampas, GR

Vice-President
(ECF)



Juan Lazcano, E

Vice-President
(MEDA)



Per Nielsen, S

Vice-President



Luisa Todini, I

Vice-President
(CEEC)



Karl Rönnerberg, D
(-6/2005)

Vice-President
(EIC)



Gian Alfonso Borromeo, I
(6/2005-)

Vice-President
(EIC)

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

President
Wilhelm Kuchler, D

Treasurer
Johannes Lahofer, A

Vice-President (CEEC)
Luisa Todini, I

Vice-President (SME)
Helmut Hubert, D

Vice-President (ECO)
Daniel Tardy, F

Vice-President
Per Nielsen, S

Vice-President (EIC)
Karl Rönnerberg, D (-6/2005)
Gian Alfonso Borromeo, I (6/2005-)

Vice-President (SOC)
Peter Andrews, GB

Vice-President (Communication)
Elco Brinkman, NL

Vice-President (ECF)
Vassilios Karampampas, GR

Vice-President (MEDA)
Juan Lazcano, E

Vice-President (TEC)
Zdenek Klos, CZ

Economic and Legal Commission (ECO)

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

Working Group "Statistics"

TEMPORARY WORKING GROUPS:

"Accounting rules and Financing"
Chairman: *Jean-Jacques Massip, F*

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

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

"Services"
Chairman: *Jacques Lair, F*

"Remedies"
Chairman: *Wolfgang Bayer, D*

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*

Ad Hoc Group Central and Eastern Europe "CEEC"

Chairman: *Luisa Todini, I*
Rapporteurs:
Hasso von Pogrell, EIC
Giulio Guarracino, I

Technical Commission (TEC)

President:
Vice-President Zdenek Klos, CZ
Rapporteur:
John Goodall, FIEC

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

**TEC-2:
Innovation and Processes**
Chairman:
Bernard Raspaud, F

**TEC-3:
Environment**
Chairman:
Jan Wardenaar, NL (3/2005-)

SME Coordination Group

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

EIC – European International Contractors e.V.

President: *Karl Rönnerberg, D (-4/2005),* Director: *Frank Kehlenbach, EIC*
Gian Alfonso Borromeo, I (4/2005-)



Ulrich Paetzold
Director General



Domenico Campogrande
Rapporteur

Economic and Legal Commission



Laetitia Passot
Rapporteur

Social Commission



John William Goodall
Rapporteur

Technical Commission



Muriel Lambelé

Accountant



Joëlle Caucheteur

Secretariat



Maxime Wotquenne

Documentalist/Web



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).

Office

Tel: + 32 2 514 55 35
 Fax: + 32 2 511 02 76
 e-mail: info@fiec.org
 http:// www.fiec.org

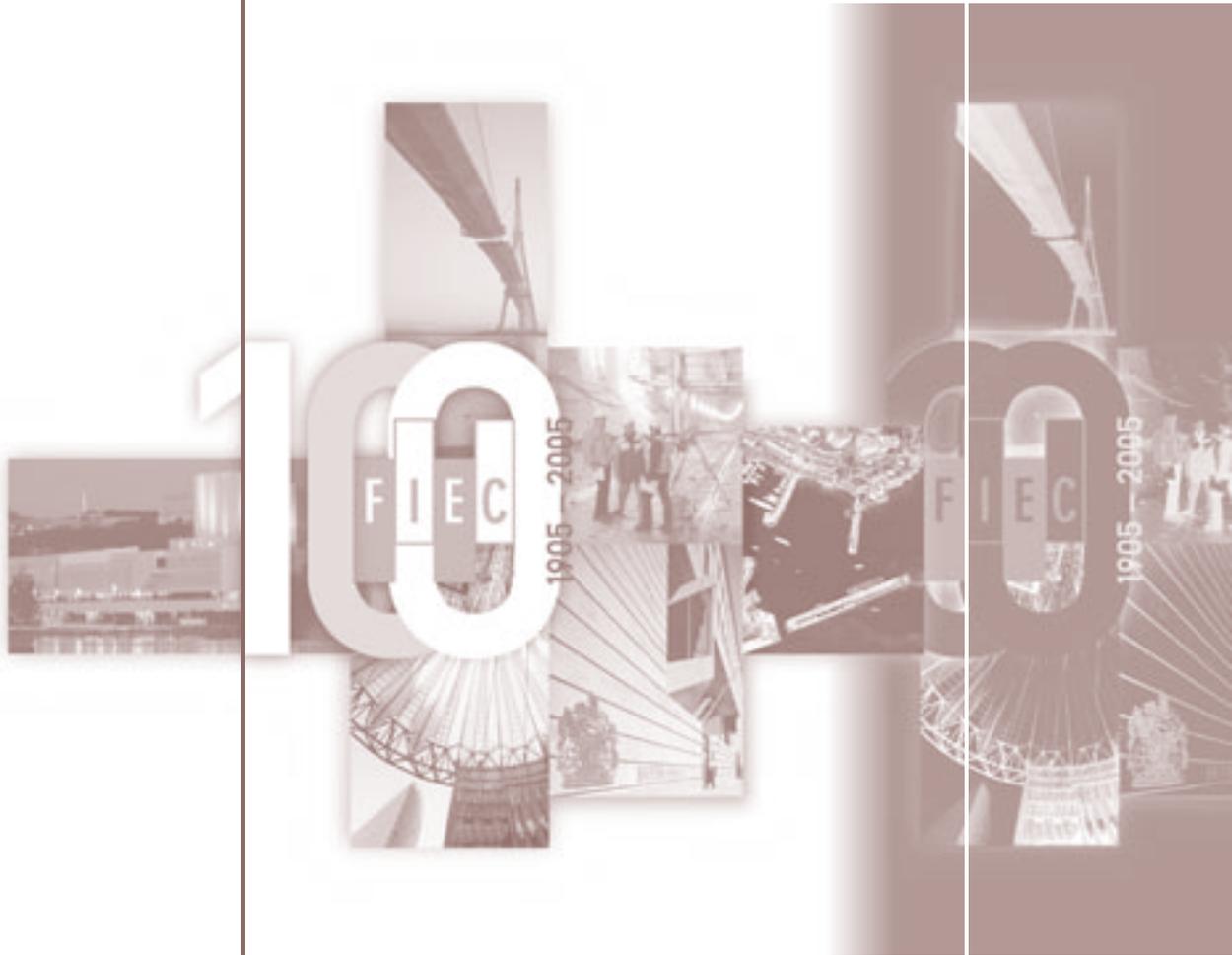
- A**
- BIB – Bundesinnung Bau
 - FVBI – Fachverband der Bauindustrie
- B**
- Confédération Construction
Confederatie Bouw
- BG**
- BBCC – Bulgarian Building and Construction Chamber
- CH**
- SBV – Schweizerischer Baumeisterverband
SSE – Société Suisse des Entrepreneurs
- CZ**
- SPS– Svaz Podnikatelů 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 – Asociacion de Empresas Constructoras de Ambito Nacional
 - ANCOPI – Agrupacion Nacional de Constructores de Obras Publicas
- EST**
- EEEL – Estonian Association of Construction Entrepreneurs
- F**
- FFB – Fédération Française du Bâtiment
 - FNTP – Fédération Nationale des Travaux Publics
- FIN**
- RT – Confederation of Finnish Construction Industries RT
- 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**
- Bouwend Nederland
- 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 Româna a Antreprenorilor de Construcții
- S**
- BI – Sveriges Bygginstitut
- SLO**
- CBMA – Construction and Building Materials Association
- 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





Keynote speaker – 1st session:

Wim Kok (NL),

*Former Prime Minister of the Netherlands,
Chairman of several European High Level
Groups dealing with the future of Europe*



The European Construction Market after the entry of the ten new Members

A few weeks only after the enlargement of the European Union (EU) and at the moment when the draft Constitution was adopted in Brussels, FIEC held its annual Congress in Prague from 16 through 19 June, at the kind invitation of its member association SPS (the Association of Construction Contractors of the Czech Republic). The main theme of the conference was: "The European construction market after the accession of 10 new Member States".

"In the history of the construction of today's Europe, never has an enlargement concerned so many countries at the same time. And this will certainly have consequences both at the social and economic spheres. It is these very consequences that we are going to analyse during our works", marked Wilhelm Küchler, the newly re-elected FIEC President in his opening address.

"This enlargement of the EU", continued Mr. Küchler, "represents 75 million additional inhabitants, but also an additional turnover of just 42 Bln. € in 2003 (910 Bln. € for the EU15), 200 Bln. € of needs for infrastructure and environmental projects, 23 Bln. € of European structural funds until 2006. This reality constitutes a real challenge for the EU, in order to make sure that these new member States can catch up as quickly as possible in terms of development of infrastructure, of public utilities and of their living environment in general".

However, it is true that for the moment this enlargement has generated as many concerns as hopes in the construction sector. The main reason behind the fears is the migration of workers from the new member States into the "old" ones.

The risks of social dumping are real because the costs of labour are 5 to 7 times higher in the "old" member States than in the new ones. It is for this reason that specific rules in the accession agreements foresee the possibility for transition periods (sometimes of several years), in order to limit the free movement of workers within the enlarged EU.

But these measures can only be limited in time and it is therefore important to tackle the basic problem, namely a stable creation of employment within the whole EU. This is why a task force chaired by Wim Kok, former Dutch Prime Minister, has drawn up a report on this matter.

1st Session

“Social consequences related to the enlargement”
panel participants: Wilhelm K chler (moderator),
Harrie Bijen (EFBWW), Helmut Echterhoff (D), Wim Kok
(keynote speaker), Frantisek Slavik (SK), Michal  tefl (CZ)



Keynote speaker 2nd Session:
Jacques Santer (L),
Former President of the EU-Commission
and former Prime Minister of Luxembourg



Keynote speaker 2nd Session:
Milos Zeman (CZ),
Former Prime Minister of the Czech Republic

“In order to effectively boost employment and productivity, the EU has to fulfil the following 4 conditions:” indicated Wim Kok to the participants of the FIEC Congress “increase the flexibility of workers and companies; attract more people on the labour market; invest further and more efficiently in human capital; ensure an effective application of reforms through better governance”.

Increased levels of standards, quality, training and education are all important objectives to be reached for a successful enlargement. And for Harrie Bijen, Secretary General of the EFBWW (the European Federation of Building and Woodworkers) stated that “in order to avoid any risk of social dumping, it is important to provide to the workers of the new member States working conditions and social protection which are similar to the those in the “old” EU. On this issue, employers and employees of the construction sector are in perfect harmony”.

For Jacques Santer, former President of the European Commission and former Prime Minister of Luxembourg, it is a new wind that blows over Europe and there no reason to be afraid of it: “We see the same fears that were present when Spain and Portugal joined the EU. From today’s perspective these fears were totally unjustified because the integration of these 2 countries has been a real success. The Spanish economy has been growing so strongly following its accession to the EU that it has become today a key component of European growth”.

The needs, in particular in terms of infrastructure, are huge in the new member States, which has a poorly structured transport network of inferior quality. Approximately 20.000 km of roads and 30.000 km of railways will have to be built or renewed. This represents, together with the ports and airports, an investment of approximately 100 Bln. € for respecting the European environmental standards (of which 15 Bln. € for waste water treatment).

For Remi Dorval, Vice-President of the special foundation contractor Soletanche-Bachy, there are no doubts: “Thanks to the European financial aids and to the stable economic and political environment generated by their accession to the EU, the new Member States should experience an economic boom which will very quickly dissolve the current fears”.

“1st May 2004 was not the end of the enlargement, on the contrary, it was just the beginning” concluded Wilhelm K chler.

For further details, please refer to the various presentations available on the FIEC website. ("activities" → "Congress" → "FIEC Congress 2004 – Prague").



2nd session: "Economic and Market issues"
 panel participants: 3 keynote speakers:
 Jiri Jonas (CZ, Senior Advisor to the IMF – International Monetary Fund), Jacques Santer and Milos Zeman, Elco Brinkman (moderator), Milan Veverka (CZ), Jerzy Kaliski (PL), Remi Dorval (F), Chris Harnan (UK)



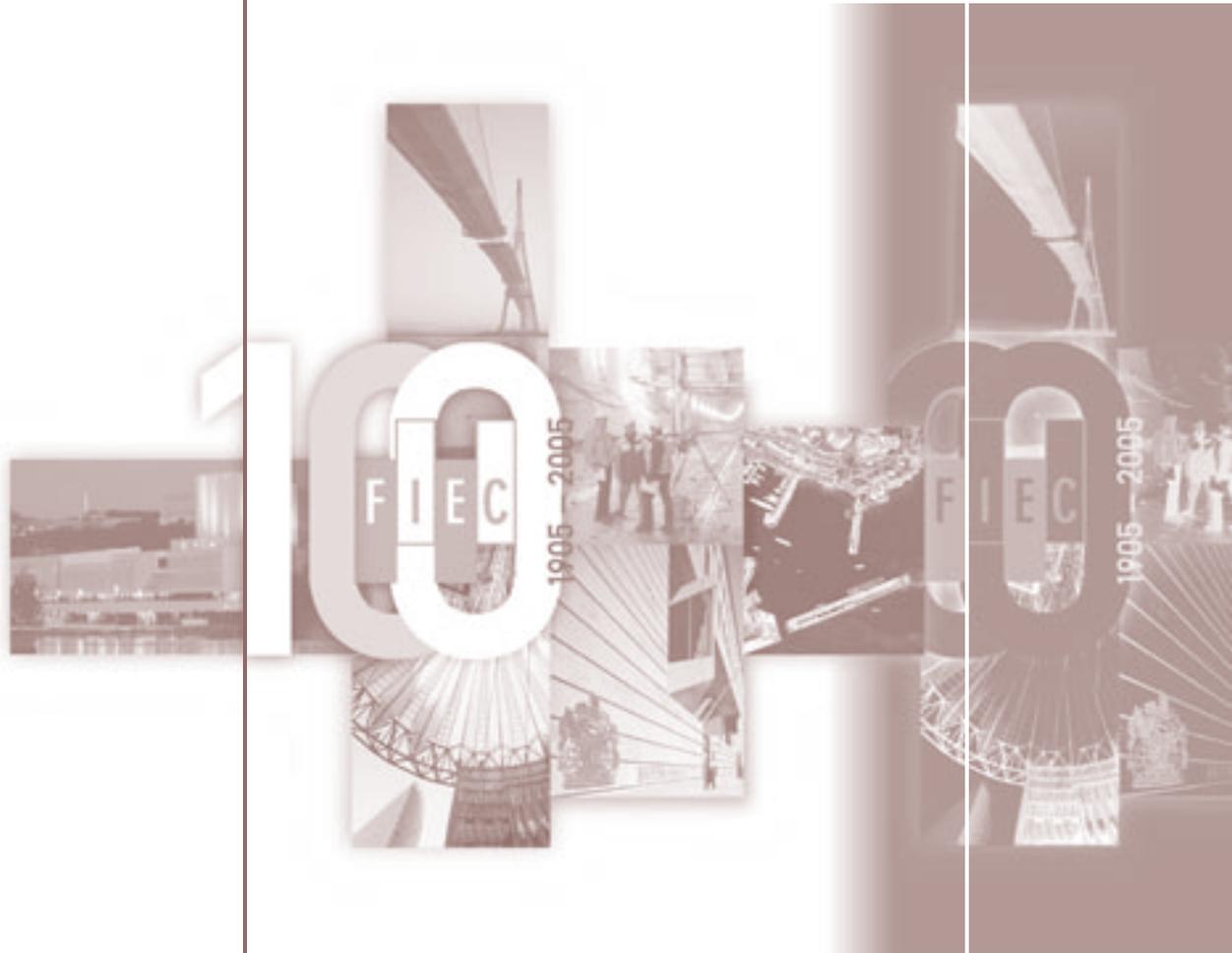
FIEC Steering Committee – General Assembly



Newly re-elected President Wilhelm Küchler, with Honorary FIEC Presidents Philippe Levaux and Franco Nobili



FIEC General Assembly – Castle of Prague (Rudolf's Gallery)



This issue mobilised FIEC and its member federations at a very early stage and FIEC activity on this topic has continued ever since, both in our Social Affairs Commission and the Economic and Legal Affairs Commission. In many cases, it was possible to present to the EU institutions the common views of construction employers and workers, the Social Partners FIEC and EFBWW, on the social affairs and the "posting of workers". This is hardly astonishing, considering that the posting directive's existence is due to the intensive and close cooperation of FIEC and EFBWW, which succeeded in bringing together the necessary majority in the Council of Ministers, at the time.

The expectation published in last year's Annual Report, namely that the First Reading would take place in autumn 2004, proved to be overoptimistic. The number of position papers, statements and newspaper articles, both supporting and opposing, reached a level rarely observed in a legislative procedure, including, for example, the organisation of demonstrations or the creation of a dedicated website. Even violent verbal attacks were observed, directed against Commissioner Frits Bolkestein personally. This is, apart from the question of style, at least factually incorrect, because no legislative proposal has ever been adopted by a single Commissioner. All proposals have to be adopted by "the Commission", i.e. by all Commissioners as a group. Usually such an adoption is preceded by a consultation and thorough scrutiny by the Directorates General and each Commissioners' experts.

Another phenomenon of the "services" discussion is that the views of both supporters and opponents of the directive are polarised. This, and the unfortunate proximity of important political votes/ elections in some EU Member States, make it very difficult to anticipate the time schedule or the result of the deliberations. Current estimations are that the European Parliament's plenary vote in the First Reading might take place in September/ October 2005.

FIEC Position Papers to date

| | |
|-----------|--|
| 30/3/2004 | FIEC on social matters (posting etc.) |
| 2/4/2004 | FIEC/EFBWW initial joint statement (posting etc.) |
| 9/11/2004 | FIEC/EFBWW second joint statement (posting etc.) |
| 7/3/2005 | FIEC on Internal Market issue (country of origin principle etc.) |
| 24/5/2005 | FIEC/EFBWW third joint statement (Health/Safety) |

FIEC in official hearings/meetings

| | |
|------------|--|
| 6/4/2004 | EP Employment Committee (Wilhelm Kuchler) |
| 24/5/2004 | Economic and Social Committee (Wilhelm Kuchler) |
| 11/11/2004 | EP Internal Market Committee (Wilhelm Kuchler) |
| 8/3/2005 | Debate with MEPs, rapporteurs/ "shadows", Strasbourg (Steering Committee, staff) |
| 16/3/2005 | House of Lords (UK) Committee, Berlin (Wilhelm Kuchler) |
| 29/3/2005 | EP Economy Committee (Ulrich Paetzold) |
| 13/4/2005 | FIEC/EFBWW delegation meets Employment Commissioner Vladimír Špidla |
| 24/5/2005 | FIEC/EFBWW delegation meets Internal Market Commissioner Charlie McCreevy |

The FIEC Position in a nutshell
(on posting: FIEC/EFBWW positions)

1. Construction is one of the few sectors producing immobile goods with a mobile workforce. In construction, the people move and not the product. The sector is both a service provider and a producer of goods, but none of the two completely. This very specific working method requires a specifically adapted approach.
2. FIEC is in favour of the Internal Market and the freedom to provide services.
3. FIEC is in favour of reviewing administrative requirements and procedures with the aim to cut out the unnecessary parts and streamline all of these procedures. However, it must remain possible to ensure that the law is respected by everyone, whether national or foreign.
4. It is only correct to say that the proposed services directive does not affect the posting directive, if this statement is limited to its text as such. The reason for this is that the services directive contains, in fact, a derogation from the "Country of Origin Principle" in favour of the posting directive.
5. However, the services directive affects the practical application of the posting directive to the extent that art. 24.1, second sub-paragraph with items a) to d) forbids the host country authorities to practice certain procedures/ requirements. FIEC is convinced that such check and control measures are necessary for the actual implementation of the posting directive. For the time being, "administrative cooperation" as stipulated in the posting directive has proven its shortcomings (see EFBWW-CLR study, presented in Scheveningen, 15-16/10/2004, "The free movement of workers" CLR Studies 4-2004).
6. It is also important that the host country authorities have the possibility of controlling documents in their own language, in order to ensure the efficiency of the control.
7. Any reduction of the checks and controls would play in favour of those who do not want to respect the law, in particular the posting directive and its national implementation.
8. FIEC also requests the derogation of services concerning immobile goods (real estate) from the application of the Country of Origin Principle, such as is the case for the application of VAT rates. For an immobile good, the applicable law with the strongest link is that of the country where the immobile good is situated. The application of the Country of Origin Principle in this case would lead to over-complicated and sometimes objectively impossible situations.

The FIEC and FIEC/EFBWW position papers follow on the next pages.



Meeting with EU-Commissioner Špidla on 13/4/2005
Werner Buelen (EFBWW), Harrie Bijen (DG-EFBWW), Laetitia Passot, Arne Johansen (President EFBWW), Peter Andrews, Commissioner Vladimir Špidla, Ulrich Paetzold, Wilhelm Küchler, Ernst-Ludwig Laux (President «Building Committee» EFBWW).

Meeting with MEPs at the European Parliament in Strasbourg



1. Wilhelm Küchler, EP Vice-President Ingo Friedrich
2. Peter Andrews, MEP Robert Sturdy, John Goodall
3. Helmut Hubert, MEP Albert Dess
4. MEP Paul Rübig, MEP Hans-Peter Mayer, Johannes Lahofer
5. Ulrich Paetzold, MEP Guido Podestà, Wilhelm Küchler
6. MEP Catherine Guy-Quint, Daniel Tardy, Jean-Jacques Massip, MEP Ambroise Guellec
7. Johannes Lahofer, MEP Harald Ettl, MEP Jean-Marie Beaupuy, Domenico Campogrande, MEP Hartmut Nassauer, MEP Andreas Schwab

**Dinner-debate with MEPs rapporteurs
for the issue "Services" directive**



1. Johannes Lahofer, MEP Heide Rühle, Wilhelm Küchler
MEP Kurt Lechner, Ulrich Paetzold
2. MEP Jacques Toubon
3. MEP Anneli Jäätteenmäki,
Peter Andrews, MEP Ona Juknevičienė

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.

[...]

FIEC's second position paper on European Commission's proposal for a Directive of the European Parliament and of the Council on services in the Internal Market COM(2004)002 of 13/1/2004
7/3/2005

[...]

3. The construction sector: specific treatment already recognised by previous EU texts

The European Commission has envisaged possible "Community action" in the construction sector (see the "Reflection Document" published by DG III on 29/3/1993). For this purpose, an overall assessment of the laws relating to the construction sector in each of the States of the European Union was drawn up (see the report set up within the GAIPEC [Group of European Cross-Industry Associations of the Construction Sector] which was ratified both by industry and the Commission).

This study showed that the immobile character of construction works and their related services did not adversely affect free competition and that there was no need, on a Community basis, to disrupt the rules applicable to construction works erected in each Member State.

Various other European texts have taken the specific nature of construction works into account and opted for the same solution, namely to exclude the construction sector from their scope:

- Directive 85/374/EC on responsibility for defective products, which defines a "product" as "any movable property", which excludes construction works.
- The proposal for a Directive on "the responsibility of service providers", COM(90)482 of 20/12/1990, from the scope of which the Members of the European Parliament had excluded services relating to the design and erection of construction works, before the proposal was finally withdrawn by the Commission on 24/6/1994.

[...]

4. The consequences of the application of the "CoO"-Principle for contractors

Construction works are attached to the soil on which they are built and do not move. The context of their construction varies with each operation and differs in each Member State. They have to be adapted to the nature of the soil as well as to the climatic conditions and they must necessarily comply with the urban planning rules and building regulations proper to the country or the area in which they are built.

The same applies to the specific regimes relating to responsibility, guarantee and any insurance accompanying these works.

The application of the country of origin principle envisaged by the proposed services directive would also have the effect, in the case of the same construction, of multiplying the legal regimes governing the various tenders according to the country of origin of the tenderers. In fact, parts of the same construction could benefit from different guarantees, because they would have been executed by service providers from different countries.

In the absence of harmonisation of the legal regimes applicable in each Member State, this situation would be a source of problems for everyone involved:

a) for the service providers

- of a distortion of competition [...]
- of the risk of relocation of service providers [...]

b) for the recipients of the services

- of legal uncertainty [...]
- of a possible difficulty to sell the building [...]

c) for the Member States

- of uncertainty as regards the actual exercise of supervision of the activities of the service providers [...]

