

2009

ANNUAL REPORT

EN

European
Construction
Industry
Federation



F I E C



28
countries

33
federations

including reports of



FIEC

Created in 1905

Legal personality under French law

28 countries (24 EU, Switzerland, Norway, Croatia and Turkey)

33 national member federations representing firms:

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

Associate member:

EFFC European Federation of Foundation Contractors

Cooperation Agreements with:

ACBI Association of Contractors and Builders in Israel



Social Partner in the European Sectoral Social Dialogue of the Construction Industry together with FETBB-EFBWW-EFBH (European Federation of Building and Woodworkers)
http://ec.europa.eu/employment_social/social_dialogue/



The European founding member of CICA (Confederation of International Contractors' Associations)
www.cica.net



Associate member of CEN (European Committee for Standardisation)
www.cen.eu



Member of ECCREDI (European Council for Construction Research, Development and Innovation)
www.eccredi.org



Associate Member of the "Enterprise Europe Network" of the European Commission
<http://www.enterprise-europe-network.ec.europa.eu>



Cooperation with EIC (European International Contractors) for activities beyond Europe's borders
www.eicontractors.de



Participant in the ECF (European Construction Forum)
www.ecf.be



Member of ESF (European Services Forum)
www.esf.be



Member of "EPBD ("European Energy Performance of Buildings Directive") Buildings Platform"
www.buildingsplatform.eu



Partner in ChemXchange project – Creation of web-based database for SME users of chemicals in the construction sector



Partner in the OSHA (European Agency for Health and Safety at Work) Campaign on "Risk Assessment"
<http://osha.europa.eu/en/campaigns/hs2008>



Partner of PV SUNRISE Project - Dissemination of Photovoltaic technologies across the construction industry
www.pvsunrise.eu

The Sector

Total construction in 2008 (EU 27):

1.305
billion €

10,4%
of GDP
in 2008 (EU 27):

49,2%
of Gross Fixed
Capital Formation

3
million
enterprises
(EU 27),
of which:

95%
are SMEs with fewer
than 20 and

93%
with fewer than 10
operatives

16,3
million
operatives

7,6%
of Europe's total
employment

**biggest
industrial
employer in
Europe**
(30% of industrial
employment)

48,9 million workers

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

Multiplier effect:

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

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

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Participation in the European Parliament's Symposium "Towards a European Policy for Sustainable Housing?" - 18/9/2008



Photo: Serge Martens, Brussels



It is my honour and pleasure to present the latest edition of the FIEC Annual Report, the first of my mandate as President of FIEC. It presents FIEC's activities from the political and economic perspective from the 2008 General Assembly in Dublin to the 2009 General Assembly in Madrid. In accordance with tradition, our colleagues from the European International Contractors (EIC) and the Confederation of International Contractors' Associations (CICA) also report on their activities.

Small, medium and large sized enterprises.

Without discrimination, FIEC represents the interests of construction enterprises of all sizes. This is the particular strength of FIEC. The participation of contractors and experts of the 33 member federations from 28 countries, as well as the supervision by our Vice-President "SME-Envoy", ensure that each FIEC position paper reflects the interests of all enterprises whether small, medium or large. In the same way, this comprehensive representativeness is illustrated throughout this FIEC Annual Report.

The economic crisis: "Construction is part of the solution!"

The economic environment has changed considerably over the last few months with the financial crisis developing into a global economic downturn. Our political leaders have reacted with a series of recovery programmes combining political commitment and investment programmes. In this context, the construction sector has very rightly been seen as part of the solution, as welcomed by a series of statements by FIEC¹. Despite this positive development, our experts expect a significant overall decline in construction activity: -5,2% in 2009, even if the rehabilitation/ maintenance, public buildings and civil

engineering sub-sectors should, ultimately, benefit from the recovery programmes.

It is first essential to clarify some points, Investment, be it through energy efficiency or infrastructure responds to existing needs of society, irrespective of the current crisis. On the one hand, we have to reduce the use of fossil energy, both in view of reducing green-house gas emissions and saving energy reserves whilst on the other, we have to maintain and improve existing infrastructure and build new infrastructure, in order to lay down the basis for future economic development and the well-being of the citizens.

In other words: all of these investments should have been committed quite some time ago and executed in a coordinated, steady manner over time. Considering that construction activity provides for immediate as well as short, medium and long-term perspectives, it is important to stick to a timetable of sustained investment that ultimately becomes schools and hospitals, as well as infrastructure for transport, energy, water and wastewater. Political commitment has to be transformed quickly into real activity, in order to fight the slowdown, certainly, but also to succeed in preparing the future.

Our new statistical report, No. 52, provides details of current economic trends, which differ both between countries as well as between the various sectors of activity.

FIEC's communication policy

A key FIEC priority, overseen specifically by one of FIEC's Vice-Presidents, is its communication policy, both outside our federation and to our own members. Amongst addressees outside FIEC feature the EU institutions, but also world level bodies such as the WTO, the OECD, the World Bank and the ILO. Our principal objectives are promoting the construction industry's interests both before and during legislative procedures while at the same time highlighting the specific characteristics of our sector and its corresponding requirements.

Personal contacts with the European institutions

Another priority is the continued development of personal contacts with European decision-makers, in particular in view of the forthcoming European elections and the new Commission. In this context, I have had the opportunity to meet, in particular, Commissioners Tajani (transport) and

¹ 27/11/2008 Press release «Construction is part of the solution!» – 24/2/2009 FIEC responses to the European Parliament (ITRE Committee) and the ECOSOC (CCMI) – 30/4/2009 FIEC 10-point Manifesto for the European Elections 2009

Špidla (employment), accompanied by my Steering Committee colleagues responsible for the topics in question as well as by FIEC's Director General.

As a small "teaser" of the reports in this Annual Report, I would like to mention a few themes:

Trans-European Transport Network (TEN-T) and Public Private Partnerships (PPP)

The issue of the TEN-T and the role of the private sector in public projects have been among the FIEC's priorities for many years. This commitment for the effective execution of the TEN-T, an essential basis for the future of Europe, its economy, its social systems, its society and its citizens, is on-going. The TEN-T projects have been decided, regularly confirmed and re-confirmed since 1994 by our Heads of State and Government. It is, therefore, more than astonishing to see that our political leaders have never given themselves the means to turn their decisions into reality. The European Recovery Plan includes a specific item for the TEN-T, but this remains insufficient in relation to the estimated budget necessary for the TEN-T. It is also very interesting to note that the priorities decided by the Heads of State and Government are not necessarily to be found very high on the list of national priorities.

More details can be found in the "Blue Book", published by FIEC each year – the next edition in June 2009 – in order to show the progress of the 30 so-called TEN-T priority projects. In this way, FIEC continues to encourage the Member States to transform their decisions and solemn declarations into real action, where appropriate with the assistance of the private sector in the framework of genuine partnerships, namely PPPs, including by means of concessions. The Commission services are currently working on this issue.

Reduced VAT for construction activity

It is pleasing to note that reduced VAT has ceased being a provisional arrangement and has become a permanent system, at least for those Member States which decide on using it. So far as construction is concerned, EU rules will now allow the application of reduced VAT, on a permanent basis, to renovating and repairing private dwellings, not only social housing. FIEC welcomes this decision whilst at the same time regretting that the Council did not opt to extend the scope to the whole housing sector. Due to this limitation, the positive effects of reduced VAT on job creation and fighting undeclared labour will be fewer than they could have been. A missed opportunity!

Meeting with Commissioner Antonio Tajani (Transports) – 30/9/2008



Dirk Cordeel, Commissioner Antonio Tajani, Luisa Todini

Photo: Yann Clavier, Brussels

Ethics

Efforts to curb corruption have intensified not only beyond the borders of the European Union, but also within the EU Member States and at EU level over the past few years. Furthermore, some civil society organisations have singled out the construction industry as a sector which, according to their perception, is particularly prone to unethical business practices.