[...]

6. Derogation provided by Article 17(17)

Article 17 provides for a list of 23 general derogations to the CoO Principle "in order to take into account the level of integration of the internal market or certain Community instruments (...) Recital 40)". The construction sector is precisely an area where national rules remain heterogeneous and more specifically with respect of the specific regimes relating to responsibility, guarantee and any insurance accompanying the works.

[...]

Conclusion:

The proposal for a Directive should provide for a derogation from the "country of origin principle" for the services related to the design and erection of construction works.

**FIRST 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 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.
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.

**SECOND 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
9/11/2004**

EFBWW and FIEC,

Being 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, agree, as a complement to their Joint Statement of 2nd April 2004, on the following:

1. We confirm all positions contained in our Initial Joint Statement of 2nd April 2004, as well as our individual position papers.
2. We appreciate the various explanations presented by the European Commission's services in numerous meetings and conferences, but profoundly regret that they are not reflected in the text of the proposed directive, at least as far as we are concerned.
3. We fully support the derogation of the "posting directive" (96/71/EC) from the "Country of Origin Principle" (Art. 16), as expressed by Art. 17 (5), and the confirmation, in Art. 24 (1) 1st sub-paragraph, that the host country "shall carry out in its territory the checks, inspections and investigations necessary to ensure compliance with the employment and working conditions applicable under Directive 96/71/EC ...".
4. In more general terms, we fear that the application of the "Country of Origin Principle" (Art. 16) would create numerous and serious problems in our sector, the likelihood and impact of which for employers, workers and consumers is difficult to anticipate without a serious in depth analysis.
5. We fully oppose the interdictions of control measures in Art. 24 (1) 2nd sub-paragraph, items a) - d), because they would jeopardise the practical application and operation of the "posting directive", contrary to the laudable principles expressed in Art. 24 (1) 1st sub-paragraph. Without such control measures, the authorities would be denied any realistic chance of enforcing the principles of the "posting directive".
6. The interdiction "to obtain authorisation, ... to satisfy any other equivalent requirements" (item a) or to "make a declaration" (item b) could be interpreted as forbidding, for example, "a priori" notification or information of the host country authorities concerning work to be undertaken on a construction site in their country. Such "a priori" information is, however one of the key elements of effective and efficient checks, inspections and investigations.
7. The interdiction "to have a representative" in the host country (item c) would make it impossible to address official documents which have to be served respecting formal procedures or to receive reactions legally binding on the service provider. Such a situation is not acceptable.
8. The interdiction "to hold and keep employment documents" in the host country (item d) would make it impossible for the host country authorities to carry out the checks, inspections and investigations necessary to ensure compliance with the "posting directive".
9. Furthermore, the interdiction to require documents in the host country's language, expressed in Art. 5 (2), would also render an efficient control impossible and is, therefore, not acceptable. The directive should clearly spell out that the effective application of the "posting directive" is an "overriding reason relating to the public interest".
10. None of these items can realistically be replaced by a better collaboration of the authorities of the country of origin and the host country. In spite of the clear-cut obligation to cooperate, established by Art. 4 of the "posting directive", which had to be implemented by 16th December 1999, such cooperation, in practice, never took place efficiently. A recent study (CLR, October 2004, financed by the Commission's DG Employment) clearly showed the enormous shortcomings and quasi non-existence of cooperation (5 phone contacts per year, on average).

11. CONCLUSION:

In order not to jeopardise the practical application of the "posting directive" and in order to avoid all misunderstandings, we request that Art. 24 (1) 2nd sub-paragraph with items a) - d) be deleted.



President:
Mr. Daniel Tardy, F

Rapporteur:
Mr. Domenico Campogrande, FIEC

Temporary Working Groups:

“Accounting rules
and Financing”



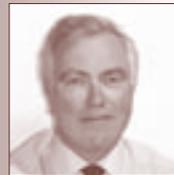
Chairman:
Jean-Jacques Massip, F

“EMAT” (Economically most
advantageous tender)



Chairman:
Michel Cambournac, F

“Late payments”



Chairman:
Chris Harnan, EFFC

“Services”



Chairman:
Jacques Lair, F

“Remedies”



Chairman:
Wolfgang Bayer, D

1. Proposal for a directive on "Services in the Internal Market": the specificities of the construction sector must be taken into consideration

A Temporary Working Group chaired by Mr. Lair (F-FFB) drew up a position paper on the legal aspects of the proposal for a directive on "Services", as a complement to the earlier position papers on the social affairs aspects (for full details, please refer to the chapter on the "Services Directive").

This position paper highlights the specificities of construction activities and the risks which would be created by the application of the "country of origin" principle to such activities:

1. for the services providers, in terms of distortion of competition;
2. for the recipients of the services, in terms of legal uncertainty, for example as regards the liability regime to be applied;
3. for the Member States, because of the uncertainty regarding the actual exercise of the supervision of the activities of the service providers.

FIEC therefore requested a derogation of the application of the "country of origin" principle as concerns construction activities relating to immobile property.

2. Reduced VAT: 250.000 jobs threatened in 2006

In October 1999, a EU directive on "reduced VAT rates", amending the main VAT directive (77/388/EEC), was adopted (directive 1999/85/EC), in order to allow those member States who so wished to apply reduced VAT rates on a certain number of labour intensive services listed in the so called "Annex K", for a maximum period of 3 years, until 3/2/2002.

Apart from the United Kingdom, which decided to apply the directive only on the Isle of Man, six other member States applied it to "rehabilitation and maintenance works": Belgium, Spain (limited to bricklaying), France, Italy, Netherlands (limited to painting and plastering works) and Portugal.

In view of the time needed to produce a thorough global evaluation of the efficiency of the "1999 - reduced VAT" directive, in December 2002 the Council of Ministers decided to extend the directive by one year, until 31/12/2003.

In July 2003, in line with its strategy to improve the operation of the VAT system within the context of the Internal Market, the European Commission adopted a proposal for a general review of the reduced rates of VAT as defined by directive 77/388/EEC. The stated objective was to simplify and rationalise them, but since the Council of Ministers did not reach an agreement on the content of this proposal, it decided to further extend the validity of the "1999 - reduced VAT" directive until 31/12/2005.

Today, a few months before this deadline, the discussions on the proposals presented by the European Commission in 2003 remain completely blocked within the Council of Ministers.

FIEC therefore decided to undertake an initiative aimed at quantifying the negative consequences in terms of employment for the 6 member States that are currently applying the "1999 - reduced VAT" if nothing changes.

In the light of the experiences of the countries covered by this study, namely Belgium, Spain, France, Italy and Portugal, the reduced VAT rates led to the creation of about 170.000 permanent additional jobs between 1999 and 2004, without affecting the overall tax revenues. A return to the preceding VAT levels would be disastrous because in the above mentioned countries it would threaten between 200.000 and 250.000 jobs with effect from the beginning of 2006.

Furthermore, on the basis of data available for France and Italy, the application of a reduced rate of VAT to rehabilitation and maintenance works has effectively helped in reducing the extent of undeclared work in the construction sector, which is now below the average level of the other economic sectors.

FIEC is therefore requesting that:

1. the provisions of the "reduced VAT" directive of 1999 be maintained until a permanent VAT regime is adopted at the European level;
2. this possibility be extended to all Member States expressing such a wish (in particular to the new EU members who did not have an opportunity to do so prior to their accession), in conformity with the principle of equality of treatment.

3. "Blue book" 2004 (11th edition): 72,3 Bln. € of works still remain to be carried out

In June 2004, FIEC published the results of its 11th annual survey on the status of the 14 "Essen Priority Projects" agreed by the Heads of State and Government in 1994. These projects form part of the Trans-European Transport Networks (TENs), whose contribution to the long-term development, competitiveness, cohesion and enlargement of the European Union has been stressed on several occasions, both at the level of the summit meetings of Heads of State and Government as well as by the European Parliament and the Commission.

This survey presented the situation as at 31st December 2003.

The following emerges from the survey:

- The total estimated budget for 13 of the 14 projects is around € 136 billion, (without project Nr.8, the multi-modal link between Spain and Portugal, for which only partial information was available).
- 65.5% of the total funding (viz. the equivalent of € 78.8 billion) is assured, and therefore an amount of € 41.4 billion still has to be found. Of the 14 projects, only 1, drawn from those for which sufficient information is available, has funding available of less than 50%.
- As of 31 December 2003, works to the value of € 62.6 billion had been executed, i.e. 46.4% of the total estimated budget. Works to the value of approximately € 72.3 billion therefore still remain to be carried out.
- The annual implementation rate has significantly accelerated in 2003 and reached approximately 8% of the total estimated budget (the annual implementation rate has been round 5,1% on average, over the period 1994-2002). Works to the value of around € 10.8 billion were executed during 2003, as compared with € 9.7 billion in 2002 (which represented an annual implementation rate of 7.2%).

In conclusion, from the results of this survey it can be said that although an increase in the annual rate of progress occurred in 2003 and that some positive developments can be observed as regards the financing, nevertheless:

1. several projects will not be completed before 2015-2018, even though the Member States had taken the decision in 1994 to finish all of them by 2010; and
2. a significant amount (72.3 Bln. €) of works still remain to be carried out.

As indicated in the next chapter, in April 2004, in order to take into account the enlargement of the EU, new Community guidelines for the development of the trans-European transport network have been adopted (Decision nr. 884/2004/EC) and the list of "priority projects" now comprises a total of 30 projects: the 14 "Essen projects", to some of which new sections have been added, plus 16 new projects (including "Galileo", the European satellite system).

FIEC intends to adapt the future editions of the "Blue book" to these changes and has started collecting relevant information.

4. Financing of transport infrastructure: several positive initiatives at the EU level

Despite the progress observed in recent years, the financing of large infrastructure projects remains one of the major challenges, in particular as regards the significant needs for these kinds of investments in the new member States.

In April 2004, in order to take into account the enlargement of the EU, new Community guidelines for the development of the trans-European transport network were adopted (Decision nr. 884/2004/EC) and a list of 30 priority projects, to be completed by 2020, was established. The overall estimated costs for these priority projects are approximately 307 Bln. €.

Public financing alone will not be sufficient to cover all these costs and therefore FIEC has regularly promoted and presented specific proposals for setting up the most efficient ways of combining funding available from the public sector, both at the European (European Commission, European Investment Bank,...) and national levels on the one hand, and from the private sector (PPP schemes) on the other.

At the European level, these lobbying efforts produced some very encouraging results, but several of them still have to be approved by the Council of Ministers and experience in this respect has shown that very often the lack of political willingness is unfortunately much stronger than the appeal of the proposals on the table.

One of these initiatives that FIEC warmly welcomed was the proposal for a Regulation (COM(2004)475), adopted by the Commission in July 2004 aimed at significantly increasing the EU transport budget line for the TENs over the period 2007 - 2013. This proposal in fact multiplies the budget line allocated to transport by a factor of 5 (increased from 4,6 billion € for the current period 2000-2006 to 20,3 Bln. €). FIEC also warmly welcomed the proposed increase in EU funding, which could pass from 20 to 30%, for the transport priority projects. But the possibility of effectively implementing these proposals depends on the decisions that will be taken regarding the overall "financial perspectives" for the period 2007-2013.

Another initiative was taken by the Commission in the field of infrastructure charging in the form of a proposal for a Directive (COM(2003)488) amending Directive 1999/62/EC (directive "Eurovignette") on the charging of heavy goods vehicles for the use of certain infrastructures. This proposal, which was also warmly welcomed by FIEC, had as objective the alignment on common principles of the national systems of tolls and of user charges for infrastructure use. Furthermore, it proposed that the charges collected be effectively used for financing the construction and/or the maintenance of infrastructure and not for other purposes. This specific issue has been the subject of long and controversial discussions at the Council of Ministers level. A proposal for a compromise submitted by the Dutch EU Presidency, that did not establish any obligation for the Member States to use the tolls collected only for the purpose of financing the construction and/or the maintenance of infrastructure, was rejected by the Ministers at the end of 2004.

Finally, in March 2005, the European Commission presented a proposal (COM(2005)75) for the creation of an EU loan guarantee instrument for transport projects. This instrument, which would complement other EU grants, would provide support by mitigating revenue risks during the early years of the operation of a project and would therefore encourage the participation of private investors.

FIEC at the European level, and its member associations at the national level, will continue their lobbying efforts already in hand, in order to make sure that these proposals be effectively adopted and applied so that an efficient transport network across the EU, be effectively realised in the agreed timeframe.

Furthermore, following the EU enlargement, attention is now directed towards establishing the most efficient interconnections between the EU transport network with those of the neighbouring countries. The European Commission launched a wide consultation on this matter at the beginning of 2005.

5. Green paper on Public-Private Partnerships (PPPs): FIEC answers

In April 2004, the Commission published a "Green Paper" on Public-Private Partnerships (PPPs) with the aim of launching a wide debate on the desirability of adapting the Community rules on public procurement and concessions. The main objective was to see whether or not it is necessary to improve the current rules, in order to ensure that economic operators have access to PPPs under conditions of legal clarity and real competition. Over the last ten years, the use and application of PPPs has been increasingly developed in several member states. They are now used in many areas of the public sector. The choice of a private partner by a public authority must be made in accordance with Community rules for the award of public contracts. However, there is no specific system under Community law applicable to PPPs and the Community rules on awarding public contracts are also applied to PPPs with differing degrees of intensity. In other words, the Green Paper set out the scope of Community rules, with a view to identifying any uncertainties and assessing to what extent Community intervention might be necessary.

In its answers to the Commission, FIEC welcomed this Green Paper but criticised the fact that it was clearly limited to only those aspects relating to the rules governing the award of PPPs in a context of compliance with the rules of competition and the proper functioning of the Internal Market. The global and complex nature of the PPP model means that other economic, financial and accounting factors particularly those relating to the transfer of risks etc., should have also been taken into account in order to enable PPPs to contribute usefully to:

- full realisation of the Internal Market;
- the success of the growth initiative, in particular by means of the Trans-European Networks;
- greater involvement of Small and Medium sized Enterprises (SMEs);
- broader use of PPPs among local authorities and other public entities.

FIEC also underlined, that since some areas raised in the Green Paper relate to the newly adopted EU public procurement directives, it is important that once implemented, the Commission allows sufficient time for national use before any assessment is made that could lead to further legislative changes. In other words, it is too early to envisage any new Community legislative initiative in this area at the present time.

Finally, FIEC highlighted the dangers concerning the so-called "institutionalised PPPs", that involve the participation of semi-public companies and which cover very different realities from one country to another. In this respect, it is possible in some cases to observe distortions of competition as emphasised by the Green Paper, since semi-public companies benefit from preferential access to information and from a cost structure unrelated to economic reality (i.e. publicly financed or controlled entities may be able to benefit from more favorable financing and costs structures not available to private companies).

In its response to the Commission, FIEC also raised some issues that were not addressed by the Green Paper, but which also play a key role in the development of PPPs. Amongst these issues it is pertinent to mention the following ones:

1. at the EU level, it is essential to promote and encourage the award of PPPs according to the principle of the most economically advantageous tender on the basis of previously announced award criteria; any clarification offered to bidders as to the methods which could be applied, in particular the weighting of these criteria, is highly desirable;
2. provided that the initial object defined by the public authority is complied with, this type of contract should allow for changes to be made in accordance with modifications (environmental and technical constraints, development of demand by users etc.) which may occur throughout its performance without having to call into question the award to the successful bidder;
3. it is important to make sure that the size of these projects as well as the conditions governing their award will genuinely allow access by SMEs.

The Commission is currently analysing the numerous contributions received and FIEC will monitor and intervene as and when necessary on future initiatives that may be taken in this area.

6. The new "public procurement" directives: the implementation phase

After 4 years of intensive and animated debates, the 2 new public procurement directives (directive 2004/17/EC for the procurement procedures of entities operating in the water, energy, transport and postal services sectors and directive 2004/18/EC for the award of public contracts for works, supplies and services) were finally adopted in March 2004.

In addition to the objectives of further simplification and clarification of the existing legislative framework, the new directives also introduced a certain number of important new elements, including amongst others electronic procurement mechanisms, a new procedure aimed at particularly complex projects ("competitive dialogue"), stronger provisions for the protection of confidentiality, a reinforcement of the provisions relating to award criteria and to the selection of candidates.

The Member States have to bring into force the laws, regulations and administrative provisions necessary to comply with these directives no later than 31 January 2006.

FIEC is now actively promoting the exchange of information between its member associations concerning this "implementation phase", in particular as regards some of the newly introduced electronic provisions such as the "reverse auctions" and the "dynamic purchasing systems" for which the choice of whether or not to apply them is left in the hands of each member State.

Since the very beginning of the legislative procedure for the adoption of the new directives, FIEC gave its support for the introduction of provisions regarding "e-procurement" aspects, but at the same time, FIEC also underlined the possible significant risks linked to the application of some of these new provisions in the award procedures of works contracts.

FIEC is of the opinion that the electronic (or "reverse") auction process, as well as "dynamic purchasing systems", which can certainly be used efficiently for standardised/"off the shelf" products, are completely unsuited to the specific nature of works contracts. These concepts ignore that works contracts are of an atypical nature. They practically never constitute a standardised service, even when the contract specifications can be precisely drawn up. Their aim is to achieve a prototype, that is to say, a unique service meeting the specific needs of contracting authorities at a given point in time and in a risky environment which will vary according to each construction site (in particular the soil and ground conditions), the vagaries of nature etc., the real cost implications of which will be known only when the construction works are completed. In the case of works contracts, an "electronic auction" or a "dynamic purchasing system" and the inherent tendency towards the lowest bid would serve as an incentive to lower the quality of service and therefore the quality of the construction projects erected and the works performed.

In this respect, FIEC is closely monitoring the various initiatives taken by the European Institutions in the framework of the "e-procurement action plan" adopted by the Commission at the end of 2004.

7. IAS accounting rules for concession contracts: an obstacle to their development?

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

This obligation can 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, on the one hand, there are still no specific accounting standards available for application in connection with these forms of contract and therefore the companies involved in concession contracts have to apply an existing endorsed standard or a combination of existing endorsed standards, but which are not adequate for taking into account the economic aspects of a concession contract, while, on the other hand, since the IFRIC (International Financial Reporting Interpretations Committee) did not succeed in finalising in the time limit foreseen, namely before 31/12/2004, its interpretations of such concession contracts.

FIEC has played an active role in the debates within EFRAG (European Financial Reporting Advisory Group), the European advisory body to the European Commission, and provided a significant amount of input to the IFRIC. These efforts and the support given by the EFRAG, in its position of November 2004, as well as by the European Commission at all levels (see copy of the letter of Commissioner McCreevy) notwithstanding, the situation as at March 2005, remains extremely unsatisfactory.

The draft interpretations of the IFRIC, which at the moment of writing this report are still in the public consultation phase, propose the application of two very different accounting methods depending upon whether the concessionaire is remunerated by the party granting the concession, or by the users.

The first method, when payment is made by the party granting the concession, consists of entering in the accounts a financial debt (financial asset model), whereas the second method, when payment is made by the users, consists of entering in the accounts a depreciable intangible asset (intangible asset model).

Without entering into technical details, and apart from the fact that difficulties exist as regards deciding which of these two methods should be applied, such methods would, in the case of almost similar activities, risks and performances, lead to extremely dissimilar turnovers, financial results and weakened clarity of the accounts.

The second method (intangible asset model) retains one of the major difficulties raised by FIEC at the outset. The result during the first part of the operation would be very negative and would artificially penalise companies, with consequences that can easily be anticipated by the financial markets.

FIEC believes that the application of two methods which would lead to dissimilar consequences can only lead to significant distortions in the presentation of the accounts, which would be harmful both from the standpoint of fair competition as well as for the proper development of concessions.

For these reasons FIEC asked that:

1. the companies concerned be allowed to continue applying, beyond 1 January 2005, the rules currently used in national practice, until such time as a specific accounting rule is established;
2. all the necessary actions for the elaboration of a specific standard for these activities be undertaken forthwith.

The IASB indicated that it is not ready to accept that rules currently used in national practice be used after 1/1/2005, without providing any guidance on what to do.

However, FIEC will continue its lobbying efforts in order to ensure that such a specific standard be developed immediately and that it be based on one homogeneous and practical accounting methodology, that would facilitate the necessary development of infrastructure within the European Union.

**The reduced VAT rate: a European challenge for the building sector
250,000 jobs threatened in 2006**

[...]

Directive 99/85/EC dated 29/10/1999, authorising the Member States having expressed the request to apply a reduced rate of VAT to renovation and maintenance works of buildings, will come to an end on 31/12/2005.

In order to consolidate the advantages already accruing from the application of this directive and in order to avoid the negative effects on employment that will follow as a result of the cancellation of such a measure,

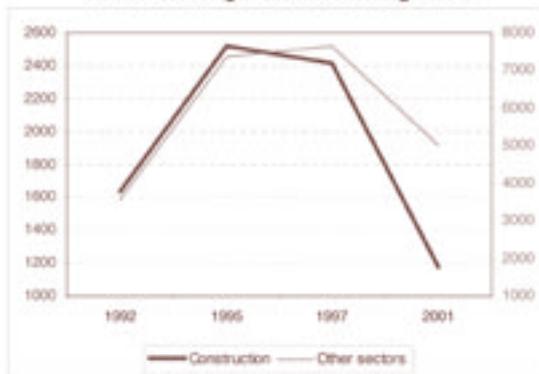
FIEC requests that:

1. the provision of this directive be maintained until a permanent VAT regime is adopted at the European level;
2. this possibility be extended to all Member States expressing such a wish, in conformity with the principle of equality of treatment.

An effective solution against the shadow economy

The surveys, the opinion polls, as well as the few statistics available, attest to the effectiveness of a reduced rate of VAT as an instrument in the fight against the malpractice of undeclared work. In France, since 1999, the number of infringements in the construction sector has been halved as compared to a fall of just 1/3 in all of the other sectors affected. The fight against undeclared work which has been going on for several years now, is finally beginning to bear fruit thanks to a lower rate of VAT. The re-introduction of a standard VAT rate of 19,6% would see this progress completely wiped out within just a few months.

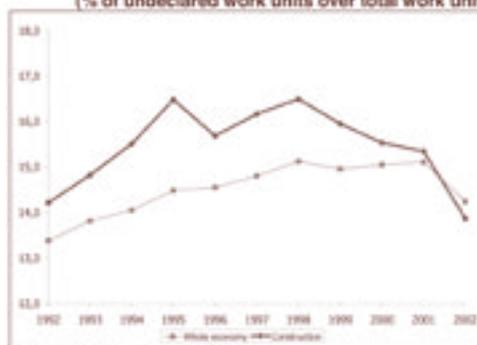
Number of infringement cases on illegal work



Source: Délégation interministérielle à la lutte contre le travail illégal [Inter-ministerial delegation for the fight against undeclared work]

In Italy, the same effect is confirmed. The lines relating to the share of undeclared work units in the economy as a whole on the one hand, and for the construction sector on the other, clearly illustrate a more favourable evolution for the construction sector. Thus, in 2002, the percentage of clandestine workers in the construction sector is, for the first time, lower than the average rate for all economic sectors.

Undeclared work units (% of undeclared work units over total work units)



Source: ANCE based on ISTAT data

EIC-FIEC joint letter

28/7/2004



**EUROPEAN
INTERNATIONAL
CONTRACTORS**

Kurfürstenstr. 129
D- 10785 Berlin
Tel : +49-30-212 86-244
Fax : +49-30-212 86-285
Mail : eicontractors@compuserve.de
Web : www.eicontractors.de



**European Construction
Industry Federation**

Avenue Louise 66
B- 1050 Brussels
Tel : +32 2 514 55 35
Fax : +32 2 511 02 76
Mail : info@fiec.org
Web : www.fiec.org

**JOINT LETTER
of the European Construction Industry
concerning
the European Commission's Green Paper
on**

**Public-Private Partnerships and Community Law on Public Contracts and Concessions
COM(2004) 327 of 30/4/2004**

EIC

is an industry association that represents the interests of the European Construction Industry in all questions related to its international construction activities. It has as its members construction industry federations from 15 European countries. A significant portion of the national and international turnover of EIC member companies is generated through PPPs infrastructure projects.

FIEC

is the European Construction Industry Federation, representing via its 34 national Member Federations in 27 European countries (24 EU & EFTA, Bulgaria, Romania, 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.

FIEC and EIC, representing, in a complementary manner, both the EU-Internal Market and the international interests of the European Construction Industry, jointly submit their specific position papers and stress the following:

FIEC and EIC fully support the idea of an EU Internal Market for public procurement, safeguarding fair and transparent competition, and therefore welcome the publication of the Green Paper on PPPs, as well as the opportunity of providing input based on practical experience of key-players.

The Green Paper is clearly limited to only those aspects relating to the rules governing the award of PPPs in a context of compliance with the rules of competition and the proper functioning of the Internal Market. However, the global and complex nature of the PPP model means that other economic, financial and accounting factors, in particular those relating to the transfer of risks etc., should be taken into account in order to stimulate the development of such type of projects. Most PPP infrastructure projects have a substantial construction component, consequently, the construction industry has been among the first industries to be involved – both as investor and concessionaire – in this new market. So, the European contractors have acquired, over the years, considerable knowledge of the technical, political, legal and financial prerequisites in this matter.

FIEC and EIC are therefore convinced that our answers to the Green Paper will provide useful contributions to the debate. Both FIEC and EIC are prepared to actively contribute through the know-how and the expertise of our members to the future discussions on this matter at the EU level.

for EIC

**Karl Rönnerberg
President**

28th July 2004

for FIEC

**Wilhelm Küchler
President**

FIEC letter to Commissioner McCreevy (22-12-2004)

22/12/2004

Dear Commissioner,

The exercise of concessions and Public-Private Partnership (PPP) activities, which effectively constitute "pillars" for the development of the Trans-European Networks, of infrastructure in general, as well as of the Lisbon process, is endangered by international accounting rules which do not adequately take into consideration their specific characteristics.

In this critical situation, we are writing to you, in order to obtain the EU Commission's help in convincing IASB (International Accounting Standards Board)/IFRIC (International Financial Reporting Interpretations Committee), as well as the EFRAG (European Financial Reporting Advisory Group), the bodies responsible for these issues, to undertake forthwith the actions necessary to address this highly unsatisfactory state of affairs.

According to Regulation EC 1606/2002 of 19/7/2002, as from 1 January 2005 all publicly traded companies will have to prepare their consolidated accounts in conformity with international accounting standards as defined by the IASB.

In the absence of specific accounting rules for concessions and PPP contracts, by virtue of this Regulation serious difficulties will arise for those public authorities and companies involved in such fields of activity.

A detailed note presenting the general framework, the work carried out so far, as well as the technical aspects of this issue is enclosed with this letter.

One of the major difficulties arising under the existing regulatory framework is that the result during the first part of the operation of a concession or a PPP would be very negative and would artificially penalise companies. The negative consequences on the share prices of companies involved in these activities are self-explanatory.

Such developments place those companies affected in an embarrassing situation as regards the closure of their 2004 accounts and the opening of their 2005 accounts.

Today it is clear that:

1. no solution will come from IASB and IFRIC before the end of 2004;

2. in view of the most recent IFRIC positions, which will be recorded in the "draft exposure" announced for the beginning of 2005, it is certain that no satisfactory interpretation of the standards as currently worded will be possible;
3. IFRIC is signalling the "beginning of 2006" as a possible date for the application of the provisions contained in the "draft exposure".

In conclusion, FIEC requests the EU Commission to take the following necessary and urgent actions without further delay :

a) Application of the IAS/IFRS standards on 1 January 2005:

No formal procedure aiming at a derogation for concessions/PPPs from Regulation 1606/2002 will provide a timely solution for the 1st January 2005.

Consequently, FIEC asks the EU Commission to exercise appropriately firm pressure on IASB, IFRIC and EFRAG, in order to obtain from these bodies a factual exception of application of the IAS/IFRS standards in their present state in respect of concession and PPP activities and consequently to maintain the application of the rules currently used in national practice beyond 1 January 2005, until such time as a specific accounting rule is established.

b) Standard for concession activities:

FIEC also asks the EU Commission to exercise adequate pressure on IASB, IFRIC and EFRAG, in order to make sure that, without waiting for the results of the survey regarding the "draft exposure", all the necessary actions for the elaboration of a specific standard for these activities be forthwith undertaken. Such a specific standard should be based on a homogeneous and practical accounting methodology, that would facilitate the necessary development of infrastructure within the European Union.

We are at your disposal for any complementary information you or your services may require.

Wilhelm Küchler

cc.: **M. Jacques Barrot**, Vice-President of the European Commission in charge of Transport
M. Joaquín Almunia, European Commissioner in charge of Economic and Monetary Affairs

Letter from Commissioner McCreevy to President Küchler

2/2/2005

CHARLIE MCCREEVY
MEMBER OF THE EUROPEAN COMMISSION

B-1049 BRUSSELS

Brussels, 02.02.2005 D/000224

Mr Wilhelm Küchler
President
European Construction Industry Federation
Avenue Louise 66
1050 Brussels

Dear Mr Küchler,

I would like to thank you for your letter dated 22 December 2004, in which you express your concern about the unsolved accounting issues in respect of service concessions and Public-Private Partnership (PPP) activities under International Financial Reporting Standards (IFRS) and the necessity of a transitory solution for 2005.

As you know, a draft interpretation is about to be elaborated by IFRIC, which, to our knowledge will be published in February 2005 at the earliest and which is likely to suggest that any final interpretation should be applied from 1 January 2005 onwards. As a result, it is clear that neither the final IFRIC interpretation nor a workable draft IFRIC interpretation will be available in spring 2005, leaving companies without any guidance for the first time application for the company's financial year starting on or after 1 January 2005.

Following an invitation from the Commission, EFRAG, the European Financial Reporting Advisory Group, set up a working group on service concessions associating the European construction industry, auditors and users of accounts in 2004 and also sent to IFRIC a letter dated 18 November supporting your view for 2004 and 2005.

The Commission understands FIEC's point of view, but neither the Commission nor EFRAG are standard setters. IFRIC, however, has not yet decided about the EFRAG proposal. In order to draw the attention to the urgency of this matter the Commission has recently sent a letter to the Chairman of the IASB.

Furthermore, the Commission has sympathies for your view that, in the long run, the various interpretations drafted by IFRIC should be transposed into a proper accounting standard addressing the issue in a more comprehensive way.

I can assure you that my services will continue to actively monitor any significant development in this area, with a view to ensure that the harmonious development of this important sector of the European economy is not hampered by accounting rules which do not take into account economic reality.

Yours sincerely,



Charlie McCreevy

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. Ricardo Cortes

Sub-commission SOC-3

“Economic and Social Aspects of Employment”



Chairman: Mr. André Clappier, F

Rapporteur:
Mr. Jean-Charles Savignac, F

Foreword

I am delighted to be able to report another very busy and successful year for the Social Commission.

Throughout the last twelve months the Commission, largely working through the three Sub- Commissions has concentrated on a programme of activities clearly identified in the Business Plan as being those of greatest importance to our Members. Further prioritisation of those key issues has come from a supplementary survey of Members needs towards the end of 2004 which resulted in a very good response level and it has been particularly pleasing to be able to record increased levels of response throughout the year from the Member Federations to a variety of requests for help and information. It is only through this vital flow of information that both staff and Commission members can fully appreciate the views and positions of the Member Federations. Every contribution is important and I would like to take this opportunity to thank all those who take the time and trouble to respond to the various requests. I am optimistic that we shall see further improvement in this trend in the year to come.

Two key issues for the Commission at the present time are the Posting and Services Directives where the full report shows we have taken every opportunity to make a strong case on behalf of our industry. Through active participation in seminars, presentations at European Parliament Committees, a dinner debate with key MEP's and most recently a meeting with Commissioner Spidla, Social Affairs Commissioner, I believe we have been able to convince many important decision makers of the validity of our case. Such work, often carried out jointly with our Social Dialogue partners is at the very heart of FIEC's activities and will continue unabated until we have achieved the right result for all our Members.

Two further highlights during the year were the very successful Thematic Visit to London and the key role that FIEC played in the closing event in Bilbao (Spain) for the European Year of Safety and Health for the Construction Sector. Both events clearly demonstrated very different ways in which our industry is aiming to move forward but they also issued strong challenges to FIEC in the future. Our aim will be to respond very positively to those challenges in the months ahead.

Much of the work of the Social Commission is carried out in close co-operation with our Social dialogue partner EFBWW with whom we continue to have a very close working relationship and whether in the field of vocational training, health and safety or social employment it is also most encouraging to receive such strong support from the European Commission for our joint activities for which we are most grateful. We are also becoming increasingly aware that the construction sector is at the forefront in delivering clear and practical benefits for everyone in our industry through the social dialogue process. Inevitably we concentrate on those issues where we are able to reach agreement with our Partners but as we look forward to the year ahead I remain confident that we can make further considerable progress and remain as a sector pre- eminent amongst our peers.

Finally may I sincerely thank the Social Commission's Executive President John Stanion, Messrs. Alfonso Perri, José Gascon y Marin and André Clappier, respectively Chairman of SOC-1, Soc-2 and SOC-3, as well as all those who have given their time and effort to the work of the Social Commission and the three Sub - Commissions during the last year and to the staff who have worked tirelessly for the benefit of all our Members. Looking to the future, the issues are clearly set out before us and concentrating as always on achieving actual results, I have every confidence we can look forward to an other enjoyable and successful year, building on the many achievements of the last twelve months.

Peter Andrews

SOC-1: Vocational training

The vocational training sub-commission'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 the 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 2004–2005:

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 since 2002, the FIEC SOC Commission has organised thematic visits outside Brussels to training centres and "flagship" construction sites which have demonstrated 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 normally last one to two days and bring together around 20-30 participants from various countries of the European Union and the candidate countries. They are financially supported by the European Commission's DG Employment. Hitherto, four 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, a third one in Erfurt (Germany) at the invitation of HDB (Hauptverband der Deutschen Bauindustrie, Landesverband Hessen-Thüringen) in September 2003 and a fourth one in London (United Kingdom) at the invitation of the Construction Confederation in November 2004.

- 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 fourth thematic visit in London focused specifically on the actions being taken by the UK construction industry to tackle issues relating to the integration into the work force of foreign

immigrant workers and improving recognition of their qualifications. The participants were presented with explanations of how the UK construction industry is qualifying its workforce and how workers are being tested under the newly developed "Assessed Route" (skills assessment test) as well as under the computerised Health and Safety Test. They were also presented with the plans being developed between the industry and the Home Office to integrate foreign workers into the UK competence systems. The event took place within the London Docklands, one of the largest redevelopment projects in Europe built on reclaimed land, which was also an opportunity to learn more about the Docklands.

This visits have provided a great opportunity for contractors, training managers and staff members in the federations to exchange views on the spot and collect new experiences, which in turn can be useful for developing their own projects. These visits have also enabled representatives from the new EU accession Member States/countries as well as from the candidate countries to learn about new practices and set up training projects on a collaborative bilateral basis at the European level, aimed at improving vocational training in the sector.

Members of SOC-1 are in favour of continuing with further visits: two additional visits are likely to take place in 2005 and 2006, one in a Nordic country, another in one of the new EU country.

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

Social dialogue

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

The aim of this project is to encourage the mobility of workers within the European Union. The project will consist of preparing a "transparency" document which will clearly show the qualifications of a worker so that these can be recognized by an employer in an EU country other than the country of origin of the worker. The project is initially limited to one trade within the sector, namely bricklayers.

Due to a lack of resources in EFBWW and FIEC, the project was delayed after the objectives and a methodology had been set up. In the meanwhile however, contacts have been taken with the CEDEFOP and the European Commission to update FIEC's understanding of the initiatives undertaken by the Commission in this matter. A Commission representative attended the last social dialogue working group on vocational training on 20 December 2004, to present what had been done by the Commission in this field to date. Contacts are

also being organised with the REFORME network, which brings together representatives of vocational training centres in the construction sector from all over Europe, in order to compile the input of these practitioners.

SOC-1 members have also sent to the FIEC secretariat, their national credentials for the profession of mason (qualifications which bricklayers are expected to hold), in order to build up an initial comparison. Simultaneously, they are also continuing to examine the initiatives taken at national level to improve the recognition of qualifications in the sector, ranging from cards listing qualifications to databases on the crafts in the sector and the competences those crafts require. They have recently examined the "Europass" tool developed by the European Commission, the use of which has been promoted through their member federations.

3. Improvement of Health and Safety Training

The improvement of Health and Safety Training has been identified by FIEC and the EFBWW as one of the solutions to improve Health and Safety culture on construction sites. In their joint declaration issued in Bilbao on 19/11/2004 on the occasion of the closing event of the "Year of Health and Safety in the construction sector (2004)", they agreed that changing the attitude of everyone concerned and creating a genuine health and safety culture, required:

- the integration of health and safety into all education and training systems, as well as regular information campaigns, in order to increase risk consciousness and awareness,
- specific programmes for youngsters.

In view of achieving specific progress in this area, FIEC and EFBWW made a commitment to urge their member organisations to take adequate action at the national level and to use their entire communication network for disseminating health and safety information. They also agreed on lobbying national education ministers in order that they introduce health and safety training at all levels of education, as well as improving the recognition of both health and safety and skills training between EU countries.

In parallel, FIEC and EFBWW have agreed to be project partners in a Leonardo da Vinci project aimed at developing innovative approaches for education and training in the field of safety and health at work. The project should result in a website presenting good practices, providing information and tool-boxes for teachers and trainers. FIEC should contribute to this project in the exchange of experiences and in the dissemination of the outcome of the project. The other health and safety aspects are being dealt with in Sub-Commission SOC-2.

4. Attracting young people into the sector

The social partners in the construction sector, FIEC and EFBWW received another boost on 22nd March 2005 to their long-term and ongoing efforts to attract more young people into the sector.

This came in the form of an appeal by several Heads of States and Governments in the context of the European Council discussions concerning the revitalisation of the Lisbon Strategy. For their part, FIEC and EFBWW contributed a joint declaration to the subsequent "Youth Pact" organised by the European Commission on the occasion of the European Social Summit and the European Council on 22nd -23rd March 2005 (see the annex enclosed).

SOC-2: Health and safety

The role of SOC- 2 is to improve Health and Safety in the construction sector through the development of adequate 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.

The following topics and projects have been given high priority in 2004-2005:

1. Consultation of the European Commission on Musculo-skeletal disorders

Musculo-skeletal disorders (MSD) are a significant health and safety problem afflicting European workers today. It is not only unfortunate for the well-being of the workers themselves, but is also eroding Europe's competitiveness and causing significant economic losses. The European Commission carried out a consultation in November 2004, in order to establish the causes and consequences of Musculo-skeletal Disorders, as well as the measures that should be adopted in order to address them.

From their experience at company level, and considering that the existing legislative framework at national and EU levels is appropriate and sufficient, a majority of FIEC member federations were not in favour of an EU initiative in this area. Since Musculo-skeletal disorders have many causes, and since each sector has its own specificities, they considered that the prevention of Musculo-skeletal disorders would be better organised in a very practical way at the level of each individual sector, with the use of guides to be implemented on a voluntary basis.

MEP Stephen Hughes, EU Director General for Employment Odile Quintin, Mascot of the campaign, EOSHA Director Hans-Horst Konkolewsky, FIEC Director General Ulrich Paetzold. Brussels, 19/10/2004, launch of the European Construction Week for H&S



on construction site, ...



... and during the subsequent press conference in the European Parliament, Brussels.

FIEC has put member federations' answers into a FIEC position paper enclosed herewith (published on 31/1/2005).

Social dialogue

2. Research project on stress at work

Following the consultation by the Commission on stress at work, EFBWW launched a project on "stress" and FIEC participated in the steering group responsible for piloting the project. The aim of this initiative was to study the extent to which the construction sector is affected by stress.

The study was sub-contracted to a research institute, CLR and financed by the European Commission. The results of the study, which contains a general analysis on the impact of stress on the human being and five national reports related to stress in the construction sector, were presented and discussed during a FIEC-EFBWW seminar in Antwerp (Belgium) on 8/10/2004. Peter Andrews (Construction Confederation, UK), FIEC Vice President and President of the FIEC SOC Commission, attended the meeting on behalf of FIEC, along with José Gascon (SEOPAN, Spain), Chairman of SOC-2. The statistics provided were considered as being rather satisfactory for the construction sector. The result of the study indeed showed that a majority of workers in the construction sector didn't feel stressed. More worrying, the study also showed that more than one third of those workers didn't consider construction sites as dangerous places to work.

As a follow-up to this FIEC-EFBWW research project and seminar, an EFBWW proposal for a joint framework agreement on the fight against occupational stress in the construction industry is under discussion. If adopted, this document would lead to a FIEC-EFBWW declaration on stress, in line with the agreement on work-related stress signed by UNICE, ETUC and CEEP at the cross-sectoral level in October 2004 (which should be implemented by all their members!).

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 was to raise the awareness of everybody concerned in the construction sector about the need for correct protection and prevention measures against accidents at work. This campaign also intended to promote good practice solutions in all EU-countries.

In 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 was launched on 30 April 2004 in Dublin (Ireland). On this occasion, FIEC and EFBWW, the social partners in the European construction industry issued a joint statement, highlighting that only the joint efforts of everyone in the entire production chain, from clients, architects and suppliers



FIEC Vice-President Peter Andrews, EOSHA Director Hans-Horst Konkolewsky and EFBWW Chairman "Building Committee" Ernst-Ludwig Laux. Closing event of the European Week for Health and Safety in the Construction sector, Bilbao, 22/11/2004

to those most directly concerned, namely construction enterprises and workers, will achieve the best possible results in reducing the number of accidents.

All FIEC members were then encouraged to organise actions at national level throughout the year to raise awareness and disseminate the information and the documents produced by the Agency, especially on the occasion of the European Week taking place on 18-22 October 2004, which was destined to be the principal event planned during the campaign.

The campaign was formally closed in Bilbao (Spain) on 22 November 2004. All FIEC members were also invited to participate in the meeting which brought together 500 leading European experts and decision-makers to discuss future Health and Safety strategies. A joint FIEC-EFBWW declaration was adopted on this occasion, in order to raise the awareness of everyone in the building process about the need to take adequate measures for the prevention of accidents at work (see the annex enclosed). In the working programme attached to the declaration, FIEC and EFBWW agreed to inform the designers of the need for proper inclusion of health and safety measures in the design of structures as well as in contract conditions, and to lobby national education ministers in order that they introduce health and safety training at all levels of education and to improve the recognition of health and safety training and skills training between EU countries. Please refer to the political commitment in the annex.

4. 2005: European Year on Noise

The year 2005 is to be known as the "year of noise". The European Agency for Health and Safety at work is organising a campaign to raise the awareness of everyone concerned about the need for correct protection and prevention measures against noise at the workplace. Since also the construction sector is concerned by this problem, FIEC and EFBWW are associated yet again in the preparation of the campaign by the European Agency. FIEC member federations are strongly encouraged to contact the Agency's national focal points in order to organise actions on this issue during 2005.

5. Negotiation of a social dialogue agreement on Respirable Crystalline Silica

On 26 March 2004, the European Commission launched a consultation on a possible enlargement of the scope of the Directive on Carcinogens at Work (90/394/EEC) to include diesel exhaust fumes, passive smoking and crystalline silica.

Following this consultation, the European Commission is expected to revise the Directive on Carcinogens at Work(90/394/EEC). EUROSIL, the European Federation of Silica Producing Industries and IMA Europe, the European Minerals Industry Association, strongly opposes the Commission's expected proposal for adding a binding limit value for Respirable Crystalline Silica in the Directive. They propose instead that preventive measures should be taken and that a social dialogue agreement should be adopted by the social partners of the industries which produce, consume or use materials and products containing silica, in order to guaranty that those preventive measures are enforced. Provided that such a social dialogue agreement is signed by the European social partners of the industries which produce, consume or use silica, the EU Commission would then be unlikely to mention silica in its forthcoming proposal for a revised version of the Directive on Carcinogens at Work.

Against this background, IMA Europe has invited the European industry associations that consume and use materials and products containing silica to participate in a Silica Task Force and in a social dialogue agreement aimed at publicizing the support of the industries producing or consuming silica for a Good Practice Document and their agreement to implement it.

After consulting its member federations, FIEC decided in November 2004 to join the task force despite a certain scepticism from some member federations.

SOC-2 members have examined the proposal for an agreement drafted by IMA Europe, along with the draft Good Practice Document. Negotiations with the European Federations representing the industries which produce and consume silica should begin in May 2005 and be finished before the end of 2005. EFBWW still has to take its own decision as to whether it should join or not. FIEC's participation would not make any sense, should EFBWW decline the offer to join the task force.

6. Additional translations of the Good Practice Guide on coordinating on-site health and safety

The Good Practice Guide on coordinating health and safety on-site was produced in 2002 by FIEC and EFBWW with a view to assisting firms, especially SMEs, in implementing more effectively the Directive on mobile construction sites (Directive 92/57/EEC of 24 June 1992) and to reduce the number of occupational accidents. It is now available on paper as well as on the FIEC website. FIEC asked the European Commission to fund additional translations of the Guide in September 2004. Some funds have been granted which will provide for translations into Hungarian, Slovak, Slovene, Portuguese and Turkish and one additional EU language. Work is currently being processed with the support of the FIEC member federations concerned and should be completed before the summer break. The newly translated guide will then be disseminated to construction enterprises by the FIEC member federations which had requested the translations. It should contribute to the prevention of accidents at work.

These new translations of the Good Practice Guide and an additional EU Guide on Working at Heights may be used at a later stage to organise health and safety training sessions in the new EU Member States in order to help the FIEC member federations in those countries with the implementation and application of the legal 'acquis communautaire' in the field of health and safety.

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 are a key factor in improving the image of the sector.

The following topics and projects have been given high priority in 2004-2005:

1. Reaction to EU consultation/ legislation

a) Working time

The EU Commission launched a broad consultation on Directive 93/104/EEC on Working Time aiming at reviewing the directive in the context of the question of the 'opt out'. FIEC answered the two stages of the European Commission's consultation in April 2004 and in July 2004 respectively.

In October 2004, the EU Commission issued a proposal for a revision of the Directive. A FIEC position paper on the Commission's proposal was drafted on the basis of responses received from the member federations.

FIEC members are in favour of the introduction of some limitations in order to rationalize the use of the derogation from the maximum weekly working time (known as the "opt out"), which will ensure better health and safety conditions for workers. Although the proposals provide for an extension of the reference period for the calculation of the maximum working time of 48 hours, FIEC members would have preferred the annual reference period to be directly applied, replacing the 4 months foreseen in the Commission's proposal. Finally, in the event of derogations to the daily and/or weekly rest periods, FIEC is opposed to the introduction of a period not exceeding 72 hours prior to granting a compensatory rest period to workers. The obligations for an enterprise in terms of organisation have to be taken into account and FIEC members would prefer no limitation in time to be mentioned, or otherwise, to make provision for a longer period.

The FIEC common position was disseminated in April 2005 to the Members of the EU Parliament and to the EU Commission (see the annex enclosed).

b) Temporary Workers

This proposal for a directive on Temporary Agency Workers COM (2004)0607 aims at providing a minimum level of protection to temporary agency workers whilst helping temporary work develop as a flexible option in the labour market.

A FIEC paper was developed in May 2002 and submitted to the European Parliament prior to the first reading. Most of the major concerns of member federations expressed have been taken into account by the EU Parliament in its first reading (22/11/2002). Following the Commission's revision of the proposal, the FIEC working group revised its position and a second FIEC position paper was adopted in April 2004.

In this document, FIEC recalls that its central preoccupation is the maintenance of fair competition where cross-border activities are concerned and draws the attention of the European Institutions to the fundamental importance, where the construction sector is concerned, of Directive 96/71/CE relating to the posting of workers. Consequently, it should be guaranteed in the modified proposal of the Commission, that the national implementation of the posting directive is respected without exception for temporary workers who are actually being posted. FIEC also recalls in its position paper that 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.

The text is currently blocked in the Council. FIEC's position expressed in the second position paper (see the annex enclosed) will be reasserted as soon as the second reading begins.