Against this background, FIEC and EIC have identified a need to respond constructively with a policy statement to the various misconceptions and simplistic policy statements which unjustifiably cast a bad light on the construction sector in general and which do not acknowledge the growing efforts towards the elimination of corruption, both at federation level and within enterprises themselves. The joint FIEC-EIC statement concludes with concrete recommendations to all parties involved in the construction process which are invited to act simultaneously within their sphere of influence in order to make progress on this important issue.

Social affairs

In this area, FIEC has dealt with numerous themes of high importance for the construction industry, for example professional education and training (including that for health and safety), the transparency and recognition of qualifications, future skills and qualification needs, the reduction of accidents, a European guide for health and safety management, the impact of nanotechnologies, real and bogus self-employment, the posting of workers and the related recent decisions of the European Court of Justice (which do not require a revision of the directive), as well as joint and several liability of the

FIEC – Partner in the OSHA (European Agency for Health and Safety at Work) Campaign on “Risk Assessment” – 17/3/2009



Photo: OSHA

Commissioner Vladimír Špidla, Dirk Cordeel, Jukka Takala, Director of the OSHA

main contractor and the sub-contracting chain for “social debts” (an issue which requires, prior to any legislative action at the EU level, thorough analysis of the practical experiences already gained in some countries).

**The Sectoral Social Dialogue
“Construction”**

The major part of these sector focused social themes with which FIEC deals, are also part of the Sectoral Social Dialogue in which FIEC and EFBWW, the two official Social Partners of the construction industry, have continued to progress on issues of common interest. For some of these issues, the Social Partners have undertaken research projects and I express our gratitude to the European Commission for its co-financing, without which the Social Partners would not have been able to carry out these projects.

Technical and environmental matters

FIEC’s work on technical and environmental concerns rests on three major pillars. One is related to regulatory affairs including the theme of standardisation, the second is related to the needs of research in the construction sector whereas the third, is linked to environmental issues. On the theme of standardisation and regulatory affairs, the Technical Commission has been active in fighting for upholding confidence in the CE marking through the ongoing legislative process of the proposed Construction Products Regulation as well as ensuring that construction products continue to bear the right information regarding their performance on the product itself in the face of increased pressure to make such information only available on the Internet. In the area of standardisation, FIEC is an associate member

in the European Committee for Standardisation (CEN) and has been finalizing its vision for standardisation in preparation of the expected overhaul of the standardisation system. In the field of research FIEC, together with the European Council for Construction Research, Development and Innovation (ECCREDI), is campaigning for increased understanding of the needs of SMEs in research. Finally, the last pillar, among the many areas of activity of the environment sub-commission, I would single out the work done to raise the profile both within and outside the industry towards sustainable development whether ranging from increased energy efficiency in the building stock to reducing waste from the construction process. In creating a sustainable construction industry, all FIEC’s commissions are equally concerned.

Further details and other themes

More details on all matters I have referred to above are addressed on the following pages. Consult them! It is worthwhile!

My thanks

On this occasion, I would like to express my gratitude to everybody who has participated actively or by virtue of their advice in our work: my Steering Committee colleagues, the Presidents and members of our commissions, sub-commissions and working groups, the contractors and staff of our member federations and also the FIEC Team in Brussels. At the same time, I would also like to thank all our interlocutors in the European institutions and the associations/ federations with whom we have cooperated in full trust in the numerous themes linked to construction.

In conclusion, I invite the readers of this report to grant their attention to the activities presented and to send us any suggestions for improvement. These are always welcome.

Dirk Cordeel,
President of FIEC



Dirk Cordeel, BE

President



Michel Buro, CH

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



Bernard Huvelin, FR

Vice-President
ECO
(FR)



Peter Andrews, GB

Vice-President
SOC
(GB)



Zdenek Klos, CZ

Vice-President
TEC
(CZ-PL)



Elco Brinkman, NL

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



Georgios Romosios, GR

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



Frank Dupré, DE

Vice-President
The SME Envoy
(DE)



Luisa Todini, IT

Vice-President
TEN-T
(IT)



Ricardo Gomes, PT

Vice-President
MEDA
(ES-PT)



Per Nielsen, SE

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



Michel Démarre, FR

Vice-President
EIC

GENERAL ASSEMBLY

COUNCIL

STEERING COMMITTEE

Economic and Legal Commission (ECO)

President:
Bernard Huvelin, FR
Rapporteur:
Christine Le Forestier, FIEC

Temporary Working Groups

Accounting rules (-04/2009)
Chairman: Jean-Jacques Massip, FR

PPPs and Concessions
Chairman:
Jean-Jacques Massip, FR

Internal Market – Lead Markets
Chairman: Thierry Ceccon, FR

Reduced VAT
Chairman: Frank Dupré, DE

EU Contract Law
Chairman: Wolfgang Bayer, DE

Public Procurement
Chairman: Philippe Van der Mersch, BE

Social Commission (SOC)

President:
Peter Andrews, GB
Rapporteur:
Domenico Campogrande, FIEC

**SOC-1:
Vocational Training**
Chairman: Alfonso Perri, IT
Executive Chairman: Jacques Lair, FR

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

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

**Ad-Hoc Working Group
“TEN-T” (Trans-European Transport Network)**
President: Luisa Todini, IT

Technical Commission (TEC)

President:
Zdenek Klos, CZ
Rapporteur:
Frank Faraday, FIEC

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

**TEC-2:
Research, Development and Innovation**
Chairman: Bernard Raspaud, FR

**TEC-3:
Environment**
Chairman: Jan Wardenaar, NL

**TEC-4:
Plant and Equipment**
Chairman:
Juan A. Muro, ES (-04/2009)
José Ramón Yannone, ES (04/2009-)

EIC – European International Contractors e.V.
President: Michel Démarre, FR



Photo: Yvan Clavie, Brussels

Domenico Campogrande	John Goodall	Maxime Wotquenne	Frank Faraday	Ulrich Paetzold
Rapporteur Social Commission	Rapporteur Technical Commission (-31/7/2008)	Documentalist - Webmaster	Rapporteur Technical Commission (1/8/2008-)	Director General
Yasmina Koeune	Muriel Lambelé	Christine Le Forestier	Joëlle Caucheteur	Sylvie Masula
Secretariat	Accountant	Rapporteur Economic and Legal Commission	Secretariat	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).



Council / General Assembly –
Radisson SAS 19/6/2008



Photos: David O'Shea, Dublin

1. Steering Committee 2006/2008 and 2008/2010
2. Hanne Krüger (NO/EBA) congratulated by FIEC President Daniel Tardy for the award of the "ChemXchange Project"



Photos: David O'Shea, Dublin (1-4)

Title of "Honorary President" bestowed on

- Frans De Vilder, NL (FIEC President 1979-1982) (1)
- Paul Willemen, BE (FIEC President 1986-1988) (2)
- Jean-Louis Giral, FR (FIEC President 1988-1990) (3)
- Peter Galliford, GB (FIEC President 1990-1992) (4)

1. FIEC Conference – Energy efficiency and building the sustainable communities of tomorrow

The imposing surroundings of Dublin Castle were the venue for FIEC's 2008 Conference on the theme of energy efficiency in the built environment and sustainable communities for tomorrow. Preceding the Conference, delegates gathered in St Patrick's Hall to here welcome speeches by both FIEC President, Professor Daniel Tardy and Hank Fogarty, President of the Irish Construction Federation as well as an address from the Irish Finance Minister, Brian Lenihan.

The morning session on energy efficiency in the built environment started with two introductory presentations by Professor Owen Lewis from University College Dublin and Dr Jan Terlouw from the Dutch Platform for Energy Transition in the Built Environment. The subsequent panel discussion, moderated by Elco Brinkman, President of FIEC's Dutch member federation Bouwend Nederland, emphasised the priority of addressing the low energy performance of existing buildings when they undergo major renovation or retrofitting. According to one of the panelists, Pascal Payet, a contractor affiliated to the French Building Federation (FFB), the issue of training construction enterprises in the techniques involved in raising the energy performance of a building is of paramount importance. Both Pascal Payet and Jacques De Meester, President of the Belgian Construction Confederation also underscored the usefulness of reduced VAT rates for renovation services as one method of incentivizing the general public to carry out works to improve the energy efficiency of their home. There was unanimous agreement that tackling the energy efficiency of the built environment would help drive down the demand for energy as well as help mitigate the effects of climate change by reducing CO₂ and other greenhouse gas emissions. Alfonso Gonzalez-Finat, Principal Advisor to the Director General of the European Commission's Directorate General for Energy and Transport, added his voice to the panel discussion, offering the perspective of European decision makers on the topic.

In the second part of the main part of the conference, renowned architect Françoise-Hélène

Jourda introduced the topic of building sustainable communities for the future by reminding the audience that 50% of all materials taken from the Earth's crust are used in construction and making the case for more use of recyclable, locally sourced building materials. In a challenging presentation, she appealed for a more long term approach to construction, taking into account a building's entire life cycle within which it might occupy more than one function. Two case studies followed: one on the eco-district of Hammarby Sjöstad in Stockholm, Sweden presented by Erik Freudenthal, manager of the district's information centre. Hammarby has created its own model embracing energy, waste and water concerns. A further case study was presented by Dr Dieter Wörner from the German city of Freiburg im Breisgau showing how that city has been at the vanguard of implementing environmental sustainability. The concluding remarks to this section were made by John Gormley, Irish Minister for the Environment who brought home once again the essential role the built environment will play in mitigating climate change.

In conclusion to the main part of the conference, delegates received FIEC's Conference Message entitled: "Building the Sustainable Communities of Tomorrow – The Role of Construction in Meeting the Challenge of Climate Change" (see annex). The message was the centrepiece of the Conference and reminded delegates and public authorities alike of the essential role construction will play in meeting Europe's goals for increased energy efficiency and in reducing greenhouse gas emissions, whether that be through retro-fitting existing buildings or designing and building sustainable new homes and offices. For existing buildings, the message brought home the need for fiscal and financial incentives to spur renovation works including the proven effectiveness of reduced rates of VAT on building services whereas for new projects FIEC recalled the role of public private partnerships in encouraging activity in the construction sector and meeting the Lisbon Strategy's goals for growth and jobs.

2. SUNRISE Project – Photovoltaic applications in buildings

The last part of the day's proceedings was given over to the SUNRISE project, aiming at promoting the uptake of photovoltaic technology in the built environment. FIEC participates in dissemination activities for this project which has received funding under the European Commission's Sixth Framework Programme for research. A series of presentations, among others from the leading partner in the project, the European Photovoltaic Industry Association (EPIA) were given on the business case for installing photovoltaic applications in buildings.

Welcome Dinner – Mansion House 19/6/2008



Hank Fogarty, CIF President and Daniel Tardy, FIEC President

Opening Ceremony – Dublin Castle 20/6/2008



Hank Fogarty, CIF President, Brian Lenihan TD, Irish Minister for Finance and Daniel Tardy, FIEC President

Gala Dinner – Royal Hospital 20/6/2008



Photos: David O'Shea, Dublin

Honorary Presidency awarded to FIEC Past Presidents Frans De Vilder (1) and Peter Galliford (2)

Building the Sustainable Communities of Tomorrow – The Role of Construction in Meeting the Challenge of Climate Change

20/6/2008

Construction, from urban planning to end-use, represents the best means to preserve our planet's ever scarcer resources and reduce the impact of human beings on the environment. Indeed, the built environment accounts for approximately 40% of EU final energy demand and about 33% of greenhouse gas emissions.

In order to reduce our environmental footprint, the creation of eco-districts and eco-towns could provide major progress in building the sustainable communities of tomorrow.. This action should promote construction and renovation of areas with the least possible consumption of natural resources (energy, but also water land) while respecting biodiversity, providing good air quality, limiting noise and encouraging social and functional mix within districts, accessibility to and between buildings as well as interconnection between neighbourhoods.

Raising the environmental performance of buildings when they undergo major renovation and promoting renewable sources of energy are the most cost efficient ways to achieve these goals. Consequently action should be targeted on these fields.

Observations:

1. The Climate Action package, unveiled by the European Commission on 23rd January 2008 and endorsed by the European Council meeting in Brussels in March, has set ambitious goals for reductions in CO₂ and other greenhouse gas emissions in order to mitigate the effects of climate change. Specific legislative proposals include global and national targets for reductions in carbon emissions and development of renewable energies.
2. Under the Energy Services Directive, Member States have already undertaken to reduce their use of energy by an average of 9% overall by 2015.
3. The European Commission's Action Plan for Energy Efficiency published in 2006 sets a target of a 20% saving in energy consumption before 2020 and identifies the building sector as a "top priority" in achieving this objective.
4. FIEC's Environment Charter adopted in Luxemburg in 2000 recognised the contribution of the construction industry in increasing energy efficiency.
5. Subsequently, the FIEC Principles for Sustainability in 2005 called for the development of innovative techniques to improve the energy efficiency of the built environment.
6. The Bristol Accord concluded under the UK Presidency of the European Council in December 2005 and reinforced later by the Leipzig Charter on Sustainable European Cities recognises the role of sustainable communities in helping the EU to deliver the Lisbon goals. One of the eight characteristics of sustainable communities identified in the accord is environmental sensitivity and the efficient use of resources.
7. The FIEC Declaration on Urban Development, adopted in 2006, echoed the goals of the Bristol Accord. It is recognised that "Sustainable communities should be safe, fair, thriving, environmentally sensitive, well run, served, connected and designed."
8. The Energy Performance of Buildings Directive which entered into force in 2006 has begun to address the problem of energy efficiency in buildings.

To meet the challenge – FIEC recommends:

1. Incentives to promote investment in new sustainable communities based on eco-design.
2. Measures to improve energy efficiency of new and existing buildings on a large scale in all EU member states. These should seek to bring about a fundamental sustained shift in market conditions.
3. An "integrated", as opposed to a "piecemeal", approach for the implementation of energy efficiency measures in existing buildings. When renovation works are carried out, the entire building, including heating and cooling installations, should be taken into account.
4. The revision of the Energy Performance of Buildings Directive by providing for certification of **all** new and existing buildings, built rented or sold, and when they undergo major renovation.
5. The link of energy performance certificates to fiscal and/or financial measures.
6. Member States to apply a reduced rate of VAT to renovation works and the installation of green materials such as insulation and highly efficient boilers. This is the most effective way of promoting gains in energy efficiency as the lower initial cost of the investment will be felt directly by the consumer. FIEC however stands firmly against reduced VAT for "green" products used alone. The installation of such products demands the use of professional installation services to ensure the upmost effectiveness of the works carried out. Reduced VAT rates on products alone would also fuel undeclared labour.
7. The availability of European structural funds for raising energy efficiency in the building stock to all Member States, not just those that joined the European Union after 2004, as contemplated by the European Commission.
8. When up-front investment is required for public buildings, public-private partnerships should be envisaged wherever possible as this will foster activity in the construction sector, in large part comprised of SMEs, and help meet the revised Lisbon strategy's goals for growth and jobs.