Social dialogue

2. Supplementary pensions fund

The European Commission launched a two phase consultation on the portability of pension rights in 2002 and 2003. FIEC's response to this consultation was that an EU initiative in this field should in not in any way interfere with the organisation of supplementary pensions arrangements in the Member States, but could consist of an exchange of best practices and information on the experiences developed by Member States through creating links between different supplementary pension schemes at the national level.

Following this consultation, FIEC and EFBWW agreed in June 2004 on working together at sectoral level on the issue of the portability of supplementary pensions rights (multi-annual work programme 2004-2006).

Further to this agreement, EFBWW decided to apply for a EU financial contribution to launch a study aiming at clearly identifying the cross-border obstacles facing supplementary pension schemes in the construction sector (such as grace periods, minimum age requirements...). FIEC agreed to participate in the steering committee for this project, which will be developed with the support of some experts from the EAPI.

The European Commission intends to issue a proposal for a directive on supplementary pension schemes before the summer of 2005. Such a study would complement the impact study already produced by the Commission in view of the forthcoming directive and provide FIEC members with a description of the current functioning of portability of pensions in the sector.

3. Exchange of best practices: Undeclared labour

The shadow economy has numerous negative consequences for the sector, ranging from unfair competition due to the breach of collective agreements on the minimum wage and statutory obligations, to random compliance with health and safety rules.

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

The FIEC working group set up to deal with undeclared work has drawn up a preamble and the first part of a possible guide of best practices. 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 towards workers and especially immigrants, as well as the involvement of the social partners. The idea of the guide is not to generalise national practices, which do not necessarily suit all countries as well as creating new obligations for enterprises, but rather to encourage the FIEC member federations, enterprises and public authorities to take actions against undeclared work.

An agreement has been reached on the preamble (see the annex enclosed) but some obstacles remain as concerns the content of the guide. A working group was nominated to deliver a draft text as soon as a possible. Once an agreement is reached between the FIEC members on the content of this text, FIEC will involve EFBWW. During the first Social Dialogue Working Group meeting on "Employment", it was decided that a FIEC-EFBWW Working group would be set up to discuss a joint forthcoming document.

4. Posting Database

Following the work carried out on directive 96/71/CE on posting in the mid 1990's, FIEC has identified the need to create a database, in order to facilitate the posting of workers within the European Union. This database is intended to gather together (via links to national websites) the national legal and conventional provisions which have to be respected during posting. The aim of this 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.

A draft database has been set up by FIEC on the basis of information received from the member federations. It includes information on minimum wages, holiday pay, compensation for bad weather and working hours. To ensure there is a uniform and consistent presentation of the data, it was decided to appoint an external consultant and the FIEC secretariat applied for a Commission grant to financially support the initiative.

A FIEC-EFBWW joint seminar on posting was arranged on 15-16/10/2004 in the Netherlands to present and discuss the outcome of an EFBWW research project on the practical implementation, achievement and impact of the posting directive 96/71/EC. This seminar provided participants with a lot of material input and many opportunities to exchange their experiences on the implementation of the directive. The discussion identified some difficulties encountered at national level underlining also the need to create a posting database.

SOC INPUT to horizontal issues

1. Services in the internal market

The sub-commission provided expert input for the FIEC position papers on social matters/ posting and the corresponding FIEC/EFBWW joint statements (for full details and enclosures, please refer to the chapter on the "Services Directive"). At the time of drafting this report, FIEC and EFBWW are working on a third joint statement, which will point out the dangerous consequences of the proposed interdiction of check and control measures on health & safety at the workplace. The close relationship of these two issues has been established by SLIC, the Senior Labour Inspectors' Committee, organised by the EU-Commission, in their recent report.

JOINT STATEMENT
of the European Construction Industry's Social Partners on Young People
 4/3/2005

[...]

EFBWW and FIEC agree as follows:

THAT WHEREAS

- in order to be able to effectively carry out construction works and to remain a competitive and innovative industry, the recruitment of qualified young people is vital for the sector; and
- that promoting a more attractive image of the sector is fundamental to attracting young people who should be encouraged to choose education and training schemes which properly prepare them for a career in construction; and
- that young people, on completion of their training, must by all means be encouraged to remain in the sector once having entered it.

HEREBY CONFIRM their long term involvement in favour of young people, as has already been demonstrated by the two joint initiatives recently undertaken by the Social Partners, namely:

- the promotion of tutorship schemes through the industry with the aim of improving the mentoring and retention of young workers in the sector; and
- the organisation of an exchange of best practices during the construction social dialogue committee meeting held on 7/3/2005 as concerns activities in favour of young people developed at national level by certain member federations.

HEREBY AGREE to implement the following initiatives through their member federations:

- the provision of adequate information to young people about the construction sector in such manner as to raise the image of the sector and thereby attract them;
- the promotion of education and training programmes to ensure an adequate level of qualifications among young workers
- to encourage and to motivate young workers and ensure their employability inside the sector through continuous training;
- the provision of supporting measures for young people to assist them in obtaining employment in the construction sector;
- the continuation of awareness raising initiatives among employers towards lifelong learning, career development and the job security of young people.

RECALLS that in some EU countries, many young people are without employment while, at the same time, the construction industry faces difficulties in recruiting young and adults able to be successful and qualified in the sector. This high level of youth unemployment is a supplementary reason to develop specific actions aimed at achieving tangible progress.

[...]

Harrie Bijen
Secretary General
EFBWW

Ulrich Paetzold
Director General
FIEC

Letter from the EU-Commission, DG EMPL, to the Social Partners
19/4/2005



EUROPEAN COMMISSION
EMPLOYMENT, SOCIAL AFFAIRS AND EQUAL OPPORTUNITIES DG
Adaptability, social dialogue and social rights
Social dialogue - Industrial relations - Adaptation to change

19.04.05-005846

Brussels,
EMPL/JM/AS/ag D(2005)9322

Mr Harrie Bijen
EFBWW
Rue Royale 45, boîte 3
B-1000 Brussels

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| FIEC - BRUXELLES | | |
| REC: 25-04-2005 | | |
| | | |
| | | |

Mr Ulrich Paetzold
FIEC
Avenue Louise 66
B-1050 Brussels

Dear Mr Bijen, dear Mr Paetzold,

I would like to thank you most sincerely for your joint statement submitted to the Commission in support of the European Youth Pact adopted by the European Council last month.

The social partners play a key role in obtaining the Lisbon objectives of full employment and job quality. With regard to the demographic situation of the European Union, initiatives to integrate young people on the labour market are getting increasingly important. In this context, the sectoral social partners can bring substantial contributions, based on real knowledge of the situation on the ground.

I am therefore particularly pleased to have received your contribution to the Youth initiative, which confirms the commitment of the sectoral social partners to the EU objectives with regard to the Youth Pact as well as your capacity to bring forward timely and useful answers to the challenges in this regard.

In addition, the issue is included in the work programmes of several Sectoral Social Dialogue Committees, and I am looking forward to the results of these discussions.

I would like to congratulate you again to your initiative and wish you every success with its implementation.

Yours sincerely,

Jackie MORIN
Head of unit

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Telephone: (32-2) 299 11 11.

<http://europa.eu.int/>
E-mail: Jackie.Morin@cec.eu.int

FIEC position on the Commission's first-phase consultation of the social partners on musculoskeletal disorders at work
31/1/2005

[...]

FIEC strongly supports all initiatives the EU takes aimed at improving the health and safety of workers in the EU and in this context, welcomes the Commission's consultation on musculoskeletal disorders at work and wishes to convey the following observations on behalf of the construction industry.

I/ EXISTING LEGISLATIVE FRAMEWORK

Council Directive 89/391/EEC establishes general prevention principles applicable to all occupational risks, including musculoskeletal disorders and ensures that the health of the workers are regularly checked and properly protected. Musculoskeletal risks are also addressed in several other individual health and safety directives (Council Directives 89/654/EEC; 89/655/EEC; 90/269/EEC; 2002/44/EC). Legislation adopted at national level, including legislative instruments implementing these directives, cover many issues including minimum safety and health requirements at the workplace, use of work equipment, manual handling of loads, exposure of workers to the risks arising from vibration, etc. From their experience at company level, FIEC member federations thus consider that the existing legislative framework at national and EU level is appropriate and sufficient.

II/ POSSIBLE INITIATIVES TO BE TAKEN AT THE EU LEVEL

Taking into account the above mentioned elements, a majority of FIEC member federations are not in favor of an EU initiative in this area. Since musculoskeletal disorders have many causes and since each sector has its own specificities, a regulation appears not to be appropriate in this case. The prevention of musculoskeletal disorders would be better organized in a very practical way at the level of each individual sector, with the use of guides to be implemented on a voluntary basis.

III/ PRIORITY PREVENTIVE MEASURES

With a view to organizing prevention of musculoskeletal disorders at sectoral level, FIEC member federations consider that priority should be given to the following preventive actions:

- Better knowledge and analysis of musculoskeletal disorders
- Technical and technological improvement measures (for example, decrease of the weight of loads)
- Implementation of training measures at an early stage
- Changes in the organization
- Ergonomic modifications, in particular on tools used on work sites (machines, packaging).
- Organization of regular health checks

IV/ NEED FOR A BINDING INSTRUMENT

FIEC member federations thus confirm that EU legislation is not necessary to upgrade the European health and safety standards as regards musculoskeletal disorders. Considering that measures initiated by the sector itself are more practical and usually more efficient, FIEC members are in favor of initiatives agreed between the Social Partners, such as the use of European guidelines, leading to real progress on site.

[...]

**JOINT DECLARATION
of the European Construction Industry's Social Partners
on the occasion of the European Health & Safety Summit 2004 in Bilbao
22/11/2004**

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,

- confirming their Joint Statement issued in Dublin on 30th April 2004 and
- considering that the safety of workers at the workplace
- constitutes their principal concern with respect to the conditions of employment
- contributes both to the productivity of workers and to the competitiveness of the sector,

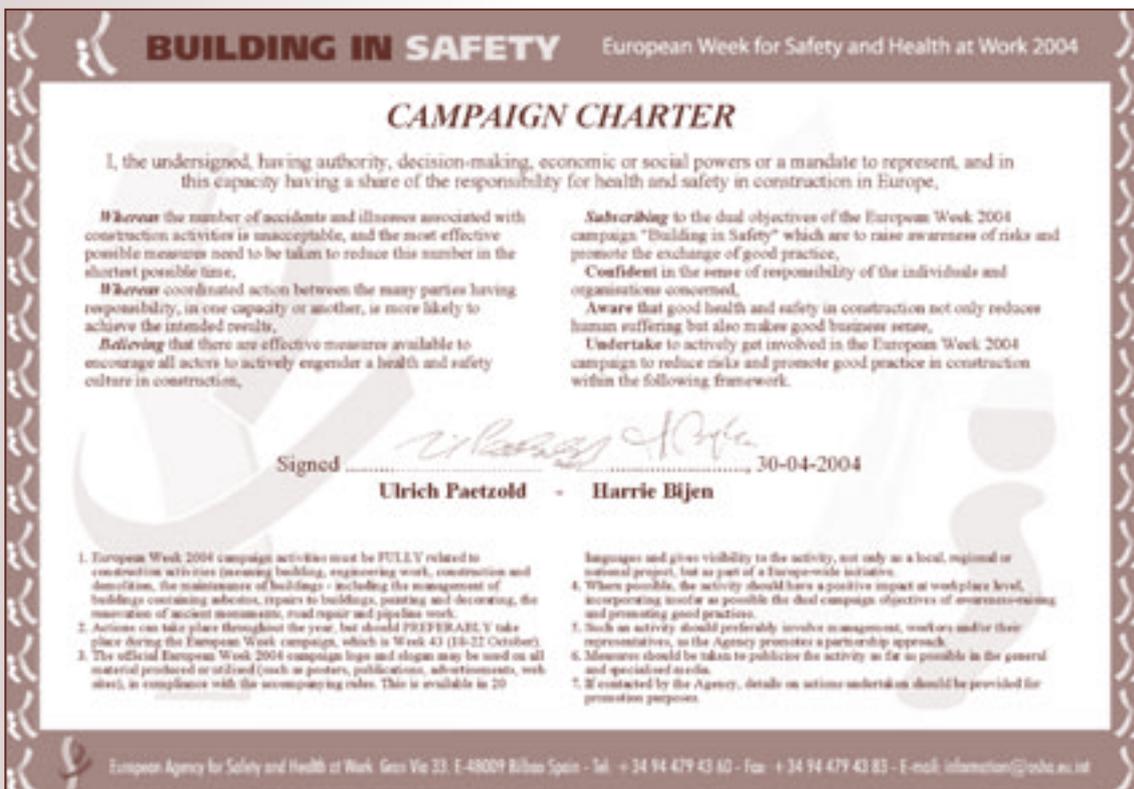
1. re-confirm their long-standing and on-going determination to contribute to a continuous real improvement of the sector's health and safety records,

2. agree on the following points:

- the only acceptable accident figure is "zero". Although, realistically seen, this is an unlikely figure to be achieved, it remains a general vision, carried by a "zero tolerance" approach,
- real progress is necessary, based on good regulations,
- prevention is better than reaction: design, planning, preparation and execution, all have to take H&S into consideration
- changing the attitude of everyone concerned and creating a genuine H&S culture, requires the integration of H&S into all education and training systems, as well as regular information campaigns, in order to increase risk consciousness and awareness,
- specific programmes for youngsters are necessary,
- finally, real progress on construction site depends on the committed collaboration of everyone involved, everyone in his sphere of influence, from the client to architects, engineers and contractors to the workers most directly/ personally concerned.

3. and, on the basis of their joint working programme, take a firm commitment

- to undertake all necessary action at the European level, in their Social Dialogue,
- to urge their member organisations to take corresponding action at the national level and
- to use their entire communication network for disseminating H&S information



FIEC position on the Commission's proposal for a Directive amending Directive 2003/88/EC concerning certain aspects of the organisation of working time
14/4/2005

[...]

FIEC has closely followed the European Commission's work as regards the revision of the Directive 93/104/EC responding to the two previous consultations by setting out clearly its position on key elements of the draft Directive. The following are FIEC's latest comments on the key amendments proposed:

1. As concerns the revised proposal for the revision of the Directive's first objective, FIEC members are in favour of the introduction of some limitations in order to rationalize the use of the derogation from the maximum weekly working time (known as the "opt out"), which will ensure better health and safety conditions for workers. Nevertheless, certain FIEC members recall that several of these conditions will bring supplementary constraints that are particularly difficult for SMEs to bear.

FIEC considers inappropriate the priority given to collective negotiation in this area. Thus, the Commission indicates that the derogation from the maximum weekly working time is possible by means of an agreement between the employer and the worker, only in the absence of collective agreement in force or if there is no representation of workers able to conclude such an agreement. Certain members raise objections that even where a collective agreement exists, the individual consent of the worker remains necessary.

2. As concerns the reference period for the calculation of the maximum working time of 48 hours, although the proposals provide for an extension of such period, FIEC members would have preferred the annual reference period to be directly applied, replacing the 4 months principle period. Furthermore, some members would have liked a possible extension to 24 months (2 years). In fact, as FIEC has already indicated in

its previous position papers, the characteristics of construction activities necessitate that enterprises make provision for considerable flexibility in the management of working time. Furthermore, insisting on the social partners' consultation before the possible extension of the reference period to one year, gives the social partners a real right of veto. This is of particular concern since it is not evident at the national level that, the social partners' dialogue will effectively enable such an extension.

3. FIEC members are in favour of the insertion of the two new definitions concerning "on-call time" and "inactive part of on-call time", as the proposal mentions that Member States will still have the opportunity to define, under national legislation, the inactive part of "on-call time" as working time. It is essential that Member States preserve their authority on this issue as some FIEC members are not in favour of considering the inactive part of on-call time as working time, because their relevant national regulation does not do so. However, certain members indicate that considering only the "on-call time" at the workplace as working time could lead to some difficulties in practice, even if problems linked to on-call time do not specifically concern the construction industry.
4. Finally, in the event of derogations to the daily and/or weekly rest periods, FIEC is opposed to the introduction of a period not exceeding 72 hours prior to granting a compensatory rest period to workers. Such a time limit is too short and undermines flexible working arrangements. The obligations for an enterprise in terms of organisation have to be taken into account and FIEC members would prefer no limitation in time to be mentioned, or otherwise, to make provision for a longer period (e.g. 4 weeks).

**PREAMBLE TO THE FIEC "CODE OF GOOD PRACTICES"
RELATING TO UNDECLARED WORK
12/2004**

[...]

Undeclared work has severe consequences both for enterprises and their employees. Not only does it compromise the efforts aimed at improving productivity but also, it slowly erodes the stability of well-established and registered companies.

Through its European and national federations, the construction industry has been active in the fight against undeclared work for many years. However, recognizing the need to intensify its efforts, FIEC recently decided to raise the profile of this struggle through making it one of its priority actions. FIEC is broadly aware of the scale of undeclared work and of its harmful consequences for the sector. Thus, FIEC decided to draw up a guide of good practices, and with this, initiate a public awareness campaign aimed at drawing attention to the scale of the problem and proposing measures to combat it.

In doing so, FIEC places its action in the political context of the European Council Resolution of 29 October 2003¹ which invites the social partners at European level "to consistently address the issue of undeclared work (...)".

A certain number of measures have already been undertaken by the FIEC member federations to combat undeclared work. Such country initiatives are presented in this new guide, which also attempts to collate the experiences of all concerned and how this can be combined to form a common approach to fight the phenomenon of undeclared work.

- By its very nature, The FIEC member federations recognize that it is difficult to quantify, in a precise and reliable manner the scale as well as the various components of undeclared work. The difficulty in determining its extent partly explains the challenge confronting the sector in establishing a policy for effectively combating this phenomenon.

However, the forces that drive undeclared work are widely known such, as the high cost of labour, mostly and in particular, its related on-costs such as social security charges, the imposition of value added tax and the rigidity and legal framework applicable to the proper employment of labour in most countries, the complexity of procedures and excessive bureaucracy, all of which have to be tackled.

- All FIEC member federations are convinced that, if it is to be effective, the fight against undeclared work requires both a global approach combining preventive and punitive measures and joint action by companies, federations and national and European authorities.

By way of prevention, most of the FIEC member federations would like the fight against undeclared work to entail, on the one hand, a reduction in tax and social security charges which weigh heavily on labour intensive activities, and on the other, increased flexibility in the labour market without, however, harming the protection of the rights of employees or their health and safety at work.

By way of punitive measures, all FIEC member federations are in favour of stepping up controls, improving cooperation among the various control bodies, especially as regards the exchange of information, as well as a strengthening of applicable penalties and their enforcement. In this context, the controls necessary to ensure compliance with the current rules should not be treated in the same way as barriers to the freedom of movement for workers and the freedom to provide services.

- Finally, the FIEC member federations call for a real change in attitudes towards the phenomenon of undeclared work. As an industry, we must destroy the perception that it is the illegal practice of undeclared work itself which pays dividends, in favour of promoting the reality that it is a fair and balanced labour market based on healthy competition respected and upheld by all concerned which guarantees construction firms healthy and satisfactory conditions of growth and prosperity.

¹ Council Resolution (2003/C 260/01) on transforming undeclared work into regular employment.

TEC



President:
Mr. Zdenek Klos, CZ

Rapporteur:
Mr. John Goodall, FIEC

Sub-commission TEC-1

“Directives, Standards
and Quality Assurance”



Chairman: Mr. Rob Lenaers, B

Rapporteur:
Mr. Eric Winnepenninckx, B

Sub-commission TEC-2

“Innovation and Processes”



Chairman:
Mr. Bernard Raspaud, F

Rapporteur:
Mr. André Colson, F

Sub-commission TEC-3

“Environment ”



Chairman:
Mr. Jan Wardenaar, NL

Rapporteur:
Mr. Niels Ruyter, NL

1. Introduction

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

- The completion of the internal market in construction products;
- The promotion of research and development. and
- "Sustainable construction" and environmental issues affecting the construction sector

The Commission continues with its practice of holding one plenary meeting each year, with the sub-commissions holding meetings as and when necessary.

It is with great sadness, that we have to record the untimely death of the Rapporteur of Sub-Commission TEC-1, "Standards and Quality Assurance", Frans Henderieckx (B-CC/CSTC), who served FIEC in this role from 2001 until his death in March 2005. We are fortunate to be able to count on the continued assistance of Eric Winnepenninckx who now officially takes over as Rapporteur of TEC-1. The year has also seen the appointment of a new Chairman for Sub-Commission TEC-3 "Environment", Jan Wardenaar (NL) following the resignation of Terry Penketh (UK), while André Colson (F) and Niels Ruyter (NL) have been appointed Rapporteurs of sub-commissions TEC-2 and TEC-3 respectively.

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 "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 2005, a total of 351 product standards had either been formally approved or had reached the formal vote stage of which 154 had been cited in the Official Journal. A further 127 had either passed - or had reached - the CEN enquiry stage, whilst a further 60 were under preparation for CEN enquiry.

These figures indicate that 16 years after the enactment of the directive, progress is reaching the point where a critical mass of standards is effectively now available and the CE Marking of a considerable number of construction products should be possible.

Indeed, CE Marking is now mandatory for products falling under 125 standards.

The Commission is now beginning to look forward to the first revision of the Directive since it was initially adopted in 1989, but to date there have been no real indications what direction this might take. It appears unlikely however that any proposed revision will make any tangible progress until the proposed revision of the "Global" and "New" Approaches (see point 4 below)

3. CE and Voluntary Marking systems

This topic was a principal focus of attention during the period 2003-2004, when FIEC adopted a number of position papers. One of these papers (included with last 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.

Of particular concern is the relationship between the CE Marking and voluntary marks - such as the CEN Keymark - in the context of public procurement, and whether a contracting authority can ask for levels of quality above that provided for by the CE Marking. In its position paper, FIEC has stated that if a contracting authority specifies a CE Marked product whilst calling in addition for conformity with the CEN Keymark, (which usually involves a higher level of attestation of conformity than that foreseen in the mandate for equivalent CE marked products), then that contracting authority risks introducing a barrier to trade by excluding from the market those products not also bearing the CEN Keymark. One way to overcome such a risk where CE marked products are concerned, would be to add the words "or equivalent", thus implying that the CEN Keymark would be just one way of demonstrating compliance with the client's additional requirements.

The initial verbal reaction of the Commission has been to state that the Court will always uphold published specifications included in tender documents even if they effectively constitute a barrier to trade. The CE Marking simply confirms that any product to which it is affixed may freely circulate unhindered in any of the EU member states. FIEC would welcome an official Commission decision confirming this verbal opinion in writing.

4. Revision of the "New" and "Global" Approaches

The Commission Services have informally let it be known that the first priority in responding to the Industry Council's resolution of 10 November 2003, will be to propose revisions to the so-called "New" and "Global" approaches. The fundamentals of the "New Approach" are based on 3 pillars, supporting the concept of the "essential requirements":

- level of safety
- conformity assessment
- market surveillance

These three pillars are inherently interlinked; the lower the level of safety, the higher the levels of conformity assessment and market surveillance that are required. The Commission Services have expressed the view that the procedures and arrangements for "European Accreditation" (EA) need to be strengthened and supported and administrated by a powerful authority established at the European level.

At the present time, the European Commission has no legal basis to undertake or administer market surveillance in the Member States. However, the Commission may be expected to propose a programme for market surveillance in the Member States organised and monitored by a new authority to be established at the European level. Moreover, the Commission will write the market surveillance requirements on behalf of Member States and in principle all of them (including apparently Germany and Austria which have no history of formal market surveillance systems) have already tentatively agreed to this proposed initiative. One consequence would be that the "safeguard clause" included in the New Approach directives would become what it was always supposed to be, namely an "exceptional procedure". The objective in this context would be to maintain activities as much as possible at the national level, with intervention at the European level taking place only exceptionally.

Also foreseen is the possibility of establishing an "executive agency" to deal with marking issues generally, but this would appear not to be a Commission priority for now.

5. CE Marking of the "non-series" production of construction products

It is in the nature of things that some problems never seem to find a definitive and satisfactory solution. The CE marking of custom-made construction products is evidently one such. This issue was discussed long before the CPD was adopted in 1989 and indeed according to the minutes of the meeting of the European Council when agreeing the text of the directive in 1988, the Council and the Commission agreed that *"where a product is intended for a single specific application, member states may authorise the use thereof even if it does not comply with the provisions of the Directive"*.