Conference – Dublin Castle – 20/6/2008

Part I: “Energy Efficiency: a Dysfunctional Market – Challenges and Opportunities”



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1. Prof. J. Owen Lewis, Director of the UCD Energy Research Group – IE
2. Dr. Jan C. Terlouw, Dutch Platform for Energy Transition in the Built Environment – NL
3. Jim O'Brien, President of CEPMC
4. Alfonso Gonzalez-Finat, DG TREN, Principal Advisor to the Director General
5. Jacques De Meester, President of the Confédération Construction – BE
6. Pascal Payet, Board Member of HGCC – FR – FFB (Fédération Française du Bâtiment)

Part II: “ECO-Districts – Projects Presentations”



1



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4

1. Françoise-Hélène Jourda, French Architect, Specialist for the French Ministry of the Environment
2. Erik Freudenthal, Manager of Glasshussett, Hammarby Sjöstad – SE
3. Dr. Dieter Wörner, Director of the Environmental Protection Office of the City of Freiburg – DE
4. John Gormley, T.D., Irish Minister for the Environment, Heritage and local Government

Part III: “Photovoltaics: the Coming Revolution!” (SUNRISE Project, financed by the European Commission)



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1. Daniel Fraile, EPIA Project Coordinator
2. Adel El Gammal, EPIA Secretary General
3. Dr. Ingo B. Hagemann, Architekturbüro Hagemann E2B
4. Susannah Wood, Solar Century, PV Company

Photos: Daniel O'Shea, Dublin

“Lead Market Initiative for Europe” – “Sustainable Construction”
 managed by the EU-Commission, DG Enterprise

“The Lead Market Initiative is one of the most important innovation policies in the EU, involving Member States, industry, NGOs and the European Commission.”

“The Lead Market Initiative for Europe will foster the emergence of lead markets with high economic and societal value. On the basis of intense stakeholder consultations, six markets have been identified against a set of objective criteria; eHealth, protective textiles, sustainable construction, recycling, bio-based products and renewable energies. These markets are highly innovative, respond to customers’ needs, have a strong technological and industrial base in Europe and depend more than other markets on the creation of favourable framework conditions through public policy measures. For each market, a plan of actions for the next 3-5 years has been formulated. The European citizens will benefit both from the positive impact on growth and employment (the identified areas could represent three million jobs and 300 billion EUR by 2020) and from the

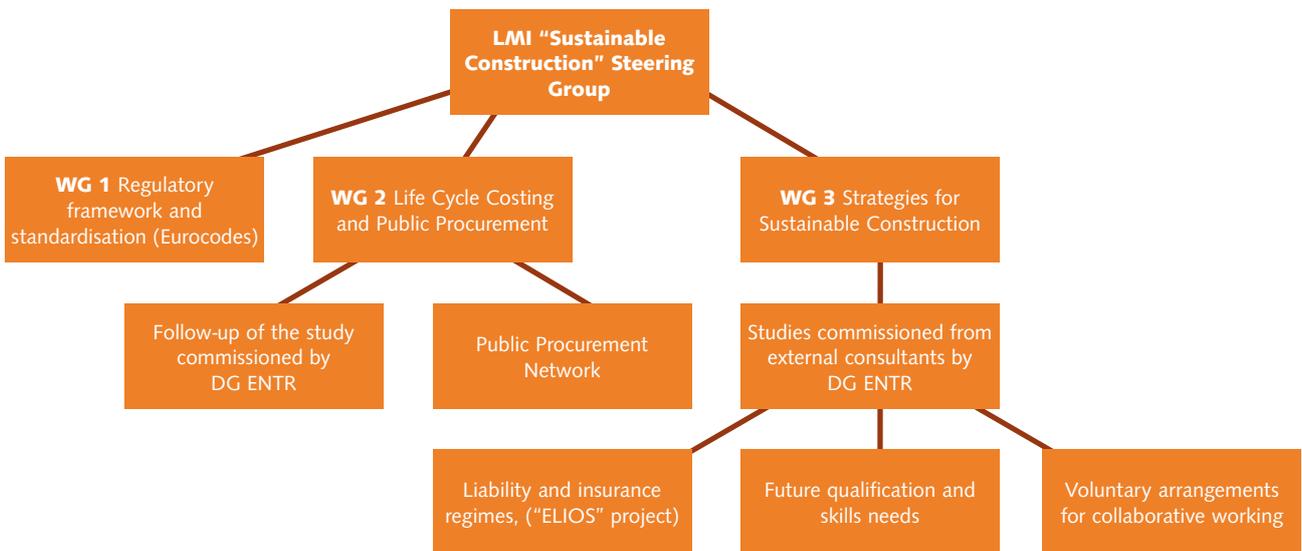
access to enhanced goods and services of high societal value.”

(both citations from the Commission’s specific website on the LMI.
http://ec.europa.eu/enterprise/policies/innovation/policy/lead-market-initiative/index_en.htm#h2-a-lead-market-initiative-for-europe)

The Lead Market Initiative is based, on the one hand, on Communication COM(2007)860 dated 21/12/2007 and the annexed Staff Working Document, SEC(2007)1730 of 21/12/2007, with the Action Plans for the six identified markets, and on the other hand, on the approval by the Competitiveness Council on 30/5/2008.

The basic idea since the first Commission publications in 2005 and 2006 has been to promote and facilitate innovation and competitiveness with a carefully chosen mix of public demand instruments (such as legislation, public procurement, standardisation) and public incentives (such as R&D subsidies, seed capital or tax incentives).

In the EU-Commission, the Lead Market “Sustainable Construction” is managed by DG Enterprise’s “construction unit”, on the basis of a structure with a “Steering Group” and 3 “Working Groups” for different aspects of the issue (see diagram). The participants are both public and private sector representatives.



In addition to the issues mentioned in the Action Plan for the "LMI Sustainable Construction Market", the Commission decided to also include a number of studies which had been commissioned prior to the approval of the LMI by the Competitiveness Council, as well as the creation of a "Construction

Information Platform" and the up-dating of the Commission's 1997 Communication which was based on the "SECTEUR" study initiated by FIEC in 1989. The following table shows the distribution of the various issues on the working structure shown above (as at 30/4/2009).

	Body	FIEC representative	From the "Action Plan"
1.	LMI Steering Group	Ulrich Paetzold	
2.	LMI WG 1 "regulatory framework and standardisation" (Eurocodes)	Frank Faraday	1. Screening of national building regulations; 2. Recasting of the Energy Performance of Buildings Directive; 3. Set-up of an industrial leader panel on cumulative administrative costs/benefits; 7. Development of Eurocodes 2 nd generation; 8. Proposals for a Construction Products Regulation and sustainability requirements;
3.	LMI WG 2 "Life Cycle Costing and Public Procurement"	Christine Le Forestier	4. Development of guidance and pilot schemes on award criterion (EMAT) and LCC use; 5. Establish a network between public authorities in charge of procuring sustainable construction → tender closed
	follow-up of study "Life Cycle Costing and Public Procurement" - application in practice (constr projects) - training of staff dealing with LCC		
	Public Procurement Network		
4.	LMI WG 3 "Strategies for Sustainable Construction"	Niels Ruyter (NL)	
	study: Liability and insurance regimes in the construction sector:	Ulrich Paetzold	10. Study on alternative warranty/ label schemes related to construction insurance;
	study: Future Qualification and skill needs	Domenico Campogrande	11. EU-wide strategy to facilitate the up-grading of skills and competencies in the construction sector.
	study: Liability and insurance regimes in the construction sector:	Christine Le Forestier	9. Drawing up of (SMEs) guide on collaborative working schemes in construction projects;
5.	Construction Information Platform	Christine Le Forestier	"12". Study for the development of a "construction information platform"
6.	Sector Strategy for the EC with regard to competitiveness	Christine Le Forestier	"13". update of the 1997 Commission's communication
?	set-up process ongoing; to be classified in WG 1 or 3?		6. Framework, assessment method and benchmarks for the assessment of sustainability performances

Based on consultations with FIEC's Member Federations and the preparations of various working groups, coordinated by the specific LMI-working group of the ECO-Commission, FIEC contributes actively to all of these discussions, in order to defend the interests of the construction enterprises. Considering, among other things, the increasing difficulties expressed by FIEC's Member Federations in addressing the complexity of various EU-initiatives with a multitude of different but related aspects, such as the Small Business Act or the LMI, it is,

planned to develop a position paper presenting FIEC's views on the priorities of "sustainable construction".

Most of the LMI studies and discussions will have to come to certain results by autumn 2009, in order to provide input to the progress report on its innovation actions, including the LMIs, which the Commission intends to publish before the end of the year (i.e. before the end of the current mandates).



Bernard Huvelin, FR

President

*Christine Le Forestier, FIEC
Rapporteur*

Temporary Working Groups:

Accounting Rules (-04/2009) /
PPPs and Concessions



Jean-Jacques Massip, FR

Chairman

*Marie Eiller-Chapeaux, FR
Rapporteur*

Internal Market – Lead Markets



Thierry Ceccon, FR

Chairman

*Myriam Diallo, FR
Rapporteur*

Reduced VAT



Frank Dupré, DE

Chairman

*Philipp Mesenburg, DE
Rapporteur*

EU Contract Law



Wolfgang Bayer, DE

Chairman

*Christine Vöhringer-Gampper, DE
Rapporteur*

Public Procurement



Philippe Van der Mersch, BE

Chairman

*Frank Vanseveren, BE
Rapporteur*

1. Construction activity: a year marked by the onset of the global financial and economic crisis

Having experienced growth of 3,1% in 2007, the stagnation of overall construction activity in the EU in 2008 (+0,2%) results from the intensification of the financial and economic crises during summer 2008 which affected the entire world economy.

Against this backdrop, already in 2008, many EU countries experienced zero or even negative growth of their overall construction activity whereas in 2007 this was only the case of Portugal.

According to the European Commission – and despite the still favourable economic climate in the 1st half of 2008 – the current general economic downward trend is the result of the impact on the real economy of the intensified financial crisis, the ensuing global downturn manifested in the severe contraction of world trade and manufacturing output and in many countries, the weakening housing market

In its macroeconomic forecasts published in May 2009, the Commission and Eurostat indicated that:

- Economic growth is forecast to have shrunk to less than 1% in 2008 in the EU, due to the worsening financial crisis which led to a contraction of global activity and a sharp drop in world trade and industrial production during the winter;
- Inflation, which stood at a peak in the summer 2008, has since slowed considerably, due to a weak economic outlook and a decline in commodity prices. The level of inflation is expected to continue to fall in 2009 (+0,9%), before rising again in 2010 (+1,3%);
- The labour market situation started to worsen in most Member States in 2008. Reacting with a certain time-lag to changes in GDP growth, employment growth is expected to contract by about 2,5% in the EU in 2009 and by a further 1,5% in 2010, resulting in about 8,5 million job losses for the two years;
- Public finances are also being hit hard by the recession, with average EU budget deficits set to more than double this year – from 2,3% of GDP in 2008 to 6% in 2009 – and to further increase in 2010 (to 7,25%);

- Despite the considerable uncertainty as regards the economic outlook, the discretionary European and national fiscal and monetary stimulus are expected to help restore stability and confidence in financial markets and support economic activity.

In this context, and although the situation varies significantly from one EU country to the other, the main trends relating to construction activity in the European Union – which are detailed in Statistical Report n°52 – can be summarized as follows:

1. **Overall construction activity:** construction activity stagnated in 2008 and is expected to strongly decrease in 2009 (-5,2%). This situation is however not, in all countries, only related to the latest chapter in the financial crisis (e.g. Spain, the United Kingdom and Ireland).
2. **New housebuilding:** negative growth in this segment is continuing and even worsening (-3,8% in 2007 and -7,3% in 2008). It is suffering in particular from households' lack of confidence in future market prospects, and their postponing investment, although interest rates are currently at a very low level.
3. **Renovation and maintenance:** despite very slight growth of 0,9% in 2008, this sub-sector remains the main engine of growth in the housing segment. In most EU countries, investors are favouring investment in renovation and retrofitting of housing, rather than in new housing. This is namely due to the current trend towards environmental considerations in the building sector, and in particular to fiscal incentives which exist in many EU countries for energy efficient investment and which are further promoted by the various economic recovery plans.
4. **Non-residential building:** this market is mainly influenced by the business climate, which is experiencing low investment levels. By contrast to the previous year's trend, this sub-sector is now mainly sustained by public building investment (+8,2% in 2008), while the private non-residential sector is more affected by the financial crisis (+2,3% in 2008).
5. **Civil engineering:** this segment shows a certain slowdown compared to the previous year (+2,3% in 2008) but should however help sustain construction activity in many EU countries. This forecast is mainly based on the expected positive impact of the European and national economic recovery plans which are being implemented and

which generally give priority to infrastructure works. This forecast is however offset by expected decreases in this segment in some other EU countries.

6. **Employment:** all these developments are having an impact on temporary and permanent employment in the construction industry which, in 2008, experienced for the first time in this decade a decrease of -1%.

FIEC consequently welcomed the European and national economic recovery plans announced during the second half of 2008 and stressed that, in order to be efficient, they needed to be swiftly implemented¹.

2. Reduced VAT rates: the end of the debate "well done, but..."

A few months before the expiry of Directive 2006/18/EC, EU Member States finally reached political agreement on a Commission proposal making permanent the possibility of applying a reduced rate of VAT to a certain number of labour-intensive services, including renovation and maintenance works.

The temporary directive which currently allows such rates expires at the end of 2010.

Throughout the debate which accompanied the proposal's path through the European legislature, FIEC has maintained that Member States should be able to apply a reduced VAT rate on renovation and maintenance of private dwellings given the fact that applying reduced VAT rates on construction activities does not create any distortion in the internal market, as well as the positive impact that such a permanently reduced rate can have in the construction sector. This is true not only from the perspective of an increase of activity and employment; but also from that of the fight against undeclared labour and from promoting the energy efficient upgrade of the built environment aimed at combating climate change.

Having consistently lobbied the EU institutions, FIEC warmly welcomed the Commission's proposal unveiled on 7th July 2008 (COM (2008) 428), which proposes, amongst others, to include the renovation

and maintenance of private dwellings in the list of products and services benefiting from permanently reduced VAT rates (as at it is currently the case for "social housing") and even suggested that the whole housing sector benefit from reduced VAT rates (R&M and new housing).

Although the European Parliament broadly supported the Commission's proposal in its legislative resolution adopted on 19th February 2009, it took months for EU Finance ministers to find a political agreement on this issue.

Finally, during the ECOFIN Council of 10th March 2009, European Finance ministers unanimously reached agreement on the proposal for a Directive on reduced VAT rates for a number of highly labour-intensive services.

As regards the construction sector, this decision makes permanent the possible application of a reduced VAT rate for the "renovation of private dwellings, excluding materials which account for a significant part of the value of the service supplied". Hitherto this provision had only been temporary and now comes in addition to the already permanent possibility to apply reduced VAT rates for "social housing".

FIEC welcomed this political agreement which finally ends the uncertainty and provides a reliable permanent legal basis beyond 2010. However, FIEC expressed its disappointment that the Council has not accepted the Commission's proposal to extend the scope of the Directive to the whole housing sector.

Furthermore, it will remain the responsibility and competence of each Member State to decide whether or not to apply a reduced rate of VAT to the services permanently included in the Directive.

In parallel to this political agreement, Member States ruled out introducing of a "green" VAT for environmentally friendly services and products which had been supported in particular by France and the United Kingdom, taking into account the abovementioned general decision covering all kind of renovation work as well as recent studies which concluded that such a measure is not the best to pursue environmental objectives.

¹ See FIEC press release dated 27/11/2008, in annex

3. Public procurement: the multiplication of Commission's initiatives

Currently, the tasks of the TWG "Public Procurement", chaired since October 2008 by Mr. Philippe Van Der Mersch (BE-CC) focuses on following the multiplication of initiatives on public procurement coming from various Directorates General (DGs) of the European Commission other than the Internal Market DG ("DG MARKT").

It is worth mentioning that DG MARKT, which is responsible for public procurement, concentrates on checking whether the documents drawn up – hereunder on social (DG Employment) and environmental (DG Environment) aspects – respect the provisions of the EU Directives on public procurement, including their interpretation by the European Court of Justice.