If these words had been written into the Directive itself rather than in the minutes of the Council meeting, the on-going and seemingly endless debate as to whether SMEs and craftsmen should be obliged to affix the CE Marking to purpose made construction products such as staircases, doors and windows produced in small quantities, would never have been necessary. Rather, Article 13.5 of the Directive states that:

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

This wording most certainly does not exclude the possibility of CE Marking custom made construction products. Moreover, by leaving open the possibility, it opens the door to defining what does - and what does not - constitute "individual and non-series production". Finding a satisfactory answer to such a question brings to mind the story of the "Judgement of Solomon". Furthermore, many craftsmen might well add that such a discussion is in reality a waste of time, since they either will or will not affix the CE Marking to their products and sell them in any event.

However, where there is an exception to the rule, it is more or less a foregone conclusion that someone will be caught by the wording of the Directive and sure enough, that is exactly what has happened in this case; namely an SME specialist fire-door manufacturer who produces both standard fire doors as well as custom made fire doors on a semi-industrial basis in relatively small quantities, including some that are "one-off" purpose-made items. For such SME's the introduction of CE Marking raises the spectre of either an astronomical increase in costs and selling prices of doors in order to comply with

all the additional testing requirements, or bankruptcy. Surely this was never the objective of the CPD?

This is an example of how an apparently irrelevant anomaly for most can easily develop into a nightmare for others, and in large part explains why FIEC's position paper on this topic runs to 4 pages! In conclusion, FIEC has therefore recommended that the potential difficulties arising should be anticipated and addressed in drafting the scope of the harmonised technical specification (whether hEN or ETAG) for the specific construction project concerned, which should clearly exclude (and therefore define) non-industrial, non-series production (intended for a single specific application). Also in this case, definitions are perhaps best made on a case-by-case basis. Whether or not this proposed approach will find a consensus remains an open question.

In the meantime, many of FIEC's concerns called up in its position paper have been included in the revised text of "Guidance Paper M" which FIEC has welcomed. Nevertheless, this remains an issue that will need to be continually monitored, most particularly when the Commission starts work on the revision of the Directive. FIEC's over-riding concern is that construction enterprises themselves do not become involved in CE Marking activities, including for those parts of works which are sub-contracted out. CE Marking must remain the exclusive responsibility of the manufacturers of construction products, not contractors.

6. The Environmental Performance of Buildings

Last year we reported that the European Commission had adopted a standardisation mandate to be carried out by CEN. CEN has now formally accepted the mandate and has set up a working group (CEN/BT WG 174) which in turn has developed and adopted a business plan. FIEC, for its part has designated a representative who regularly attends meetings of CEN/BT WG 174.

It is pertinent to recall that the mandate includes a deliverable in the form of a framework standard that is intended to provide the methodology for the assessment and the subsequent declaration of the integrated environmental performance of complete buildings and construction works. It is expected to provide the means for the aggregation of the results from a set of supporting standards into a single data set that represents the environmental declaration of the whole building. The aggregation is to be based on the results of the Life Cycle Analysis (LCA) for each of the aspects, i.e. materials, energy use, water use, construction process, design considerations, etc. and/or additional information. The standard will describe the assessment of data quality for LCI-data

(Life Cycle Inventory) and the effect of data-quality on the results of the LCA.

At first sight, the entire initiative, taking the form of a standard – which of course, is always "voluntary" – appears pretty innocuous. But any standard, once included in contract documents, immediately becomes a contractual obligation. FIEC is concerned that the application of the standard in practice could involve considerable additional work and expense, not just for consultants, but for contractors as well.

Another part of the initiative – perhaps the original part – concerns the development of "Environmental Product Declarations" (EPDs) which has been a topic under discussion between the European Commission, Member States and industry for several years. This can be justified on the grounds that different national approaches towards the same objective could ultimately lead to new barriers to trade in construction products. But this raises the perfectly legitimate question of the link between EPDs on the one hand and the environmental performance of buildings on the other. One is left wondering whether extending the standardisation mandate to take in the assessment of the environmental performance of complete buildings is either necessary or even wise?

7. Progress to date with the Sixth Framework Programme for Research and Development (FP6 2002-2006) and prospects for FP7 (2007-2013)

In the wake of the disastrous results in early 2004 of the construction industry's response to the first calls for proposals under the theme of "Nanotechnologies, Materials and Processes" (NMP-1), it was only natural that FIEC together with ECCREDI leapt at the opportunity to comment on the so-called "Marimon Report" on the evaluation of the new instruments in FP6. These disastrous results largely came about as a result of massive over subscription to a theme of the programme that had been dramatically under funded. For the construction sector, the losses in terms of wasted efforts have given rise to a potential crisis of confidence amongst the research community in the present and future framework programmes.

Compared to its share in GDP, the construction sector has, over the years, obtained what can best be described as a "negligible" share of the Commission's framework programmes for R&D (approximately between 1,7% up to 3% in FP4 and FP5) that has fallen dramatically under FP6 to just 0.3% to date. This low rate of participation, accentuated by a dramatic fall under FP6 remains a matter of on-going concern.

ECCREDI's position paper on the Marimon Report includes a whole series of proposals aimed at promoting construction research needs, including that:

- a sectoral approach to RTD (as is already the case for industries such as aeronautics) is absolutely vital and that this should emerge following the establishment of a European Technology Platform for the sector
- the portfolio of instruments for collaborative research should be designed and developed to enhance co-ordination and collaboration with other forms of public and private funding across the European Union, which is crucial in order not to waste scarce national resources of each and every country.
- welcoming the concept of the 2-step approach that should act as a "Go/No Go" gate, but believes nonetheless that the input required in Step 1 is excessive and correspondingly that for Step 2, too little.

Following the adoption by the European Commission on 6 April 2005 of its proposal [COM(2005) 119 final] for FP7, attention has now begun to focus on future R&D prospects for the construction sector. An initial analysis of the proposal reveals some encouraging references to construction related aspects as compared to FP6:

- Under Chapter 4: Nanosciences, Nanotechnologies, Materials and new Production Technologies, there is a specific reference to European Technology Platforms including for "construction" (ECTP).
- "Construction" is also mentioned in the context of integrating new knowledge and technologies for industrial applications and in particular "creating conditions and assets for knowledge intensive production".
- The references to "construction" in Chapter 5 dealing with "Energy" are similarly significant, in particular as concerns "energy efficiency and savings in buildings".
- Chapter 6 which deals with "Environment and Climate Change" also provides a important link to the ECTP
- Finally, Chapter 7 which addresses "Transport" refers to the sustainability aspects of transport infrastructure networks and their importance in relation to economic growth.

FIEC will also be paying particular attention to increasing the involvement of SMEs in the activities of the ECTP and is already encouraged by the European Commission's own initiatives in this respect in its draft proposals for FP7.

8. European Construction Technology Platform (ECTP)

The concept of a "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"(ERA) 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.

The ETP for construction (ECTP) is expected to play a significant role in raising the performance and competitiveness of the industry. This will be achieved by analysing the major challenges that the sector faces in terms of society, sustainability and technological development. Research and innovation strategies will be developed to meet these challenges engaging with and mobilising a wide range of skills, expertise and talent available in the industry over the coming decades, in order to meet society's needs.

Progress to date has been impressive. The first priority has been to establish a structure and initially focus on the drafting of a "Vision 2030". This has already been substantially achieved, prior to the official launch of the ECTP at the B4E conference in Maastricht in October 2004. Work is now proceeding apace in drafting the Strategic Research Agenda (SRA) that will act as the key reference document for initiating research activities that will transform the vision into reality.

Another important aspect is the establishment of National Technology Platforms (NTP) that will operate in tandem with the ECTP, thus effectively creating an ERA for coordinating construction research efforts across the EU. By March 2005, 17 NTPs had been - or were in the process of being - established. Whilst no direct funding is available

from EU funds for the ECTP itself, funding has been secured to assist in setting up the NTPs, under a Specific Support Action (SSA) known as "ENABLE".

More ambitious still will ultimately be the launch of a "Joint Technology Initiative" (JTI). Discussions have begun on establishing at least one JTI to be known as "The cities below the cities".

9. The definition of waste

The European Commission has continued to follow up its "Thematic Strategy on the Prevention and Recycling of Waste" [COM(2003)301 dated 27.05.2003]. FIEC's responses to the Commission's initiatives have been as follows:

- Initial position paper dated 28.11.2003 in response to the Commission's Communication (mentioned in FIEC's annual report 2004)
- Response dated 24 September 2004 to the Commission's questionnaire on the Extended Impact Assessment relating to its Thematic Strategy
- Meeting TEC-3 held on 15 December 2004 which included extensive discussions with one of the desk officers responsible for revising Community legislation on waste
- Response dated 23 February 2005 to the Commission's four strategic questions concerning construction and demolition waste

One of the most striking aspects of the responses sent in by the member federations has been the very marked differences of the way in which the existing legislation impacts construction enterprises in the various member states as well as the different ways in which it is interpreted and enforced. These wide variations in practice imply that it is very difficult for FIEC to provide simple responses to questions raised by the Commission. Some member states, such as the Netherlands and Denmark have already achieved very high recycling rates. Waste disposal facilities for instance in these relatively densely populated countries, are by comparison widely available in many locations. Consequently waste can generally be disposed of without the necessity of transporting it over great distances, with the associated costs and negative impacts that implies for the environment. In large, relatively sparsely populated countries such as France (outside the major urban conurbations), waste recycling facilities are very often few and far between, implying that disposal in landfills is usually the only logical solution. FIEC has therefore stressed in its responses to the Commission, that any attempt to impose a European solution on the Member States is likely to fail unless provision is made for a wide measure subsidiarity at the discretion of national and even regional administrations.

The next step is for the European Commission to adopt its proposals for the revision of the existing legislation, now expected in early Summer 2005. Given that FIEC has been discussing the difficulties surrounding the Commission's definition of waste for more than 10 years, these proposals can only be described as being long overdue.

10. Revision of chemicals legislation (REACH)

The on-going debate about the Commission's proposals for an extensive review of EU chemicals legislation widely known as "REACH" (Registration, Evaluation, Authorisation and Restriction of Chemicals) has recently been at the focus of FIEC's attention. In common with many other large industrial sectors, the construction industry is a significant downstream user of chemicals. Moreover, the debate in the European institutions is becoming increasingly polarised between the producers and the downstream users of chemicals as well as civil society represented for the most part by environmental NGOs.

In the context of the consumption of chemicals, it is estimated that as many as 45 000 different materials and products are in widespread use in building and civil engineering activities in Europe. Some of these contain potentially hazardous substances. A few call for special health and safety measures on construction sites while others can affect the indoor climate of buildings. The large volumes of material used in construction taken together with the long life span of buildings increase the impact that these substances can have on the indoor and out-door environment.

FIEC is of the opinion that the users of chemicals are not provided with sufficient information about the characteristics of chemicals contained in products, and is therefore agreeable in principle, to a reform of EU chemical regulation that will address this shortcoming. FIEC's principal objective in calling for modifications to the Commission's draft text, is to enable construction companies to obtain adequate information about the chemical content of the products they use, so as to enable them to avoid incorporating dangerous chemicals into construction works.

In order to address the above mentioned issues, FIEC wishes to stress the following points:

- Implementation of the REACH proposal and the responsibilities deriving from it for manufacturers, importers and downstream users are based on the legitimate confidence of operators in appropriate information based on the current state of scientific knowledge at the time that the substance, preparation or product is placed

on the market and is distributed throughout the supply chain.

- Both downstream users as well as professional users should be granted access to information concerning the contents of hazardous substances in articles they use. The information is needed in view of downstream users credibility towards their customers and in order to fulfil obligations contained in other legislation whilst avoiding potentially significant costs resulting from a lack of information.
- "Substances of very high concern" should be progressively eliminated from chemical products or articles whenever less dangerous alternatives are available. If "substances of high concern" are replaced, this would make it easier for SMEs in terms of practical measures and implementation of chemicals policy.
- The same legislative requirements should be applicable to imported articles as for articles produced in the EU. It is important that companies in the EU are not put at a competitive disadvantage when compared to companies outside the EU.

11. Batteries for cordless power tools

FIEC, together with the European Power Tool Association (EPTA) has continued to take a similar approach in support of a Commission proposal for a revision to the Batteries Directive (1991/157/EEC) that would set in place provisions applicable across the EU for collecting and recycling hazardous spent Nickel-Cadmium (NiCd) batteries widely used in cordless power tools by both construction professionals and DIY enthusiasts worldwide. The demand in both the construction industry as well as the DIY market for nickel cadmium battery powered cordless products, is extremely strong. FIEC believes that should their sale be curtailed, then there is a danger that a black market will develop to the benefit of criminals. Collection and recovery activities (closed loop) which are working increasingly well today would gradually dry up and these illegally imported articles would find their way into other waste streams. Hence the environment will not be protected but rather exposed to increased risks of pollution.

The European Parliament at first reading before the summer recess in 2004 voted against the Commission's proposal in favour of a marketing restriction that would apply to NiCd batteries. Anticipating that the Council might uphold the Parliament's position, FIEC revised its position paper for yet a second time (earlier editions were dated 01/07/1997 and 28/04/2003). This explains that if NiCd batteries are banned, then power tools would in future need to be driven either by alternative substitutes such as nickel metal hydride that are less efficient and more expensive than NiCd, or by recourse to all the inconvenience and increased risks associated with corded mains electricity. EPTA, for its part has been insisting that a marketing restriction on NiCd batteries, as suggested by certain Member States is neither warranted nor justified.

In the event the Environment Council, at its meeting in December 2004, came out in favour of only a partial ban on NiCd batteries with an exemption period for cordless power tools to be reviewed after 4 years. It now remains to be seen what the Parliament will decide at second reading later in 2005.

Construction Products Directive (89/106) Non-Series Production
FIEC Position paper 11/10/2004 (extracts)

Contractors do not – in the meaning of the Directive – place products on the market. Rather they incorporate construction products in works. Even if contractors prefabricate parts or elements of construction products for subsequent incorporation in works either on-site or in their workshops, these products are not placed on the market. There is no commercial transaction taking place and therefore, the CPD does not apply.

This does not preclude the possibility of contractors demonstrating compliance by affixing the CE Marking on a voluntary basis, but FIEC insists that the fundamental purpose of the CPD is to remove barriers to trade in construction products and consequently the directive relates exclusively to the exchange of products on a commercial basis. Generally, it is FIEC's view that products that are manufactured for "own-use" (home owners, contractors) are not covered by the CPD. For the CPD to apply, a commercial transaction needs to take place. It is desirable that this is officially documented in any future revision of the CPD.

Typical examples:

- 1) *Contractors pouring concrete into purpose-made moulds on-site or prefabricating purpose made pre-cast concrete elements for incorporation into works (the purchased cement, aggregates, etc. are CE Marked). But contractors prefabricating elements for use by other contractors can be considered manufacturers in the meaning of the CPD (see §2).*
- 2) *Contractors erecting a log building fabricated from raw materials on site or in their own workshops, as compared with manufacturers placing onto the market a log building kit. Only if the completed kit is then sold (i.e. subject to a commercial transaction) will it need to be CE Marked.*

Example related to doors and windows:

- *Carpenters, acting as subcontractors, introducing made-to-measure wooden doors or windows into the works are not obliged to CE Mark the doors and windows.*

FIEC notes the fact that in accordance with the §2 of the Statement for the minutes, annexed to the CPD¹, the Council and the Commission agreed, prior to the CPD being adopted, that where a product is intended for a single specific application, Member States may authorize the use thereof even if it does not comply with the provisions of the Directive. Therefore, it would appear reasonable to assume that the CPD was never intended to embrace the CE Marking of products intended for a single specific application.

In order for this possibility to work, the scope of the technical specification for the specific construction project concerned should clearly exclude (and therefore define) non-industrial, non-series production (intended for a single specific application). Also in this case, definitions are perhaps best made on a case-by-case basis.

The possibility to CE Mark products in this case, on a voluntary basis, of course still exists (article 4(4) of the directive or through the EOTA route) or, in the case of specific products for which manufacturers wish to affix the CE Marking, this could be made mandatory through the development of additional harmonized technical specifications or by means of an amendment to the relevant specification for industrial products in the same family.

Typical example: Carpenters placing onto the market purpose made wooden doors or windows.

¹ These statements were made by the Council when agreeing with the CPD.

**ECCREDI POSITION PAPER on the Evaluation of the New Instruments
(MARIMON REPORT)
10/11/2004 (extracts)**

ECCREDI broadly welcomes the results and recommendations contained in the "Marimon Report". Its timing is particularly pertinent in the light of the disastrous results recently recorded by the construction sector for proposals submitted under "Priority 3 NMP". This has largely come about as a result of massive over subscription to a programme that has been dramatically under funded. For the construction sector, the losses in terms of wasted efforts and the consequential catastrophic results have given rise to a potential crisis of confidence in the present and future framework programmes.

Compared to its share in GDP, the construction sector has, over the years, obtained what can best be described as a "negligible" share of the Commission's framework programmes for R&D (approximately between 1,7% up to 3% in FP4 and FP5) that has fallen dramatically under FP6 to just 0.3% to date. This low rate of participation, accentuated by a dramatic fall under FP6 remains a matter of on-going concern.

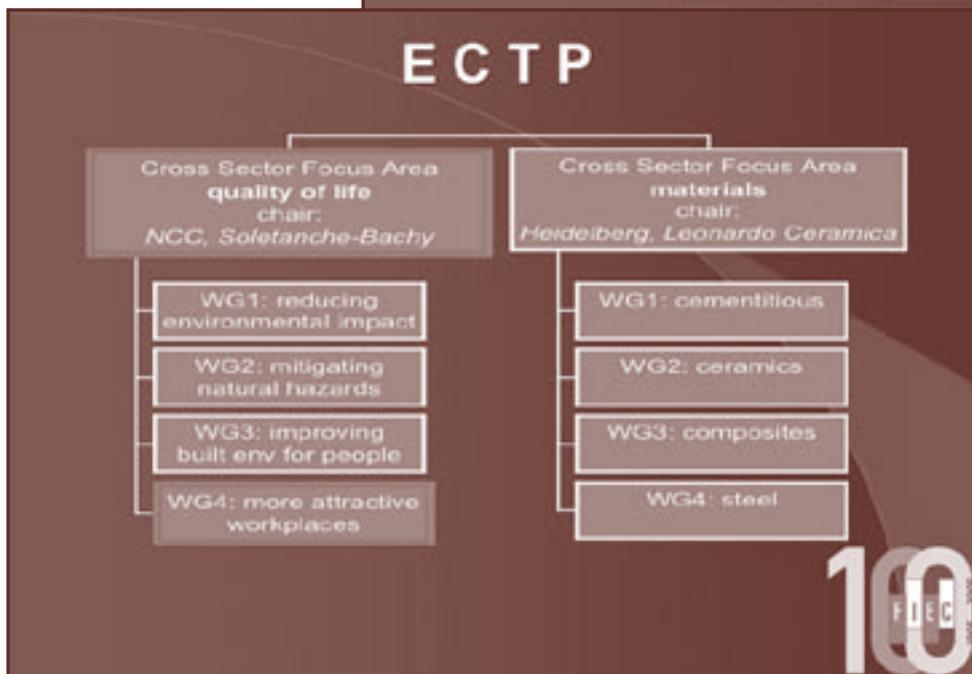
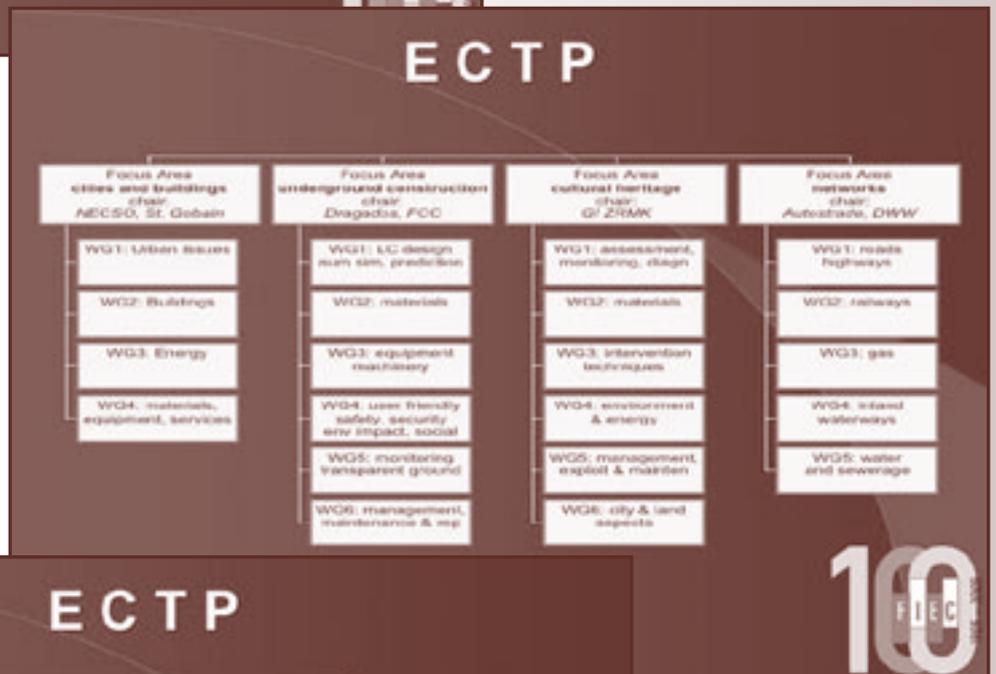
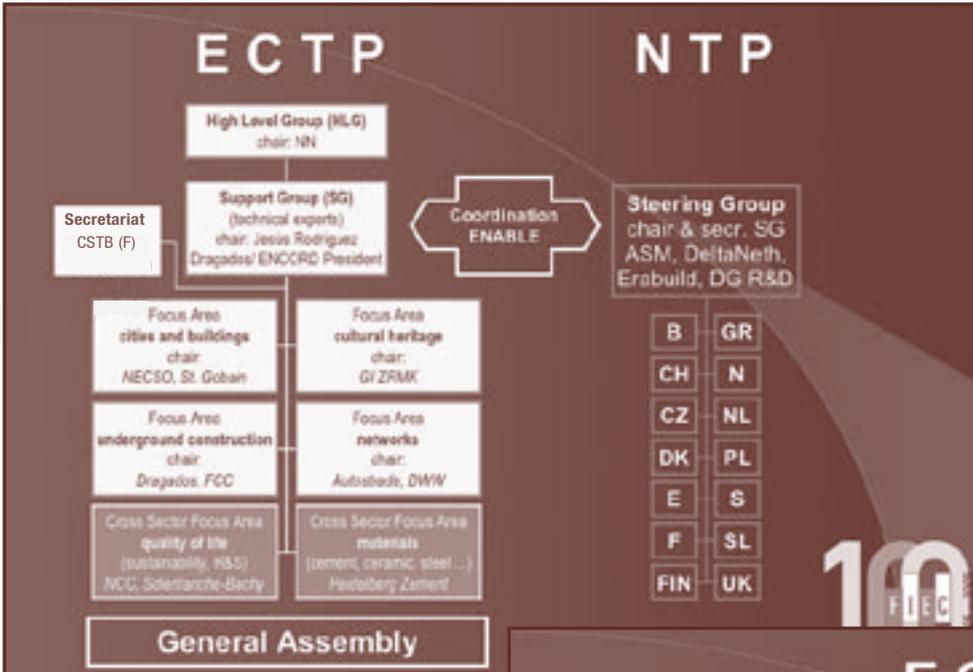
European framework programmes are more visible and better funded than the national programmes, most of which cater for politically low-profile subjects. Candidates submitting proposals in those sectors lacking a dedicated programme and providing for the vast majority of industry, are obliged to focus on "Priority 3 NMP" of the FP with the result that almost all candidates are turned away. This in turn implies an enormous, and in the light of past experience with earlier framework programmes, in large measure foreseeable waste of resources when considering the amounts invested by all candidates in preparing their proposals compared to the amounts actually granted to the fortunate few.

Many of the industry sectors involved, apart from being numerous are also large, but the programmes are failing to attract much needed industrial participation especially by SMEs. Construction SMEs, apart from specialists and materials suppliers, very seldom perform RTD and are rarely innovative since the nature of their activities rarely requires it. Moreover, industrial integration with few market leaders is good for SMEs.

As concerns the reports Recommendations:

- ECCREDI agrees that the concept of 'one size fits all' should not be applied across all thematic areas and Instruments. Europe's aeronautics sector for instance had an annual turnover of about 65 billion € in 1999 and attracted 5 IPs of 48 million € each. Construction is a 900 billion € industrial sector (without materials) with a highly fragmented process and a complex supply chain. For sure, the concept of critical mass is even more important and several IPs over 37 million € are needed. This is why ECCREDI believes that a sectoral approach to RTD is absolutely vital and hopes that this will emerge following the establishment of a European Technology Platform for construction.
- The difference between IPs and STREPs is still not really clear. The main visible difference is in terms of size of both projects and partnerships. But the true difference should be in terms of integration and non-integration. Both are needed even for the construction sector. However, in ECCREDI's opinion, the question of critical mass to see real benefits for a community of 1.8 million stakeholders advocates more IPs than STREPs. STREPs are adequate in terms of applied research to develop products and processes essentially focussed on a particular need and market segment coming from specialised contractors or supplier stakeholders.
- The recommendation that the portfolio of instruments for collaborative research should be designed and developed to enhance co-ordination and collaboration with other forms of public and private funding across the European Union is crucial in order not to waste scarce national resources of each and every country. But this requires a strong political signal to both the Commission and the national governments in order that the Member States really coordinate their financing policies with single entry point procedures. This would also be highly effective should all or most countries adopt "mirror" Technology Platforms to coordinate their own RTD funding systems.

- ECCREDI welcomes the concept of the 2-step approach that should act as a "Go/No Go" gate, but believes nonetheless that the input required in Step 1 is excessive and correspondingly that for Step 2, too little.
- As concerns the evaluation of proposals in Step 1, ECCREDI regrets that the scientific officers responsible invariably stand behind the experts' report however wrongly worded or poorly substantiated, thus denying the candidate any opportunity for a face to face discussion with the panel of experts.
- Audits costs are not the same as management costs and the latter should cover the overall coordination and administrative costs needed to manage a consortium. This limit should be increased from 7% to 10%.
- As suggested in the Report, it is advisable to separate within the Commission's structures, those employees responsible for policy-making and those in charge of implementation.
- ECCREDI also agrees with the report that subcontracting rules under IPs are too rigid.
- Budget cuts during contract negotiation should always be justified.
- Further simplification is needed to provide for projects, valued on a general cost-based form, to be given enough flexibility regarding the final allocation of expenses.



CONSTRUCTION AND DEMOLITION WASTE**General Summary of Responses Received from the FIEC Member Federations¹
to Questions Raised by DG Environment on 15 December 2004**

23/2/2005

Question 1**Can you provide information on the environmental benefits of recycling C&D waste?**

The environmental benefits include:

- a) The promotion of waste disposal processes in the construction industry – whether these involve earth and rocks from excavations, or waste materials from construction or demolition activities – implies significant benefits for the environment.
- b) A reduction in C&D waste going to landfill will, on the one hand maximise existing available landfill capacities, whilst on the other a reduction of the “declared” amount of waste going to landfill may lead to a corresponding increase in the risk of more fly-tipping.
- c) A saving in natural resources and energy e.g. aggregates, timber extraction.
- d) A small reduction in the embodied energy of certain products and materials.
- e) Recycling will help in facilitating the achievement of national recycling targets for C&D waste.
- f) The recycling of C&D waste encourages construction firms to take initiatives in the form of R&D to develop new products and materials, as well as developing new more environmentally friendly construction processes.
- g) Recycling will, subject to certain important limitations (e.g. transportation distances and consequential greenhouse gas emissions) and according to local circumstances, bring about a reduction in the costs associated with disposal.
- h) Recycling will also provide an incentive for improving the level of compliance with environmental legislation i.e. availability of facilities will reduce the potential for illegal activity.
- i) Increased recycling will improve the environmental image of the construction industry.

Question 2**How will the Landfill Directive affect the management of C&D waste?**

- a) The introduction of authorisation procedures for landfills destined to receive inert wastes risks discouraging the creation of such facilities which are essential for the construction sector carrying with it the risk of increased fly tipping.
- b) The financial guarantees, licence requirements and insurances linked to landfills as well as authorisation procedures, record keeping, quantification of wastes received, monitoring and aftercare, will on the one hand ensure more effective management of waste going to landfill, but on the other will inevitably lead to increased treatment costs and landfill charges.
- c) Increased sorting of waste on construction sites will inevitably raise costs, while in practical terms clients should be required to determine all the existing forms of waste before work starts on site, in order that the costs involved can be included in the contract sum, failing which the risk of fly-tipping will increase.
- d) The separation of plaster-based products is a particular problem, since they are not permitted in Class 2 Classical landfills, nor in inert landfills.
- e) Where hazardous wastes are concerned, there will be an onus on the construction industry to ensure effective means are in place for managing the hazardous waste element of C&D wastes.
- f) Increased landfill and waste treatment costs will tend to make recycling and waste recovery more attractive, at least at the margin.
- g) The Landfill Directive stipulates that due consideration be given to incineration of waste as a more effective waste management solution. This should in theory, provide an incentive to reduce waste going to landfill. However this will only have any relevance where incineration facilities exist.
- h) Council Decision of 19 Dec 2002 (2003/33/EC) establishing criteria and procedures for the acceptance of waste at landfill pursuant to Article 16 and Annex II to the 1999 Landfill Directive will take effect on 16 July 2005. This provides criteria for assessing limit values of waste including C&D Waste thus ensuring better management.

¹ France, Italy, Ireland and The Netherlands

Question 3

What are the main barriers to landfill diversion?

- a) In sparsely populated countries local depots for recyclable wastes are often too few to support viable recycling units. If these could be centralised, then the consequences of transport (costs; emissions) and the environmental impact of wastes recycled into products far outweigh the advantages compared to new products.
- b) For example, in France at the present time, there are no landfill charges for inert wastes. Should landfill charges be introduced, clients would be even less likely to support the extra costs of transport to distant recycling facilities and consequently the occurrence of fly tipping and unfair competition between those enterprises that respect the law and those that do not, would increase.
- c) The high cost of recycling and/or the unsuitability of available materials. The fact that materials immediately available for use in earthworks, such as when constructing road and railway embankments, cannot always be used in their existing state, implies that they must either be treated or landfilled. The cost of treatment sometimes exceeds the cost of straightforward landfill.
- d) Certain forms of waste, notably surplus materials, cannot invariably be easily re-used because:
 - Clients give preference to new products
 - The proximity of quarries, the costs of which are much less than the cost of secondary raw materials
 - The quality of secondary raw materials is usually inferior to that of new materials
- e) For materials arising from recovery processes to be re-used, they must cost the same as – if not less than – new materials. It is suggested that costs could be brought down by simplifying the administrative requirements connected with recovery processes, by means of statutory amendments.
- f) The key barrier to landfill diversion in Ireland for instance, is the lack of alternative facilities, in particular thermal treatment and recycling facilities. However the lack of landfill capacity in Ireland generally means that the majority of C&D waste is being diverted from landfill unless required for landfill remediation purposes.

- g) In the Netherlands on the other hand, there are two types of barriers to landfill diversion:
 - material related barriers
 - legislation related barriers (definition of waste!)

The first category arises where waste cannot be treated and has to be landfilled. The second category is becoming increasingly more important and is caused by increasingly complex legislation affecting the reuse of materials and the associated bureaucratic procedures principally due to the definition of waste. A compulsive and rigid form of legislation has resulted from implementation of the waste framework directive. In itself, this does not cause any extra landfill but it certainly does not make reuse easier either!

Question 4**Would end of waste criteria improve management of C&D waste? How?**

- a) The answer to this question must quite emphatically be "yes" subject to the qualification that such criteria are totally transparent and leave no room for doubt. If waste can be processed into a usable product with an associated value, it should no longer be classified as a "waste". Consequently establishing when a waste is no longer waste through defining "end of waste" criteria will bring about a fundamental and very positive change in the management, transport and treatment of waste.
- b) The effect of the implementation of such criteria should, as a minimum, be to exclude from the definition of waste all materials that can be re-used. This should in principle, raise the proportion of waste that is recycled.
- c) Specifications will be key to enabling the development of markets for recycled C&D materials.
- d) The very concept of "disposal" in the context of its meaning in the directive needs to be addressed, determining that waste (as opposed to a product) is only disposed of by the holder when it is sent:
- for final disposal, or
 - for recovery operations by third parties licensed to carry out waste management activities, or
 - its re-use is illegal.
- e) Some examples of when waste ceasing to be waste are:
- if direct re-use is possible (these materials do not even become waste);
 - materials requiring only limited processing, upon entering this process;
 - after recycling when an equally performing product results.
- f) The management of C&D waste will also be improved as a result of new markets that are expected to arise for wastes that are not reused, currently due to the waste definition. This potential extra reuse will also have a positive environmental effect.
- g) The issue of the application of VAT being applicable to re-used products and materials put back on the market also requires clear regulation. If recycled materials are excluded from VAT they would necessarily become more attractive to those users subject to payment of VAT.

POSITION PAPER ON REACH

The construction industry's response to the European Commission's legislative proposal for Registration, Authorisation and Restriction of Chemicals (REACH) – COM(2003)644

19/4/2005 (extracts)

FIEC is agreeable in principle to a reformation of EU chemical regulation since the current legislation does not provide the users of chemicals with sufficient information about chemicals contained in products. However, we have identified a number of issues that call for modifications to the Commission's draft text in order to enable construction companies to obtain satisfactory information about the chemical content of products they use, thus enabling them to avoid incorporating dangerous chemicals into construction projects.

FIEC would welcome an improved EU regulatory system that would lead to early identification of

problematic substances and clear information as concerns the respective responsibilities of producers and users of chemicals.

Suggested amendments to the proposed draft legislation

In order to address the above mentioned issues, some amendments are necessary to the REACH proposal. In the following section amendments are suggested that are important for downstream users of chemicals or articles while at the same time being beneficial for health and the environment. FIEC wishes to stress the following points:

Proposed amendments for Title I: General issues

Amendment 1

Article 1, paragraph 3

This Regulation is based on the principle that it is up to manufacturers, importers and downstream users to ensure that they manufacture, place on the market, import or use such substances that do not adversely affect human health or the environment. Its provisions are underpinned by the precautionary principle.

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The responsibilities deriving from this Regulation for manufacturers, importers and downstream users are based on the legitimate confidence of operators in appropriate information based on the current state of scientific knowledge at the time that the substance, preparation or product is placed on the market and is distributed throughout the supply chain.

On this basis, manufacturers, importers and downstream users shall take the necessary measures in order to avoid damage to human health or to the environment from the manufacture, import, placing on the market or use of substances, in preparations or in articles. The selection of substances for production and use, by manufacturers and downstream users shall be based on the safest available option consistent with the costs involved and the required performance.

Justification

Since the REACH proposal does not deal with all chemicals (e.g. chemicals below 1 tpa) the precautionary principle applies both to filling of information gaps and to risk reduction measures and will guarantee that the chemical producer has to

produce and make available basic safety information for all chemicals in use, regardless of whether they are registered or not. This wording would codify the voluntary commitments of the chemicals industry

Proposed amendments for Title II: Registration of substances

Amendment 2

Article 6, paragraph 1

Any producer or importer of articles shall submit a registration to the Agency for any substance contained in those articles, if all the following conditions are met:

- (a) the substance is present in those articles *in quantities totalling over 1 tonne per producer or importer per year, each article type being considered separately;*
- (b) the substance meets the criteria for classification as dangerous in accordance with Directive 67/548/EEC;
- (c) *the substance is intended to be released under normal and reasonably foreseeable conditions of use*

If an article produced within the EU contains hazardous chemicals, these substances will be registered by the producer or importer of the substance. However, articles produced outside EU can, according to the standing proposal, contain banned or non-registered substances without being obliged to register the substance. Furthermore, the downstream users would not know about the presence of such substances. This would be a disadvantage for the EU producers in competition with producers outside the EU. This amendment would oblige importers of articles to fulfill the same requirements as articles produced within the EU. In addition, the amendment enables downstream users to rely on the fact that imported articles do not contain any non-registered or banned substances.

Any producer or importer of articles shall submit a registration to the Agency for any substance contained in those articles, if all the following conditions are met:

- (a) the substance is present in those articles **in a cumulative quantity of** over 1 tonne per producer or importer per year.
- (b) the substance meets the criteria for classification as dangerous in accordance with Directive 67/548/EEC;
- (c) **deleted**

Justification

All dangerous substances present in articles should have to be registered, irrespective of whether the substances are released during the use of the article or not, since it might be very difficult for a producer or an importer to assess the likelihood of release.

The registration threshold for chemicals in imported articles should be calculated per importer rather than per article type, as occurs with substances and preparations. The current calculation per article type is not possible to enforce since there is no clear definition of "article type" e.g. is a red plastic the same article type as a blue plastic if the content is the same except the colour?

Proposed amendments for Title IV: Information in the supply chain

Amendment 9

Article 29 (ante) (new)

Advance information for downstream users

“The person responsible for placing on the market a substance as such or contained in a preparation or product, whether this be the manufacturer, importer or downstream user or a distributor, shall supply, at the request of the recipient and prior to any order, the available information which is necessary for anticipating possible risk measures to be taken. This information shall be conveyed free of charge within a period of 8 days as from the presentation of the request to the upstream supplier.”

Justification

In accordance with the proposal (Articles 29 and 30), the main instrument for the distribution of information is the safety data sheet; however this is not always necessarily drawn up or automatically distributed (the distinction depends on the degree of danger of the substances and preparations in question).

Moreover, the conveyance of relevant information would be “at the latest on the date of the first delivery”.

A minimum information prior to any order, irrespective of the classification and/or concentration of the substances, preparations and products in question, should be distributed free of charge to users. This minimum advance information should enable them to identify and therefore anticipate any risk management measures to be implemented.

Amendment 11
Article 30a (new)

Duty to communicate information on substances of very high concern in articles

Any producer, importer or distributor of articles shall provide to all downstream users information about the presence of any substance which meets the following conditions:

- (a) the substance is listed by the Agency as meeting the criteria set out in Article 54,
- (b) the substance is present in articles in concentrations of more than 0.1% in a homogenous part of the article.

Such information shall be passed on down by any actor in the articles supply chain to customers who receive such articles as long as the conditions set out in (b) are still met.

Justification

According to the standing proposal, users of articles do not receive any information about the content of chemicals in articles. Without information it is not possible for downstream users to be credible towards their customers. Furthermore, without information, about chemical contents and about the safety measures needed to minimise potential risks, it is not possible for users to fulfil obligations in other legislations.

In addition, users may be affected immediately, especially during repair, maintenance and recycling, by hazards arising from articles. This amendment would also be particularly beneficial for SMEs since they have the biggest difficulties in obtaining information from suppliers, when compared to larger companies.

Today more and more construction materials are recycled and used again in construction works and this is an important contribution to sustainable development. However, the recycled material can contain substances of very high concern and the construction companies need to be able to obtain information about this. Neither the IPPC directive (96/61/EC) nor the Construction Products Directive (89/10/EEC) guarantee safe use of hazardous chemicals or deliver enough information to the users.

The proposed concentration limit of 0,1 % is in conformity with classification limits in the existing Directive on classification of hazardous preparations (1999/45/EEC).

Proposed amendments for Title VII: Authorisation
Amendment 13
Article 57, paragraph 2

An authorisation shall be granted if the risk to human health or the environment from the use of a substance arising from the intrinsic properties specified in Annex XIII is adequately controlled in accordance with Annex I, section 6, and as documented in the applicant's chemical safety report.

The Commission shall not consider the following:

- (a) risks to human health and the environment of emissions of the substance from an installation for which a permit was granted in accordance with Council Directive 96/61/EC 49; **deleted**
- (b) risks to and via the aquatic environment of discharges of the substance from a point source governed by the requirement for prior regulation referred to in Article 11(3) and legislation adopted under Article 16 of Directive 2000/60/EC of the European Parliament and of the Council 50;
- (c) risks to human health arising from the use of a substance in a medical device regulated by Council Directive 90/385/EEC 51, Council Directive 93/42/EEC 52 or Directive 98/79/EC of the European Parliament and of the Council.

Justification

This amendment is in conformity with existing directives on Carcinogens (Directive 90/394/EEC) and Chemical Agents (Directive 98/24/EEC) at the workplace.

It is very difficult to ensure that chemicals are

properly controlled during their entire life cycle, and even good control measures can result in appreciable exposures. The aim must be to eliminate exposure to substances of very high concern, because for many of these substances, such as carcinogens, there may be no safe level.

FIEC Position Paper on the Commission's Consultation on the Battery Directive Revision 11/10/2004 (extracts)

FIEC welcomes the development that Member States have started working on the revision of the Battery Directive and that this Directive has been chosen as a pilot project for developing a methodology for Impact Assessments on Council amendments. However, **FIEC is seriously concerned** about what the Council Presidency has recently proposed for Nickel-Cadmium batteries, and urges Member States to take our concerns into consideration:

- I. **FIEC already submitted** to the Commission a position paper on this topic in April 2003, as part of the stakeholder online consultation on the revision of the Battery Directive. FIEC now re-confirms the principle of that position and reiterates the following comments as concerns the present consultation:
 - II. It is common practice on construction sites in Europe today for construction enterprises, especially SMEs and craftsmen, to make **widespread use of** hand-held electric tools which are powered by rechargeable batteries, especially **nickel-cadmium batteries**; and
 - III. The introduction of these cordless tools over recent years has been widely welcomed by contractors, especially SMEs, for the following reasons:
 - *increased autonomy and ease of use* due to the elimination of power cables;
 - *increased safety at the workplace*, as the presence of power cables on construction sites is a frequent source of tripping and in extreme cases even strangulation of operatives;
 - *reduction of dangers and death from electrocution* due to the elimination of medium/high voltage electrical installations required for corded electrical appliances;
 - *increased productivity and competitiveness* and consequential reduction in construction costs; and
 - IV. Whereas **FIEC is in favour of reducing environmental hazards**, FIEC nonetheless does NOT consider the introduction of a ban on the use of nickel-cadmium batteries as being the best and most sustainable way of achieving this objective, not only from the standpoint of the construction industry but also for the environment. This has been shown by the Commission's Extended Impact Assessment, which does not propose a ban.
- V. **FIEC is of the opinion that the best policy option** for the end of life management of battery powered equipment is their **collection and recycling** at end of life with other Electrical and Electronic Equipment as it will be progressively implemented with the enforcement of the WEEE Directive. This is also the policy option recommended by the Extended Impact Assessment.
- VI. The demand in the construction industry for cadmium battery powered cordless products is extremely strong. Should their sale be prohibited, then there is a danger that a **black market will develop** to the benefit of criminals. Collection and recovery activities (closed loop) which are working increasingly well today would gradually dry up and these illegally imported articles would find their way into other waste streams. Hence the environment will not be protected but damaged further. On the other hand craftsmen, obliged to use corded tools once again, would be put at risk and construction costs would tend to rise due to a fall in productivity.
- VII. **FIEC therefore calls on Member States to support the implementation of spent battery collection programmes** (private and/or collective) in Member States by setting binding collection and recycling targets and by establishing sound rules for financing the collection and recycling of all types of spent batteries without distinction.
- VIII. Once the waste equipment and their spent batteries are collected, spent batteries should be separated from the equipment and **delivered free of charge to Battery Collection Organisations**, Public or Private, **in order to process these batteries in recycling units** within a closed loop.
- IX. **The land-filling or incineration of spent batteries should be forbidden.**
- X. In view of the foregoing and considering the importance of nickel-cadmium batteries for cordless tools application, a **marketing restriction of NiCd batteries should not be considered as a policy option by Member States, particularly for batteries used in cordless power tools**. Even a partial ban, as recently suggested by the Dutch Presidency, should not be supported.
- XI. **FIEC is convinced that the implementation of spent battery collection programmes** would not only be better for SMEs and craftsmen in the construction industry but also for the environment..



Chairman: Luisa Todini (I)

Rapporteurs: Hasso von Pogrell (EIC), Giulio Guarracino (I)

1st May 2004 marked a milestone in the history of the European Union. Since the foundation of the European Economic Community in 1957 by six states (Belgium, France, Germany, Italy, Luxembourg and the Netherlands) with the signing of the Treaty of Rome, the European Union went through four enlargement processes:

- 1973 Denmark, Great Britain and Ireland
- 1981 Greece
- 1986 Portugal and Spain
- 1995 Austria, Finland and Sweden.

Now, with the accession of the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia from Central and Eastern Europe as well as Cyprus and Malta, the former EU 15 became the EU 25, with a 34% increase in area, and population growing by 105 million consumers.

With the accession of these countries, however, the enlargement process is far from being completed. On 13th April 2005 the EU Parliament gave a green light for the entry of Bulgaria and Romania to the EU as of 1st January 2007. However, postponement of the accession by one year is possible, should either country fail to take the necessary measures still outstanding after having closed negotiations on all 31 chapters of the *acquis communautaire* on 14th December 2004.

Also, just one day before, the EU Commission confirmed sufficient progress to open negotiations with Serbia and Montenegro on a Stabilisation and Association Agreement, similar to the one signed on 21st October 2001 with Croatia, which had entered into force on 1st February 2005, helping Croatia in its preparations for EU membership, for which in applied in February 2003.

Regarding the progress in the reforms process by Turkey and its positive signals concerning the solution of the Cyprus-question, the European Council in December 2004 decided to take up accession negotiations with Turkey which are, in principle, to begin in October 2005. This, however, remains subject to Turkey's fulfilling further conditions.

The necessary foundation to cope with the challenges of an enlarged Europe will be the new

European Constitution signed on 29th October 2004 by all 25 Member States in Rome. Its aim is to shape a more democratic, transparent and efficient enlarged European Union. However, before coming into effect on 1st November 2006, the new Constitution will have to be ratified by all member states. The ratification will be carried out in each Member State according to the regulations of the respective constitutions, either through a parliamentary procedure or a referendum.

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

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

Along with the change of status of the former candidate countries a change in the chairmanship of the Ad Hoc Group "CEEC" took place. On the occasion of the FIEC Annual Congress held in Prague in June 2004, Mrs. Luisa Todini took over the chairmanship of the group from Mr. Eero Makkonen. Furthermore, Mr. Giulio Guarracino became an additional rapporteur to the group.

With respect to the last of following priority subjects

- 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.)

25 EU members

Identified at an earlier stage, the group, in its first meeting under the chairmanship of Mrs. Luisa Todini on 9th December 2004 in Brussels, focused on the EU Regional Policy.

With the phasing-out of the ISPA (Instrument for Structure Policies for Pre-Accession) after 1st May 2004, the four Structural Funds – the European Regional Development Fund (ERDF) for infrastructure and investments, the European Social Fund (ESF) for training, social integration and employment, the European Agricultural Guidance and Guarantee Fund (EAGGF) for rural development and aid to farms, and the Financial Instrument for Fisheries Guidance (FIFG) for the adaptation of the fisheries sector – as well as the Cohesion Fund supporting environmental and transport projects in the least prosperous member states became the focus of the FIEC Ad Hoc Group "CEEC". After all, the structural funds absorb approximately one-third of the EU budget with the allocation for the 2000 – 2006 period being Euro 195 billion for the EU-15, plus Euro 15 billion for the new Member States between 2004 and 2006. Moreover, the Cohesion Fund receives a further additional 25.6 billion Euro for the EU-25.

For the 2007 – 2013 period, the European Commission, on 14 July 2004, adopted its legislative proposals on cohesion policy reform. From the new objectives ("convergence", "competitiveness" and "cooperation") foreseen to replace the present objectives 1, 2 and 3, the "convergence" objective (ERDF, ESF, Cohesion Fund) is of priority interest to European contractors. Close to the present objective 1, the purpose of the convergence objective is to speed up the economic convergence of the less-developed regions. Regions eligible under the convergence objective are those whose per capita gross domestic product (GDP) is less than 75% of the average for the enlarged EU. Furthermore, support will also be granted, on a decreasing basis through to 2013, for regions whose per capita GDP exceeds the 75% figure due solely to the statistical effect of enlargement. The total amount of 264 billion Euro allocated to the convergence objective – or 78.54% of the contribution from the funds compared with the present 75% – will be distributed as follows:

- 67.34% for regions whose per capita GDP is below 75% of the average,
 - 8.38% for regions concerned by the "statistical effect",
 - 23.86% for countries benefiting from the cohesion fund,
 - 0.42% for the outermost regions.
- For further information: http://europa.eu.int/comm/regional_policy/debate/forum_en.htm.