Social considerations in public procurement

In the first half of 2008, DG Employment commissioned a study on the "incorporation of social considerations in public procurement in the EU". On the basis of the results of this study – dated 21st July 2008 but published only late December 2008 at the stakeholders' request – as well as of the outcome of a public consultation on the same topic, DG Employment started, at the beginning of 2009, to draft a guide on socially-responsible public procurement.

The FIEC position paper dated 22nd December 2008 recalled amongst others that:

- in any case, the EU Directives on public procurement have to be respected and already leave room for social considerations;
- social considerations cannot be included in whichever fashion in the tender procedure;
- social considerations have always to be linked to the object of the contract;
- contract performance conditions are the only adequate way to introduce social considerations (employment, healthy and safe working conditions, equal opportunities...) into public procurement;
- these "social" measures have to be indicated in the contract notice or in the contract documents;

- contract performance conditions must remain non-discriminatory;
- the ability of the contractor to deliver these "social" conditions/measures should, under no circumstances, be used as a selection or award criterion for the tender itself.

The Commission's guide is expected to be adopted during summer 2009 and the TWG will closely monitor this sensitive issue.

"Green" public procurement

On 16th July 2008, the Commission adopted an Action Plan on Sustainable Consumption and Production and Sustainable Industrial Policy, which includes a Communication on "Green Public Procurement" (COM (2008) 400/2) drawn up within DG Environment. This Communication aims at promoting the procurement of goods and services that have the least impact on the environment, throughout their whole life-cycle, on the basis of a set of voluntary measures.

As a target, the Commission proposes that, by 2010, 50% of all tendering procedures should be "green", where "green" public procurement is understood as *"a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured"*.

For this purpose, the Commission started working – in collaboration with stakeholders – on the establishment of common environmental criteria at the EU level – amongst others for the construction sector – which are then expected to be endorsed by Member States and used in tendering procedures at national level.

FIEC reacted to both the Commission's Communication and the common environmental criteria under elaboration and namely recalled, in a position paper dated 16th October 2008, that:

- the introduction of environmental criteria in public procurement has to comply with the EU Directives on public procurement;
- environmental criteria have to be linked to the object of the contract;

- environmental criteria have to concern the construction as a whole (whole building);
- environmental criteria should be integrated in the technical specifications or in the contract performance conditions, rather than used as award criteria;
- environmental criteria should stimulate the use of the solution with the highest price-quality rating (cf. Most Economic Advantageous Tender criterion).

FIEC will continue to closely follow up the long-term process of the implementation of such environmental criteria in public procurement and further intervene when needed.

4. Transport policy: infrastructure at heart of EU transport policy

A range of issues related to transport infrastructure are currently under the spotlight in Brussels. The European Commission is working on several initiatives and proposals: the revision of the Trans-European Transport Network (TEN-T) policy, as well as future EU transport policy in general, which encompasses passenger and freight transport, logistics and intelligent transport systems (ITS); the drawing up of a concept of territorial cohesion, which is expected to give a major role to transport aspects; and the development of an action plan on urban mobility.

Another major issue for transport infrastructure is the "Greening transport" package, which aims at reducing the environmental impact of transport. Part of this package, the so-called "Eurovignette" Directive, which promotes the principle of "user/polluter pays" in the transport area, is currently being examined by the European Parliament and the Council of Ministers.

These various issues are all related to a core challenge: the negative impact of transport on the environment and its consequent contribution to climate change. EU institutions and stakeholders all agree on this. Now and in the future, Europe's transport networks will also have to face problems posed by an ageing population, migration and internal mobility, urbanization, territorial cohesion,

globalization, and the fact that current technologies will progressively become obsolete.

As regards internal mobility, transport demand has continuously increased over these last few years and passenger volumes are projected to increase at a rate of 1,4% per year between 2005 and 2030, whereas the volume of freight transport is projected to increase by 1,7% per year during the same period.²

Besides these long-term challenges, the current financial and economic crises affecting Europe should not be forgotten. In this context, the EU Recovery Plan and most national recovery plans have highlighted the positive effect of investing in infrastructure to boost the real economic recovery in the short term, as well as to ensure Europe's competitiveness and cohesion on the long-term.

FIEC priorities as regards European transport policies

FIEC has closely followed the developments of the European policies related to (transport) infrastructure for many years. The annual publication of the FIEC "Blue Book", reporting the progress of the implementation of the TEN-T priority projects, the setting up of an ad-hoc working group dedicated to the TEN-T issue, as well as the organization of a conference on the 30th priority project (Seine-Schelde) in 2008, clearly demonstrates the importance attached to transport infrastructure issues.

FIEC priorities are the following:

- **Reshaping future EU transport policy and in particular the TEN-T policy³**

In order to develop long-term solutions, the European Commission launched two public consultations at the beginning of 2009 – one on the revision of the TEN-T guidelines and policy, and another one on the future of the EU transport policy looking at the 2020 to 2050 horizon.

As regards the initiative on the future of EU transport policy, the Commission intends to publish a new White Paper in 2010 on the EU transport policy, which would replace and update the existing White Paper from 2001.

² European Energy and Transport – Trends to 2030, update 2007

³ Further information on the TEN-T policy in the chapter dedicated to the Ad Hoc Working Group on TEN-T

What emerged from the preliminary debates between the Commission and the stakeholders was the need for the Commission to give consideration to developing transport policies that are compatible with other policy objectives. Issues of territorial cohesion, regional and urban development have to be considered, along with the need to link transport policy to sustainability, safety, security and consumer rights.

The main proposals currently highlighted to reshape EU transport policy are to adopt a network approach in developing transport infrastructure and in particular to improve interconnections between the various modes of transport in order to interconnect nerve centres and reinforce intermodality. The Commission is also putting great emphasis on the role of transport infrastructure in Europe's economic, social and territorial cohesion, and recognizes the need to develop close cooperation between the EU, Member States, businesses and citizens in developing transport infrastructure.

The Commission is also increasingly stressing the role new technologies could play in transport policy, particularly the use of Intelligent Transport Systems (ITS). Of greater sensitivity are the ideas of a modal shift towards "more environmentally friendly transport modes", or the access restriction to certain urban areas, through infrastructure tolling systems and urban charging. This is a controversial area as it would almost undoubtedly make road transportation less attractive and urban traffic charging schemes do not always win public support.

On a basic level, FIEC welcomes the main ideas raised in the debates and particularly supports some of them: integrated sustainable development planning, optimization of existing infrastructure, reinforcement of the interconnection of the various transport modes (network approach), and the priority given to cross-border projects and to the removal of bottlenecks.

While the initial outcome of the current consultation is awaited for June 2009, FIEC also took this opportunity to recall the need to quickly invest in infrastructure projects to help the real economy recover from the crisis and the readiness of the construction sector to bring solutions in this regard, namely through co-financing schemes (PPPs).

● **Defining European territorial cohesion**

In the framework of its regional policy, the European Commission published on 6th October 2008 a Green Paper on Territorial Cohesion. This Green Paper was aimed at opening a debate on the territorial perspective of the European cohesion policy for the next programming period 2014-2020.

The EU cohesion policy includes several aspects, such as energy and environment, housing, and in particular urban development and transport, with an important impact in terms of infrastructure financing through EU funds (EU structural and cohesion funds). This is one of the reasons why the construction industry has to participate in the debate.

In its contribution to the consultation, FIEC namely stressed that the definition of territorial cohesion should lead to focus on the strategic role of facilities and infrastructure for balanced territorial development.

Therefore, FIEC stressed that EU structural and cohesion funds should better address the following facilities:

- energy efficient buildings (through renovation, thermal insulation, etc.) to reduce energy consumption and bring down the built environment's share of greenhouse gas emissions;
- social housing to address the lack of housing and enhance European social cohesion;
- urban infrastructure to improve mobility and accessibility in cities and with their peripheral areas;
- transport infrastructure to help achieve the Single Market principles of the free movement of people and goods across Europe, with a priority given to intermodal platforms in order to interconnect the various modes of transport.

● **"Greening" transport: applying the "user pays" and "polluter pays" principles**

As requested by the European Parliament when it approved the second version of the so-called "Eurovignette" Directive in May 2006, the Commission adopted on 8th July 2008 a package on "Greening transport", which includes amongst others:

- A strategy to internalize the external costs of transport (air and noise pollution, congestion, accidents etc.), and
- A proposal to revise the "Eurovignette" Directive (1999/62/EC) on the charging of heavy goods vehicles for the use of certain infrastructure.

This proposed Directive would enable Member States, in addition to the infrastructure charge, to reserve an amount from tolls levied on heavy goods vehicles which reflects the cost of air and noise pollution and congestion caused by traffic. The Commission also encourages Member States to earmark the additional revenues from the tolls to "sustainable transport" projects (e.g. the optimization of existing infrastructure for a smaller impact on the environment).

Throughout the early stages of the legislative procedure, FIEC welcomed this proposal and appealed for the earmarking of the additional revenues generated by the internalization of external costs to the development of efficient and sustainable transport infrastructure, with the objective to reduced externalities. FIEC added that such an earmarking mechanism should not lead to exclude investment in road infrastructure, but on the contrary, enable the development of a balanced transport network where all modes of transport are taken into account and treated equally. FIEC believes furthermore, that this measure would be a very positive message towards users of such infrastructure who are targeted by the Directive.

Although this measure has been backed by the European Parliament, the proposal is much more sensitive within the Council, especially taking into account the current downturn in the economy. Until now, Member States have not been able to agree on the exact scope of the proposal (whole European road network or TEN-T network only) and whether to include congestion in the text or not. The strongest opposition concerned the earmarking mechanism: Member States do not accept that the additional revenues generated be directed to the transport sector, as the Commission wants and the Parliament is calling for, but rather be simply transferred to national budgets.

The Czech Presidency expects to find a political agreement on this issue in June 2009 during the

Council of Transport Ministers. Its success is however doubtful.

● Reinventing urban mobility

In the framework of the mid-term review of the 2001 White Paper on EU transport policy, the European Commission published on 25th September 2007 a Green Paper on urban mobility. This Green Paper launched a reflection on the main challenges related to urban mobility where, again, infrastructure will have a major role to play, namely pollution, congestion, road safety, accessibility of public transport, and Intelligent Transport Systems. Following the stakeholders' consultation to which FIEC contributed at that time⁴, the Commission was supposed to present an action plan on urban mobility in the autumn 2008. The release of this action plan has however been blocked until now by several Member States which dislike the recent greater involvement of the Commission in a field (urban transport policy) where it has no formal competence.

Due to the huge delay in releasing the announced action plan, the European Parliament decided not to wait for the Commission's proposal and draw up an own-initiative report on what the EU's priorities should be in this matter. The report, adopted at the end of April 2009 by the Parliament, promotes European research and innovation in the field of urban mobility (e.g. ITS), the optimization of various modes of transport by improving urban scheduling, the added value of European incentives for a sustainable urban mobility, and the inclusion of urban transport in the Lisbon Strategy and the European economic recovery plan.

At this date, the Commission's proposals are still awaited.

⁴ FIEC Annual Report 2008

FIEC proposals as regards the necessary financing of transport infrastructure

Following these various debates, it is encouraging to note that the key role played by infrastructure – both existing and new, and for all kinds of transport modes – for Europe's competitiveness and cohesion has been broadly recognized by both the EU institutions and stakeholders.

FIEC welcomes this recognition which has been confirmed in the European economic recovery plan adopted by the European Council in December 2008, as well as in most national economic recovery plans.

In the EU plan, the Commission emphasizes the positive effect of investment in infrastructure recovery in the real economy and puts forward several steps, such as bringing forward 500 million € for TEN-T projects, where this money will lead to construction beginning before the end of 2009. The EIB has committed itself to significantly increasing its financing for infrastructure by up to 6 billion € per year, while also accelerating the implementation of its innovative financial instruments, amongst which the Loan Guarantee Instrument for TEN-T projects (LGTT). The EBRD will also increase its financing efforts in this field.

However, at this stage, there is in little real new money in the recovery plans and very little has been said during the debates surrounding the consultation on new financing solutions or on the additional challenges created by the current economic crisis.

That is the reason why FIEC has places great emphasis on financial instruments to be used for the successful implementation of EU transport policy. FIEC believes that, considering the scarcity of national public financing to be invested in infrastructure, every other possible financing source should be taken into account. EU funding should be increased – through the reinforcement of the TEN-T budget, as well as a greater participation of structural and cohesion funds – in order to be a key lever for the realization of EU transport infrastructure. The involvement of the EIB in financing infrastructure (e.g. loan guarantee instrument) and supporting public-private partnerships (cf. creation of a European PPP Expertise Centre) should be further encouraged. The EIB should namely show more readiness to take risks. The participation of the

private sector should be encouraged through the realization of infrastructure projects in public-private partnership (PPPs), where this scheme can bring a real added value. Another possible mechanism would be to create a European sovereign debt funds ("Eurobond"). Finally, FIEC supports the idea that users/polluters will have to contribute much more in the future to the development of sustainable transport infrastructure, through the earmarking of infrastructure and environmental charges to transport infrastructure.

The key to this success will be effective coordination between these various mechanisms, a better coordination of projects at EU level, a binding commitment of Member States which benefit from EU funding and the improvement of procedures for project preparation and procurement.

Moreover, while the EU recovery plan fails to stress the importance of reducing the time necessary for obtaining all permits and certificates needed to commence works, FIEC stresses that without such a reduction, much of the progress which could be achieved would be considerably delayed, putting construction firms in even worse difficulties. Even with money becoming scarce due to the financial crisis and resulting recession, FIEC has continuously called on public authorities to swiftly implement the measures included in their respective recovery plans, maintain their investment in infrastructure, accelerate the relevant procedures – in a way that safeguards fair and transparent competition – to enable the works to commence as soon as possible. This is one of the best solutions to speed up recovery in the real economy in these difficult times and furthermore an unavoidable measure for European economic growth on the long term. The construction industry is qualified and ready to address this challenge.

5. Lead Market Initiative for Europe

see specific report (p. 14-15)

Economic and Legal Commission – (6/2008 – 5/2009)

Position Papers

FIEC contribution to the debate on the future of EU transport policy: Infrastructure at heart of EU transport policy (30/4/2009)

FIEC comments on DG EMPL draft guide on social considerations in public procurement (22/4/2009)

FIEC initial position on the territorial cohesion policy (27/2/2009)

FIEC final comments on DCFR (Draft Common Frame of Reference) (23/12/2008)

Social considerations in public procurement – FIEC submitted position (22/12/2008)

FIEC final position and amendments on the revision of the “Eurovignette” directive (17/11/2008)

Press Releases

FIEC Press Release – Reduced VAT: a “well done, but ...” from the construction industry. (12/3/2009)

FIEC Press Release – Is “Eurovignette III” an efficient alternative source of financing sustainable transport? (10/2/2009)

FIEC Press Release – Construction is part of the solution! - FIEC fully supports the European Economic Recovery Plan (27/11/2008)

FIEC Press Release – FIEC comments the initial outcome of the parliamentary reflection on the revision of the “Eurovignette” Directive (6/10/2008)

FIEC Press Release: FIEC calls for reduced VAT in the construction sector to promote jobs and growth. (6/10/2008)

FIEC Press Release: Reduced VAT rate on all building works (9/7/2008)

Answers to public consultations

EC consultation on late payment – FIEC final answer (30/7/2008)

FIEC comments on DG Environment “greening public procurement” toolkit (16/10/2008)

EC survey on electronic public procurement – FIEC submitted contribution (18/12/2008)

Other

FIEC answers to the CCMI questionnaire on financial crisis (27/1/2009)

Situation of the construction industry in the financial and economic crises – FIEC input to the ITRE Committee of the European Parliament (24/2/2009)

All these documents are available on FIEC website www.fiec.eu



Press release – 27/11/2008 (corr)



Construction is part of the solution!