Another main topic covered in this meeting and the one following held on 6th April 2005 in Bratislava (Slovakia) on the occasion of the 26th International Building Fair CONECO at the Exhibition and Convention Centre Incheba, was that of lobbying at European Union level. In this context, the EU decision making cycle. In this context, the EU decision making cycle was explained to the members and moreover they were informed about the role of the new national federations and of FIEC in this process.

A survey among the "CEEC" members identified, among others, as a priority issue for the next meetings, the drafting of specific instructions on how to lobby as a national federation towards their own government and the EU, in order to participate at an early planning stage of potential projects while enhancing the possibility of directing EU financial means towards projects beneficial to the member companies. Furthermore, the group decided to hold its meetings, whenever possible, on an alternating basis between Brussels and in one of the group's respective member countries.

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 drawn from both the "old" and the "new" EU member states.



Chairman: Helmut Hubert (D)
Rapporteurs: 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

As an associate member of CEN (European Committee for Standardization), FIEC has for many years been representing the interests of building contractors as regards European standardization and in the EU Commission's Standing Committee on the Construction Products Directive.

In 2004 following a specific seminar, the Enterprise Directorate-General of the EU Commission summarized the special SME-oriented priorities of European standardization work in 12 points as follows:

- 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 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 declared aim was to ensure that the European taxpayer's money used here would be spent as

97% of SMEs with fewer than 20 operatives

effectively as possible in order to promote SME participation in the work on standardization.

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.

In this respect, it is desirable to offer construction SMEs a comparably clear legal framework and legal protection, as is the case above the threshold values. However, this should not result in complicated procedures or increased bureaucracy with which SMEs could not cope.

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.

Public-private partnerships (PPPs)

Public sector investment projects are increasingly being implemented within the framework of public-private partnerships. In some member countries, for example, the United Kingdom, this form of cooperation between the private and public sectors has a fairly long tradition, while other member countries such as, for example, the Federal Republic of Germany, are only gradually going over from the current comprehensive conventional award of contracts to increased project implementation within the framework of public-private partnerships. Contrary to a widespread public view, many PPP projects are suited, especially at local level, to

implementation by construction SMEs. With this in mind, it must therefore be a priority task to influence public opinion, especially the view of contracting authorities willing to invest.

It should also be underlined that construction SMEs not be excluded as regards invitations of contracting authorities to tender for PPP projects simply because of the wording of the award conditions, e.g. minimum balance sheet totals, lot sizes unfavourable to SMEs, etc.

Finally, in the implementation of PPP projects, construction SMEs have to rely particularly on inter-company cooperation in consortia or joint ventures. Thus, in relation to the implementation of a PPP project, construction SMEs frequently join together with facility management companies in a consortium. The coordination group will in future devote itself increasingly to such information networks.

Furthermore, the SME coordination group will continue to monitor actively the progress of the Green Paper presented by the EU Commission on public-private partnerships.

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.

President:

Karl Rönnerberg, D
(-4/2005)



Gian Alfonso Borromeo, I
(4/2005-)



Director:

Frank Kehlenbach,
EIC



Organisation

European International Contractors (EIC) is registered as a legally independent association under German law in Berlin (Germany) and has as its members construction industry federations from 15 European countries, which are directly or indirectly affiliated to the European Construction Industry Federation (FIEC).

In accordance with a Protocol signed between both federations in 1984, and reaffirmed in 2002, EIC and FIEC carry out complementary tasks. Whilst FIEC represents the European construction industry in the area of the European harmonisation and integration process, the work of EIC aims primarily at improving the operating conditions for the European construction industry on the international level. For this purpose, EIC maintains close relations with all international and other organisations whose policy is of relevance for the international construction business.

In 2004, the Members of the EIC Board were the following:

| | | |
|-------------------------------|------------------------|-----------------------|
| <i>Karl Rönnerberg</i> | <i>Germany</i> | <i>President</i> |
| <i>Johan Beerlandt</i> | <i>Belgium</i> | <i>Vice-President</i> |
| <i>Esko Mäkelä</i> | <i>Finland</i> | <i>Treasurer</i> |
| <i>Michel Démarre</i> | <i>France</i> | |
| <i>Per Hofvander</i> | <i>Sweden</i> | |
| <i>Jac. G. van Oord</i> | <i>The Netherlands</i> | |
| <i>Martyn Palmer</i> | <i>United Kingdom</i> | |
| <i>Alessandro Salini</i> | <i>Italy</i> | |
| <i>Alcibiades López Cerón</i> | <i>Spain</i> | |

At the EIC General Assembly on 22 April 2005, a new President and Board were elected. Members of the EIC Board are the following:

| | | |
|-------------------------------|------------------------|-----------------------|
| <i>Gian Alfonso Borromeo</i> | <i>Italy</i> | <i>President</i> |
| <i>Johan Beerlandt</i> | <i>Belgium</i> | <i>Vice-President</i> |
| <i>Per Nielsen</i> | <i>Sweden</i> | <i>Treasurer</i> |
| <i>Michel Démarre</i> | <i>France</i> | |
| <i>Ebbe Malte Iversen</i> | <i>Denmark</i> | |
| <i>Uwe Krenz</i> | <i>Germany</i> | |
| <i>Alcibiades López Cerón</i> | <i>Spain</i> | |
| <i>Lefty Panayiotou</i> | <i>United Kingdom</i> | |
| <i>Gerrit Witzel</i> | <i>The Netherlands</i> | |

Tasks and Objectives

EIC has the objectives

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

International contracting has always involved additional risks for those European construction companies working abroad, particularly with respect to the political, financial, economic and legal environment in foreign markets. At the beginning of the 21st century, the international construction business, including construction-related services and operation via subsidiaries and associates, poses a multitude of both challenges and opportunities. Within the broad range of operating conditions influencing the work of European international contractors abroad, the following framework conditions have been identified as priority issues for the activities of EIC:

- I. International financing of infrastructure projects, including the PPP concept;
- II. International tender procedures and standard forms of contract;
- III. International Arbitration and Alternative Dispute Resolution mechanisms
- IV. Export credit insurance;
- V. Elimination of market access barriers in foreign construction markets;
- VI. Relations with the World Bank.

I. International financing of infrastructure projects

Infrastructure needs are huge on a global scale, and we can observe funding difficulties world-wide for new construction, rehabilitation and maintenance. Governments in the developing world face particular challenges in providing its people with access to quality infrastructure services. Current estimates of the World Bank point to financing needs of about 7% of GDP for all developing countries – for both new investment and maintenance expenditures – and as much as 9% of low-income countries' GDP. When comparing past actual investment and maintenance rates (on average about 3.5% of GDP in all developing countries), to the projected requirements of some 465 billion US\$ over the years 2005-2010 (according to a World Bank research paper of July 2003), the vast financing gap and thus the need to potentially double or triple actual financing for infrastructure becomes obvious.

At the same time, official development assistance (ODA) from OECD donor countries is only beginning to recover from all time low levels. In 2003, ODA totalled almost 70 billion US\$ of which, however, less than 20% were disbursed for economic infrastructure. Admittedly, the multilateral development organisations, and in particular the World Bank, are revamping their infrastructure business again, and EIC may well claim to have been one of the unceasing voices to call for an "Infrastructure Action Plan" long before this new World Bank initiative was adopted and implemented. Given the continuous chasm between the infrastructure

needs and the available budget resources, conventional financing from international aid funds, however, remains chronically weak and accumulates to only 8% of the global expenditures.

Against this background, a new balance has to be found between public and private sector roles for infrastructure financing and services provision. Experience in many countries during the 1990s shows that by means of Public-Private Partnerships (PPP), the scope for private participation in infrastructure can be enlarged by leveraging the mobilisation of additional private capital per unit of available public sector resources. Whilst the PPP concept has flourished over the past years mainly in sectors that generate adequate cash flows, such as telecom, ports, airports and natural gas pipelines, the right blend between public and private funding has yet to be determined for transport infrastructure projects, where the social acceptance of user fees is either missing or its level is not adequate to guarantee the necessary return on investment.

With the aim of providing the public sector as well as the International Financial Institutions with a user-friendly consultation document for the efficient preparation and implementation of privately developed infrastructure projects, EIC published in April 2003 the "**EIC White Book on BOT / PPP**", reflecting the broad expertise of its member companies acting as investors and concessionaires in view to the political, financial, economic and legal requirements for successful BOT / PPP models. EIC focused mainly on developing 21 "Key recommendations" in order to improve the project environment, project preparation, tendering procedures, the linking of the various types and sources of financing as well as the distribution of risks between the parties involved.

Since its publication, EIC has been promoting its "White Book" with many of the political key players in the European concession industry, for instance the European Investment Bank, the European Bank for Reconstruction and Development and the European Commission. In the year 2004, EIC actively participated in the Commission's DG INTERNAL MARKET survey in connection with the "EU Green Paper on Public-Private Partnerships". To that end, EIC drafted a comprehensive Position Paper based on the recommendations of the "White Book" which was submitted jointly with the FIEC Position Paper to the Commission. Concerning the procurement aspect, EIC pointed out that PPPs cannot be regulated in exactly the same way as conventional construction projects. Due to the complexity and the long duration of PPP projects, it is highly unlikely that the contracting authority and the selected bidder agree on the terms of a draft project agreement without discussing in detail the technical, legal and financial details of the project. This is particularly true for projects involving the development of new infrastructure where the final negotiation of the financial and security arrangements takes place only after the selection of

the concessionaire. However, despite the cautious undertone of its statement, EIC supports generally the idea that the European Commission has a role to play in further improving the legal framework for PPPs in the Union. The role of the Commission should be, however, "catalytic" rather than that of a European regulator.

Other distinguished presentations of the "EIC White Book" included the World Bank's *"Regional PPP Forum in Central and Eastern Europe"* in February 2004 in Prague and an OECD Workshop on *"Synergies between Official Development Assistance and Foreign Direct Investment"* in March 2004 in Paris. Last but not least, EIC presented the "White Book" in connection with the latest *"PPP Global Summit on PPP"* which took place also in Prague and brought together participants mostly from the private sector, such as financiers, accounting companies and consultants.

Notwithstanding the progress made in Europe and world-wide on advocating the PPP concept to the public sector, EIC still observes many prejudices and misconceptions against PPP schemes. Whilst the "EIC White Book" mainly covers the technical aspects of PPP, EIC intends to draft a supplement to this publication which shall provide political answers to the most "Frequently Asked Questions in PPP". The purpose of this paper is to explain to politicians and public officials as well as to the International Financial Institutions that PPPs can in fact provide significant added value over the results that can be obtained from conventional forms of procurement. EIC thereby endeavours to respond to certain fears and doubts of the general public and to refute some misconceptions of the PPP philosophy. This drafting work is currently underway.

II. International tender procedures and standard forms of contract

Since the 1999 publications of the FIDIC "New Red, Yellow and Silver Books", EIC has published 3 "EIC Contractors' Guides" to these new suite of standard contract forms which are rather critical of the general tendency in the 1999 FIDIC "New Books" to burden more construction risks than in the past on the contractor. All EIC Guides have been published in the world's leading construction law magazine and are marketed and distributed not only through EIC's website, but also through FIDIC's electronic Bookshop. This is due to the fact that FIDIC itself considers the EIC Guides as a "useful checklist" when entering into a large construction project.

FIDIC was approached in 2003 by the Multilateral Development Banks (MDBs) and International Financing Institutions (IFIs) which, under the leadership of the World Bank, are working on Master Procurement Documents to be used for issuing harmonised bidding documents for construction

projects for which they are providing finance. At the MDBs' request, FIDIC gave its permission under a licensing agreement to incorporate a modified version of the 1999 FIDIC "New Red Book" as the standard form of contract of these harmonised procurement documents.

EIC was invited by FIDIC only in December 2004, as a so-called "friendly reviewer", to review the amended version which was, at that time, to become the 2nd Edition of the FIDIC "New Red Book" 2005. EIC was initially surprised about the early update of the 1999 Edition, as the 4th Edition of the former FIDIC "Red Book" (1987) is still very much in use in Asia, Africa and Latin America. It had been expected that it would take some more time to replace and supersede its precursor.

Initially, EIC had hoped to find at least some of the concerns which had been voiced publicly in the "EIC Contractor's Guide to the New Red Book" to be addressed in the MDB's draft version. Quite revers, upon scrutinising the MDB "amended" version in detail, EIC realised that the modifications, in balance, swung to the other extreme and would increase the risk to contractors even further than the 1999 Edition. From an international contractors perspective, the amended clauses dealing with the definition of "Unforeseeable", the Engineer's Authorities, the Performance Security, the Evaluation and the Limitation of Liability all represent a move in the wrong direction. EIC was also highly concerned about the increased usage of subjective terms which in practice lead to frictions between the parties and thus eventually to more disputes.

In the light of this worrying development, EIC was able to finish its drafting work on a comprehensive **EIC Position Paper on the 2nd Edition of the FIDIC "New Red Book"** already by mid-January 2005. Eventually, the EIC comments contributed to a revised FIDIC policy, since FIDIC decided in April 2005 to abstain from publishing a 2nd Edition of the "New Red Book". However, FIDIC will continue collaborating with the MDBs and IFIs on a special "MDB Version of the New Red Book". Consequently, EIC has submitted its comments as well to the global construction umbrella, the Confederation of International Construction Associations (CICA), in order to bring its concerns on a higher political level. The first objective is now to bring to the attention of the World Bank and the other MDBs and IFIs that the "amended" version of the FIDIC "New Red Book" in the Harmonised Procurement Documents would certainly be contradictory to their alleged effort to attract European international contractors again to bid for donor-financed infrastructure projects in developing countries.

As a matter of fact, European international contractors have almost ceased from bidding for infrastructure projects financed by the international donor agencies.

This is due to the fundamental shift of paradigm in the MDBs' funding away from economic to social infrastructure in the last decade of the 20th century. In addition, it is the current practise of the traditional procurement process that often detains European contractors to tender for internationally financed infrastructure projects.

EIC has in the meantime reacted to this general dissatisfaction within its membership. With the aim of contributing the experience of European international contractors to the political discussion in the international development community, EIC has drafted a new publication titled "**EIC Blue Book on Sustainable Procurement**". This "Blue Book", which has already been received with great interest from the international and bilateral development banks, points to the major shortcomings in the traditional procurement system applied by the MDBs and IFIs, and concludes that "Sustainable Procurement" cannot be based solely on the lowest construction cost, but must take into consideration in some form the operation and maintenance cost over the project's entire life cycle.

According to EIC, a modernised procurement system would commence with an efficient pre-qualification of applicants, followed by a tender process based on high-quality bid documents and balanced contract conditions. In order to ensure the highest quality for the lowest price, EIC recommends that the MDBs gradually progress to more innovative tender procedures that allow qualified bidders to bring their own expertise adequately to the competition. Through "turnkey" or "design-build" tender procedures, Performance-based Procurement and even Public-Private Partnerships, added value for infrastructure investments could be achieved.

EIC has written to various European institutions, such as the Commission, the Parliament as well as Europe's industry voice, UNICE, and asked them to speak out for the introduction of "quality-friendly" aspects into the current tender procedure for infrastructure works financed in the ACP countries. In EIC's opinion, the quality criterion, which is already a factor in the selection of consultants and services, needs to be adapted also to civil works by way of introduction of a holistic and quality-orientated project management process which is supervised by the European Commission over the projects entire value chain.

III. International Arbitration and Alternative Dispute Resolution mechanisms

Another main priority for EIC in connection with tender and contract conditions is the promotion of International Arbitration and Alternative Dispute Resolution (ADR) mechanisms, such as Dispute Review and Adjudication Boards (DRB and DAB). For a number of years, internationally there were two satisfactory standard dispute settlement mechanisms available, one since 1995 in connection with World Bank projects and the another one related to projects governed by the 1999 FIDIC "New Books".

In September 2004, a third set of Dispute Board Rules was published by the International Chamber of Commerce in Paris (ICC). Upon its drafting, EIC scrutinised the various drafts in detail and voiced in various Position Papers serious concerns about several provisions of the draft Rules. The most important difference of opinion between EIC and the ICC arose with the new concept of a "Combined Dispute Board" that deviates significantly from the Dispute Board arrangements introduced by the World Bank and FIDIC. In fact, it imposes more risks on both parties in terms of foreseeability of time and cost and of the final outcome, since it offers an intermediate approach between a binding DAB decision and a non-binding DRB recommendation. The final decision as to which of those alternatives will be used is with the Combined Dispute Board.

From the onset, EIC has warned that such a procedure is not in the best interest of the parties, since it is vital for the conduct of the Dispute Board procedure that they know already from the beginning whether they will obtain a non-binding Recommendation or a binding Decision at the end of the dispute resolution process. This is particularly relevant for countries or parties which have only a limited tradition to follow Recommendations of neutral bodies. EIC maintains its critical position on the ICC Dispute Board Rules and has reiterated its opposition at various international construction law conferences and lately at the Joint ICC/FIDIC Conference on "International construction contracts and dispute resolution" in Cairo. However, at the same time, EIC reaffirms that the construction industry, especially on the international level, has a special need for such alternative dispute resolution mechanisms in order to resolve construction project disputes quickly, at best promptly on the site.

IV. Export Credit Insurance and the "Equator Principles"

On 18 December 2003, the OECD member countries adopted a new Recommendation on "Common Approaches on Environment" which in future will cause especially the extractive industries more difficulties when applying for export credit guarantees. However, some 15 % of projects classified in 2002 in Category A of the OECD's recommendation, i. e. "projects with the potential to have significant adverse environmental impacts", were concentrated in the construction industry, and therefore EIC too is highly concerned about the additional administrative burden involved in the screening provisions stemming from the latest OECD recommendation.

EIC responded as one of only two business associations with a very critical Position Paper on the subject matter and argued that, given the fact that most involvement of the export credit agencies is limited to the provision of insurance against political and commercial risks, their power to mitigate environmental, social and cultural risks is almost negligible. The same goes for the applicant itself, as the traditional construction activity is, basically, carrying out instructions on the basis of the requirements and technical criteria drawn up by clients and their consulting engineers. Thus, the ability of contractors to influence environmental aspects of construction works is constrained by the design and tender documents elaborated by third parties and, in addition, by the national legislation in force in a third country.

Notably, it is not only the public sector which is re-adjusting its standards for financing large infrastructure projects. In June 2003, several of the world's largest and most well-known private financial institutions adopted the so-called "Equator Principles", a set of guidelines for use by lenders to ensure that projects they finance are developed in a manner that is socially responsible and environmentally sound. This means that also under project finance schemes without export credit cover, borrowers and sponsors have to cope in future with more rigorous standards. It has been calculated for the year 2003 that those banks which are using the "Equator Principles" arranged in total 55 billion US\$ of project loans, representing 75% of the 73.5 billion US\$ project loan market volume. This volume did not include project loans arranged by the European Investment Bank and other government agencies, which are estimated at an additional \$10 billion of project loans.

EIC followed-up on the latest developments in its General Assembly that took place on 15 April 2004 in Istanbul, Turkey. The Workshop focused on the issue of "Environmental and Social Standards in Export Credit Insurance and Project Finance". At the conference, experts from the Turkish government,

from private and multilateral financial institutions as well as representatives from industry associations and contractors themselves analysed the impact of the new standards on acquiring international finance for infrastructure projects in the developing world. Whilst EIC agrees with and supports the introduction of higher social and environmental standards on a global level, it calls upon all relevant European decision-makers to be vigilant that these new "soft rules" to not have a one-sided negative impact on the competitiveness of the European construction industry vis-à-vis its non-OECD competitors.

V. Elimination of market access barriers in international construction

Over the past months, EIC has devoted part of its attention to the PR China's international commitments subsequent to its WTO accession and their implementation into domestic law. In 2001, China had agreed under its WTO accession treaty to open its market to trade and services, which gave cause for high expectations, also in the construction sector. However, since the issuance of new regulations for the construction sector by China's Ministries of Construction and of Commerce in September 2002 (Decreets 113 and 114), European international contractors are faced with new market entry barriers. Whilst the granting of the possibility for foreign construction companies to establish wholly foreign-owned enterprises (WFOE) in China was a step in the right direction, a number of provisions of the new Chinese qualification system imposed constraints that are excessive and not in line with China's GATS obligations (e.g. residency requirements, limitations on the number of foreign engineers, capital requirements). Most importantly, the new regulations eliminated the "foreign contractor" status that had been in place for many years and even before WTO accession, and under which licenses to foreign companies were awarded on a project basis. In sum, the initial Chinese grading system introduced for both WFOEs and Sino-foreign Joint Ventures was designed to de facto closing the market to most foreign contractors, since it excluded experience, assets and qualification gathered outside the Chinese market.

In an attempt to avert the most severe impact resulting from Decree 113, EIC intensified its co-operation with the European Commission's DG TRADE and was successful in putting off the entry into effect of the new qualification system until 01st April 2004. By afterwards maintaining pressure on the Chinese government, EIC, in collaboration with the European Commission, the European Chamber of Commerce in China (EUCCC) and other international bodies, was able to partly convince the Chinese authorities that, in order to further attract international construction companies to the Chinese construction market, certain requirements of the new legislation had to be relaxed.

On 06 September 2004, the Chinese Ministries of Construction and Commerce jointly promulgated a circular for the purpose "of encouraging large-scale international contractors to establish FICEs [Foreign Invested Construction Enterprises] in China". The main amendments foresee that, first, the off-shore project experience obtained by the foreign shareholders would be taken into account in evaluating its track record and, second, that registered foreign contractors would be allowed to employ foreign service providers as long as such foreign service providers possess the equivalent experience and skill sets required for Chinese technical/management personnel. Whereas EIC's main goal, to reinstate the "old" Decree 32, allowing foreign contractors to work in China on a project-by-project-basis could not be achieved, the current regulation seems to be bearable to all international contractors attempting to access the Chinese market.

VI. Relations with the World Bank

Undoubtedly, the MDBs and IFIs presently do not have the same importance for the international business of European international contractors that they had some 20 years ago. Due to the overall reduction of infrastructure investments during the 1990s and the increased competition from both local and international contractors from other world regions, donor-financed contracts form today only a very minor percentage of the total international revenues of European construction companies.

Still, the meetings with the World Bank and other MDBs and IFIs under the umbrella of the Confederation of International Contractors Association (CICA), which take place in Washington D.C. every two years, are a good platform to channel the EIC positions and concerns on the international construction practice to the international donor agencies. In the most recent meeting on 01 and 02 December 2004, the conference discussion picked up on the topics of the November 2002 Meeting ranging from the harmonisation of the Master Procurement Documents over Performance-based Procurement and Public-Private Partnerships to Ethics Management issues. All items treated were inspired by the European construction industry and most CICA presentations were under the surveillance of European international contractors.

EIC presented at this occasion the new "EIC Blue Book on Sustainable Procurement" and its critical position on the draft "MDB version of the FIDIC New Red Book". Moreover, EIC recalled its earlier observation that the anti-corruption policy initiated by World Bank President Wolfensohn would probably fail if it were not to address the public side of unethical behaviour. Instead of shifting all the blame unilaterally to the industry's camp, EIC proposed to introduce a Joint Code of Ethics which has to be applied by all parties to the contract, i.e. borrower/employer, engineer, contractor and subcontractors.

As a result of the bilateral talks it was concluded that, under the CICA umbrella, follow-up discussions should be initiated over the year 2005 on three specific topics:

- The new Master Bidding documents and General Conditions of Contract for Civil Works (based on the FIDIC 1999 "Red Book");
- Quality-Assurance Mechanisms; and
- Late Payments.

EIC will play an active role in these discussions and has already contributed in drafting various CICA Position Papers for the forthcoming talks.

EIC General Assemblies

The spring Generally Assembly took place for the first time in the country of EIC's "youngest" Member Federation, Turkey. The Workshop focused, as mentioned before, on the issue of **"Environmental and Social Standards in Export Credit Insurance and Project Finance"**. At the conference, experts from the Turkish government, from private and multilateral financial institutions as well as representatives from industry associations and contractors themselves analysed the impact of the new social and environmental standards for acquiring export credit cover and international finance for infrastructure projects in the developing world.

The autumn meeting of the EIC General Assembly took place on 01 October 2004 in Copenhagen, Denmark. The theme of the Workshop was **"EU Financing for Infrastructure Projects in Developing Countries"**. During the Workshop it was analysed what European international contractors have to offer to the European Commission to support the achievement of the U.N. Millennium Development Goals and whether their skills and expertise can be matched with the expectations of the international donor agencies. As a result from the discussion with several EU officials it was well noted that the European Commission and other MDBs would welcome to find a possibility to interest European construction companies again in donor-financed contracts in developing countries.

In the General Assembly held on 22 April 2005 in Paris, France, EIC followed-up on the Copenhagen discussions and organised a Workshop on **"The Global Infrastructure Market – Which Role for European International Contractors?"**. With a record attendance of more than 80 participants, the meeting witnessed an informative exchange of opinions between representatives of the World Bank and the European Commission on the one hand and senior management executives on the other hand about the key drivers for change in the international construction business. It was concluded that with all the technical publications in hand, EIC should continue to act as a political factor in order to shape the international rules for the international construction business of its membership.

The 2005 autumn General Assembly will take place on 07 October 2005 in Helsinki, Finland, and will examine the opportunities for European international contractors in the transport infrastructure market in Russia.

Note: More information on passages in italics can be downloaded from the EIC website (<http://www.eicontractors.de>)

EIC Secretariat:

Kurfürstenstrasse 129, D – 10785 Berlin
 Postal address: D – 10898 Berlin
 Telephone: ++ 49 – 30 – 212 86 244
 Fax: ++ 49 – 30 – 212 86 285
 E-mail: eicontractors@compuserve.com
 Director: RA Frank Kehlenbach
 Deputy Director: Hasso von Pogrell

For further information, please visit our website at:
www.eicontractors.de



President:

Dr Ahmed Saif Belhasa



Director General:

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.

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 (until October 2003), of Germany, representing FIEC

Mr Wilhelm Küchler (from October 2003 on), of Germany, representing FIEC

Mr Awni Saket, of Jordan, representing FAC

Mr Robert Desjardins, an American, representing FUSCCA

Mr Premchai Karnasuta, of Thailand, representing FAWPCA

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

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.

The challenges facing the construction industry

The world construction market volume amounts to around USD 3.1 billion. The construction industry 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 2004 and at the beginning of 2005

Since April 2004, CICA activity focused mainly on the preparation of the biannual meeting CICA-IFI's to be held in Washington DC, on December 1-2, 2004 in the World Bank premises.

The importance of these meetings relies upon the fact that the World Bank, through its "Capacity Building" or "Institutional Development" programmes is taking a leading role in the reshaping of the juridical and contractual order at least in the developing and emerging countries. But these endeavours might in the long run have an indirect effect even on developed countries' legislations as well.

One of the major achievements of the December 2004 meeting was the reinforcement of the dialogue between the World Bank and CICA : instead of one meeting every two years, it has been decided to organize a restricted working group which will meet twice a year. This group is made up of officials of the World Bank and members of CICA. The next meetings are scheduled for July 6-7 in Paris and December 6-7 in Washington.

1. IFI-CICA Meeting in Washington D.C., December 1-2, 2004

On the agenda of this meeting were the following issues :

- **Infrastructure Action Plan:**

Under the pressure of developing and emerging countries leaders', the World Bank has launched in February 2004 an "Infrastructure Action Plan" which would entail a very significant increase in the amounts lent for large infrastructure projects. It is nearly an u-turn in World Bank policy, notably in the case of hydroelectric projects which are now back in favour. The needs for cash are huge and the World Bank is seeking major investment from the private sector, which – accordingly to the World Bank – is somewhat slow to come to the rescue. New forms of contractors are sought to attract private investment, although the Bank has given up the possibility of relying entirely on the private sector for financing large infrastructure projects. These changes have opened the door to more cooperation between the private sector and the World Bank, although the rules of the World Bank remain still somewhat rigid and heavy. CICA presentations tended to urge the WB to use innovative approaches to counter the trend of the Construction Industry "voting with its feet" whenever financial forecasting was made impossible by inappropriate contract rules, corruption and poorly prepared tender documents, ill-managed contracts and insufficiently funded projects.

- **New forms of contracts (PPP – PBP Performance based procurements, etc...):**

The bank has abandoned its reservations against such contracts but it is still not at all sure that many contracts of this type will be launched in the near future. Anyway, the rules followed by the WB concerning the International Competitive bids make this kind of contract less attractive to the private sector.

- **Ethics, transparency and corruption:**

Since July 20, 2004 there has been a very strong commitment by the World Bank in the fight against corruption. Unfortunately, the World Bank is still far away from developing a systematic action against unethical contracts and it continues to focus essentially on contractors as if they were the unique and prime movers in corruption. The theory of "you need two to tango" has not reached the ears of the World Bank. World Bank policy might ultimately turn out to be inefficient and/or counterproductive. CICA is advocating more balanced contracts and a

systematic approach involving notably Engineers, Borrower Countries, Employers and of course the Bank itself. Given the influence of NGO's such as Transparency International, it may be a long time before a realistic approach is developed towards this delicate but very important issue.

- **Harmonization of procurement documents.**

The World Bank has pursued a policy of harmonization of procurement documents with the other Multilateral Development Banks (MDBs). These documents known as "Master Procurement Documents" should be implemented "soon". Section VII of this document (General Conditions of Contract) has been prepared together with the FIDIC 1999 Red book. This harmonized version contains a much more developed chapter 6 on social clauses prepared with IFBWW (International Federation of Building and Wood Workers) and will entail the suppression of the former standard Bidding Documents issued in September 1996 for civil law countries. CICA strongly protested for not having been consulted in due time during the preparation of these documents. The World Bank replied, saying that these documents were issued according to internal and to Borrowers' needs but that they were not "carved in tablets of stone" and that the contractors' point of view will be taken into due consideration.

The analysis of these documents carried out later revealed a sharp deterioration of the rights of Contractors, thus further accentuating their insecurity vis à vis contracts with the Client/ Borrowers of the WB.

2. Preparation of the next restricted World Bank – CICA working group meeting in Paris, July 6-7, 2005

The issues on the table are the following ones:

1. Quality assurance
2. Late payments
3. Master Procurement Documents

The issue # 3 will be broken down into:

- general remarks on MPD
- unbalanced contractual clauses
- ethics and corruption
- social clauses
- civil law

CICA will send its proposals on these issues at the end of April 2005.

The general trend of CICA proposals is to stress that, given the need for economic certainty, ethical transparency and increasing quality, the documents prepared by the World Bank still contain too many unbalanced contract clauses that have the effect of deterring responsible and reliable contractors from bidding for World Bank sponsored projects.

3. FIDIC-International Federation of Consulting Engineers

Subsequent to the implementation of the harmonized Red Book by the World Bank, FIDIC submitted for review a draft new Red Book 2005. This second edition was identical to the harmonized version used by the World Bank.

In a move coordinated with International Bar Association representatives, and with EIC, CICA protested to FIDIC about the irrelevancy of such a document in regard of the requirements of the Millennium Development Goals aimed at fighting poverty and of the needs of juridical, contractual and financial security of the Construction Industry. CICA requested a postponement of the second edition that was confirmed in February by FIDIC.

Discussions with FIDIC are expected to start again soon.

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 improving safety at work, the development of vocational training, the elimination of undeclared work without social protection and the stabilization of employment. Getting this ambitious programme under way has proved to be a rather slow and hesitant process: at the present time it is still not very sure that this programme will be continued.
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, Shanghai etc.). Due to a lack of human and financial resources, it has been rather difficult to closely monitor the developments relating to this programme but anyway no major moves that could have required CICA's special attention appeared during the past year.
3. The UNO: through the IOE (International Organization of Employers) which is closely monitoring UN activity, CICA informed its constituents about the 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). The regulations drafted by the UNHCR specifically targeting large companies working abroad in order to make them – and their staff – responsible for any human right infringement have been postponed "sine die".
4. ICC: CICA is following up through its liaison officers some workshops of the ICC (International Chamber of Commerce) with which it is collaborating, in particular, in drawing up a new standard document for turnkey contracts but progress is very slow.
5. CICA also maintains regular contacts and collaborates with other stakeholders 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. The relations with these two organizations are very good at the institutional level as well as at the personal level. Some joint and/or coordinated actions are contemplated together with IFBWW to combat "social dumping".

Grave financial difficulties

From the start in 1974, CICA has always been understaffed, because due to underfunding, in respect to the huge task it is supposed to carry out. The globalization process with the growing importance of the International Organizations had made this situation still more acute .

This already bad situation started to worsen still ever since 2002 with the fall of the US\$ versus the €. With its revenues unchanged in US\$ since 2001 and its expenses incurred mostly in €, CICA's global effective income is now 60 % of what it was. The cumulative effect of the depreciation of the US Dollar is that CICA's survival is at stake and when drafting this report CICA's survival beyond mid 2005 is not secured.

CICA would like to seize the opportunity of this report to warmly and wholeheartedly thank the FIEC members and Mr Wilhelm Küchler, FIEC President, for their continued support.

Even, if CICA survives, it would convince the FIEC member federations that the dialogue at the international level is paying off. It must be sustained with adequate resources. It is necessary and complementary to the efforts FIEC is carrying out with the EU institutions.

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, because it enables the construction industry to be heard by organizations which to a large extent contribute to drawing up the intellectual, legal, contractual, financial and economic framework within which our activities will continue to be carried out in the medium term.

CICA Head Office:

10, rue Washington

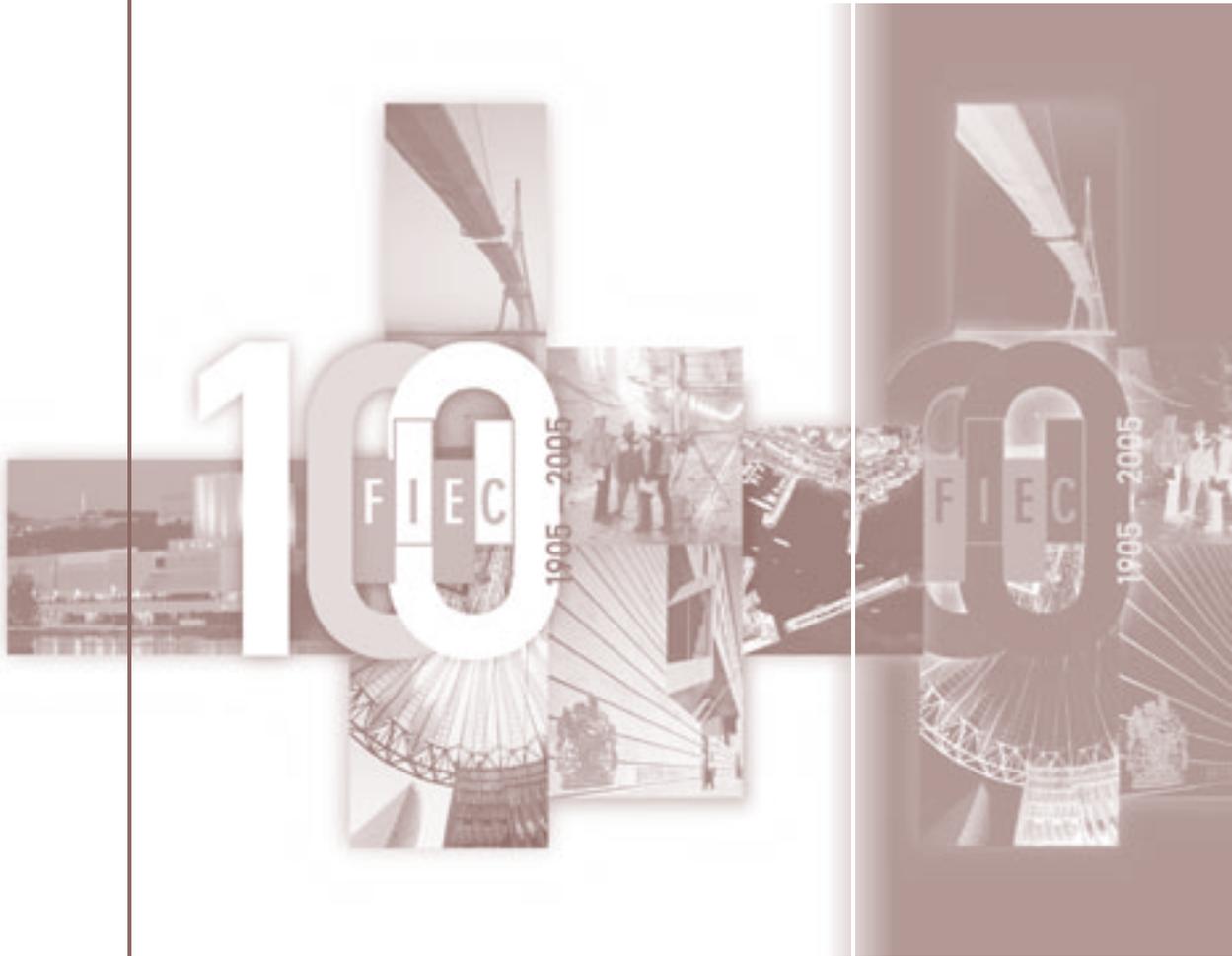
F-75008 Paris

Telephone: 33 1 58 56 44 20

Fax: 33 1 58 56 44 24

E-mail: cica@cica.net

Web site: www.cica.net



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.

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| 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.

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.



**Construction in Europe:
100 years of FIEC**

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

A

Bundesinnung Bau – BIB
Schaumburggasse 20/8
A – 1040 Wien
Tel.: (+43.1) 718.37.37.0
Fax: (+43.1) 718.37.37.22
E-mail: office@bau.or.at
http:// www.bau.or.at

Fachverband der Bauindustrie – FVBI
Schaumburggasse 20/8
A – 1040 Wien
Tel.: (+43.1) 718.37.37.0
Fax: (+43.1) 718.37.37.22
E-mail: office@bau.or.at
http:// www.bau.or.at

B

Confédération Construction
34-42 rue du Lombard
B – 1000 Bruxelles
Tel.: (+32.2) 545.56.00
Fax: (+32.2) 545.59.00
E-mail: info@confederationconstruction.be
http:// www.confederationconstruction.be

BG

Bulgarian Building and Construction Chamber
– BBCC
Chumerna Str. 23
BG – 1202 Sofia
Tel.: (+359.2) 988.95.85
Fax: (+359.2) 988.68.80
E-mail: office@bbcc-bg.org
http:// www.bbcc-bg.org

CH

Schweizerischer Baumeisterverband – SBV
Société Suisse des Entrepreneurs – SSE
Weinbergstraße 49
CH – 8035 Zürich
Tel.: (+41.1) 258.81.11
Fax: (+41.1) 258.83.35
E-mail: verband@baumeister.ch
http:// www.baumeister.ch

CY

Federation of the Building Contractors
Associations of Cyprus – OSEOK
3A, Androcleous Str.
CY – 1060 Nicosia
Tel.: (+357.22) 75.36.06
Fax: (+357.22) 75.16.64
E-mail: cyoseok@spidernet.com.cy

CZ

Svaz podnikatelů ve stavebnictví v České
republice – SPS
Association of Building Entrepreneurs
of the Czech Republic
Národní třída 10
CR – 110 00 Prague 1
Tel.: (+420.2) 249.514.10
Fax: (+420.2) 249.304.16
E-mail: sps@sps.cz
http:// www.sps.cz

D

Hauptverband der Deutschen
Bauindustrie e.V. – HDB
Kurfürstenstraße 129
D – 10785 Berlin
Tel.: (+49.30) 212.86.0
Fax: (+49.30) 212.86.240
E-mail: bauind@bauindustrie.de
http:// www.bauindustrie.de

Zentralverband des Deutschen
Baugewerbes- ZDB
Kronenstraße 55-58
D – 10117 Berlin
Tel.: (+49.30) 20.31.40
Fax: (+49.30) 20.31.44.19
E-mail: bau@zdb.de
http:// www.zdb.de

DK

Dansk Byggeri
Nørre Voldgade 106
2125 Postboks
DK – 1015 København K
Tel.: (+45) 72 16 00 00
Fax: (+45) 72 16 00 10
E-mail: danskbyggeri@danskbyggeri.dk
http:// www.danskbyggeri.dk

E

SEOPAN
Serrano 174
E – 28002 Madrid
Tel.: (+34.91) 563.05.04
Fax: (+34.91) 562.58.44
E-mail: fiiec@seopan.es
http:// www.seopan.es

ANCOP

Serrano 174
E – 28002 Madrid
Tel.: (+34.91) 563.05.04
Fax: (+34.91) 562.58.44
E-mail: ancop@ancop.net
http:// www.ancop.net

EST

Estonian Association
of Construction Entrepreneurs (EEEL)
Kiriku 6
EE – 10130 Tallinn
Tel.: (+372) 648.90.05
Fax: (+372) 641.00.71
E-mail: eeel@eeel.ee
http:// www.eeel.ee

F

Fédération Française du Bâtiment – FFB
33 avenue Kléber
F – 75784 Paris Cedex 16
Tel.: (33-1) 40.69.51.00
Fax: (33-1) 45.53.58.77
E-mail: pierrem@national.ffbatiment.fr
http:// www.ffbatiment.fr

Fédération Nationale des Travaux Publics
– FNTP
3 rue de Berri
F – 75008 Paris
Tel.: (33-1) 44.13.31.44
Fax: (33-1) 45.61.04.47
E-mail: fntp@fntp.fr
http:// www.fntp.fr

FIN

Confederation of Finnish Construction
Industries RT (RT)
P.O.Box 381 (Unioninkatu 14)
FIN – 00131 Helsinki
Tel.: (+358.9) 129.91
Fax: (+358.9) 628.264
E-mail: rt@rakennusteollisuus.fi
http:// www.rakennusteollisuus.fi/

GB

Construction Confederation – The CC
Tufton Street 55
Westminster
GB – London SW1P 3QL
Tel.: (+44.870) 89.89.090
Fax: (+44.870) 89.89.095
E-mail: enquiries@theCC.org.uk
http:// www.theCC.org.uk

GR

Association Panhellénique des Ingénieurs
Diplômés Entrepreneurs de Travaux Publics
– PEDMEDE
23 rue Asklipiou
GR – 106 80 Athènes
Tel.: (+302.10) 361.49.78
Fax: (+302.10) 364.14.02
E-mail: info@pedmede.gr
http:// www.pedmede.gr

H

National Federation of Hungarian
Contractors – EVOSZ
Döbrentei tér 1.
H – 1013 Budapest
Tel.: (+36.1) 201.03.33
Fax: (+36.1) 201.38.40
E-mail: evosz@mail.datanet.hu
http:// www.evosz.hu

I

Associazione Imprese Generali – AGI
Via Guattani 20
I – 00161 Roma
Tel.: (+39.06) 441.60.21
Fax: (+39.06) 44.25.23.95
E-mail: agiroma@tin.it

Associazione Nazionale Costruttori Edili –
ANCE
Via Guattani 16-18
I – 00161 Roma
Tel.: (+39.06) 84.56.71
Fax: (+39.06) 845.675.50 / -55
E-mail: info@ance.it
http:// www.ance.it

IRL

The Construction Industry Federation – CIF
Canal Road
Rathmines
IRL – Dublin 6
Tel.: (+353.1) 406.60.00
Fax: (+353.1) 496.69.53
E-mail: cif@cif.ie
http:// www.cif.ie

L

Groupement des Entrepreneurs du Bâtiment et des Travaux Publics – GEBTP
7 rue Alcide de Gasperi
Plateau de Kirchberg
BP 1034
L – 1013 Luxembourg
Tel.: (+352) 43.53.66/43.53.67
Fax: (+352) 43.23.28
E-mail: group.entrepreneurs@fedil.lu
http:// www.fedil.lu

N

Entreprenørforeningen – Bygg og Anlegg EBA
P.O. Box 5485 Majorstua
N – 0305 Oslo
Tel.: (+47) 23 08 75 00
Fax: (+47) 23 08 75 30
E-mail: firmapost@ebanett.no
http:// www.ebanett.no

NL

Bouwend Nederland
Stavorenweg 3
Postbus 286
NL – 2800 AG Gouda
Tel.: (+31-182) 567 567
Fax: (+31-182) 567 555
E-mail: info@bouwendnederland.nl
http:// www.bouwendnederland.nl

P

Associação de Empresas de Construção e Obras Públicas – AECOPS
Rua Duque de Palmela n° 20
P – 1250 – 098 Lisboa
Tel.: (+351.21) 311 02 00
Fax: (+351.21) 355 48 10
E-mail: aecops@aecops.pt
http:// www.aecops.pt

Associação dos Industriais da Construção Civil e Obras Públicas – AICCOPN
Rue Alvares Cabral 306
P – 4099 Porto Codex
Tel.: (+351.22) 340 22 00
Fax: (+351.22) 340 22 97
E-mail: geral@aiccopn.pt
http:// www.aiccopn.pt

PL

UNI-BUD
Al. Jana Pawla II nr 70
lok. 100, piętro X
PL – 00-175 Warsaw
Tel.: (+48.22) 636 34 76/77
Fax: (+48.22) 636 34 78/79
E-mail: unibud@polbox.com
http:// free.polbox.pl/u/unibud

Krajowy Związek Pracodawców Budownictwa – KZPB
ul. Elektoralna 13 1p.
PL – 00-137 Warsaw
Tel.: (+48.22) 620 31 73
Fax: (+48.22) 620 41 74
E-mail: kzpb@kzpb.pl
http:// www.kzpb.pl

RO

The Romanian Builders' and Contractors' Association – ARACO
Splaiul Independentei Nr. 202 A.
Cod 060022, sector 6
RO – Bucharest
Tel.: (+40.21) 212 63 91
Fax: (+40.21) 312.96.26
E-mail: contact@araco.org
http:// www.araco.org

S

Sveriges Byggindustrier – BI
Norrlandsg. 15 D VII
BOX 7835
S – 103 98 Stockholm
Tel.: (+46.8) 698 58 00
Fax: (+46.8) 698 59 00
E-mail: info@bygg.org
http:// www.bygg.org/

SLO

Construction and Building Materials Association (CBMA)
Dimièeva 13
SI – 1504 Ljubljana
Tel.: (+386.1) 58.98.242
Fax: (+386.1) 58.98.200
E-mail: zgigm@gzm.si
http:// www.gzm.si

SK

Zväz stavebných podnikateľov Slovenska ZSPS
Račianska 71
SK – 832 59 Bratislava 3
Tel.: (+421.2) 492 46 246
Fax: (+421.2) 492 46 372
E-mail: sekretariat.zsps@rainside.sk
http:// www.zsps.sk

TR

Turkish Contractors Association – TCA
Ahmet Mithat Efendi Sok.21
TR – 06550 Cankaya-Ankara
Tel.: (+90.312) 438.56.08 / 440.81.22
Fax: (+90.312) 440.02.53
E-mail: tmb@tmb.org.tr
http:// www.tmb.org.tr

Associate Member:
EFFC

European Federation of Foundation Contractors
Forum Court
83 Copers Cope Road
Beckenham
GB – Kent BR3 1NR
Tel.: (+44.208) 663.09.48
Fax: (+44.208) 663.09.49
E-mail: effc@effc.org
http:// www.effc.org

Cooperation Agreement with:
ACBI

Association of Contractors and Builders in Israel
18-20 Mikve Israel
IL- 65115 Tel-Aviv
Tel.: (+972.3) 56.04.701
Fax: (+972.3) 56.08.091
E-mail: acb@acb.org.il
http:// www.acb.org.il



Avenue Louise 66
B-1050 Bruxelles
Tel: + 32 2 514 55 35
Fax: + 32 2 511 02 76
e-mail: info@fipec.org
internet: www.fipec.org

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Préfecture de Police, Paris, N° 69921.P

Registered office:
10 Rue Washington
F-75008 Paris