FIEC fully supports the European Economic Recovery Plan

"This ambitious Recovery Plan is a real challenge for the construction sector and we look forward to working together with European and national institutions in order to make it happen" says FIEC President Dirk Cordeel. "The craftsmen, SMEs and large firms of our sector have the technical know-how to reduce the energy consumption of the built environment by 50%, which, at the same time, will lead to significant reductions in greenhouse gas emissions. Furthermore, investment in infrastructure remains a fundamental necessity and must not become the victim of the current financial turmoil. The Commission's proposed action, if fully implemented by the Member States and the other EU institutions, will ensure that the necessary tax incentives and investments are available to directly benefit citizens and enterprises. This, in turn, will support growth and jobs in the economy at large. FIEC looks forward to short discussions, quick decisions and real work!"

FIEC welcomes all initiatives in the Commission proposal for the construction industry (numbers in brackets refer to item 2.3 of the Recovery Plan) and puts forward some initial comments:

1. **Improve energy efficiency in buildings (6)**

FIEC considers that the use of the highest standards and structural funds will ensure swift progress, which could be further accelerated by targeted tax incentives.

Building owners must be encouraged financially to make the necessary investment in enhanced energy efficiency measures. Otherwise, the owner will have no economic reason to invest in measures which merely reduce his tenants' costs.

2. **Financing infrastructure/ TEN-T**

FIEC considers that the financing of infrastructure, in particular the TEN-T, has been completely inadequate in the past. The increase of European financing means (5) certainly is a step in the right direction, but remains insufficient in relation to the estimated need of €500 billion until 2020, if it remains a one-off action. In addition, administrative simplification is also necessary (see item 7), in order to accelerate the launch of real construction projects.

3. **Reduced VAT** on labour intensive services, such as construction (2), as well as for "green product" and services (7)

FIEC has advocated reduced VAT for construction services for many years. FIEC however stresses that reduced VAT should not be applied to "green products" alone because this would encourage undeclared work and unprofessional installation. On the other hand, tax incentives for invoices covering both services and products/ material, with correctly levied VAT would also help to reduce undeclared work and the negative effects it has on law-abiding construction firms.

Press release – 27/11/2008 (corr)**4. Research & Development, Innovation Education(8, 9)**

FIEC considers that these items are the basis for the success of the envisaged action. It is, therefore, important to ensure that not only basic research is facilitated, but also the project and application related research which is more common in the construction industry. This requires the direct involvement of the sector's stakeholders.

5. Payment periods (4)

FIEC considers that the payment of invoices by public authorities within one month would be a step forward in reducing the financial burden of enterprises and the need for credit financing. Further progress would be achieved by scheduled payment to the contractor by the client according to works' progress. This would reduce the need for credit financing of the works which is otherwise necessary in order to pay suppliers and sub-contractors prior to receiving payment from the client. It would also increase the financial stability of all enterprises in the value chain, in particular in situations in which credit is difficult to obtain.

6. Employer social charges (2)

FIEC considers that reducing the employers' charges would be helpful for the economic stability of construction enterprises.

7. Administrative simplification (???)

FIEC considers that the Recovery Plan fails to stress the importance of reducing the time necessary for obtaining all permits and certificates necessary to commence works, both in building and civil engineering projects. Without such a reduction, much of the progress which could be achieved in other areas would be considerably delayed, so that numerous construction firms, in particular the smaller ones, would face further severe difficulties.

Previous FIEC position papers and studies are available from www.fiec.eu.

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FIEC is the European Construction Industry Federation, representing via its 33 national Member Federations in 28 countries (26 EU & EFTA, Croatia and Turkey) construction enterprises of all sizes, i.e. small and medium-sized enterprises as well as "global players", carrying out all forms of building and civil engineering activities.

PRESS RELEASE – 12/03/2009

**Reduced VAT: a "well done, but ..." from the construction industry.**

FIEC congratulates the ECOFIN Council, the Czech Presidency and the European Commission for their contributions leading to this unanimous political agreement on reduced VAT, making permanent the application of reduced VAT rates, not only to social housing, but also to renovation and repairing of private dwellings.

"This is very good news for all enterprises who have been worried by the prospect of losing reduced VAT and its proven benefits for jobs and energy efficiency. This political agreement now ends the uncertainty and provides a reliable and permanent basis beyond 2010", says, FIEC President Dirk Cordeel, "On the other hand, we regret that the Council has not accepted the Commission's proposal to extend the scope to the whole housing sector. Due to this limitation, the positive effects of reduced VAT on job creation and fighting undeclared labour will be less than they could have been. A missed opportunity!"

Some more details:

For many years, FIEC, its national Member Federations and their members have been fighting together for the introduction of reduced VAT for works on private housing, succeeding, for example, in bringing about the last-minute agreement on the extension of the interim-scheme in February 2006.

A study carried out by FIEC in March 2005 (available on the FIEC website) as well as independent research have clearly demonstrated the positive effects of reduced rates of VAT on job creation and fighting undeclared work.

FIEC's main arguments, based on practical experience in some EU countries, concern the fight against undeclared labour; the positive impact on employment, the positive impact on consumer prices, the contribution to energy efficiency and the absence of distorting effects on the Internal Market.

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FIEC is the European Construction Industry Federation, representing via its 33 national Member Federations in 28 countries (26 EU & EFTA, Croatia and Turkey) construction enterprises of all sizes, i.e. small and medium-sized enterprises as well as "global players", carrying out all forms of building and civil engineering activities.

Previous FIEC position papers and studies are available from www.fiec.eu

(Themes → Economic and Legal → reduced VAT rate).

FIEC position on the inclusion of social aspects in public procurement Contribution to DG EMPL consultation

22/12/2008 (The following are extracts. The full version can be found on the FIEC web site: www.fiec.eu)

22/4/2009 (up-dated, in order to comment on the draft DG EMPL guide, available also on www.fiec.eu)

II. Comments on social considerations in public procurement

Being in line with DG MARKT policy on this point, FIEC recognizes that the EU Directives on public procurement (2004/18/EC and 2004/17/EC) leave room for the inclusion of social considerations.

However, social considerations cannot be included anyhow and anywhere, but only at specific stages of the tender procedure and in the appropriate manner, provided that they respect the provisions of the current EU Directives on public procurement. Social considerations should always be linked to the object of the contract.

While including social considerations in public procurement, contracting authorities should always take account of the specificities of the construction sector (cf. on-site working conditions) and be aware that such a social objective may lead to extra costs which the contracting authority will have to bear.

Contracting authorities should also be aware that awarding the contract to an abnormally low tender generally leads to negative effects on social concerns.

Furthermore, it does not make much sense for a contracting authority to engage in a social approach without having sufficiently trained and experienced human resources at its disposal.

1) Subject matter of the contract and technical specifications:

Beyond the definition of the contract subject matter – which can in itself be “socially-oriented” (e.g. construction of schools, hospitals, nurseries etc.) – the contracting authority can also specify in the technical specifications any requirement for **service quality** linked to the object of the contract. Contracting authorities may also use the technical specifications to include accessibility standards requirements in the design of the projects.

2) Selection phase (i.e. exclusion criteria):

According to the wording of article 45, paragraph 2 point d of Directive 2004/18/EC:

“Any economic operator may be excluded from participation in a contract where that economic operator: (d) has been guilty of grave professional misconduct proven by any means which the contracting authorities can demonstrate.” The Directive further provides that “Member States shall specify, in accordance with their

national law and having regard for Community law, the implementing conditions for this paragraph.”

Non-compliance with employment and safety regulations can be considered as grave professional misconduct and lead to exclusion from the tendering procedure.

On the same grounds, non-compliance with existing national legislation on non-discrimination, equal opportunities and accessibility criteria can be sanctioned: bidders who have been found guilty of not complying with such legislation can be excluded from public contracts.

The respect of laws and regulations is a general obligation of everyone and must, therefore, never be part of the competitive aspects of a procurement procedure.

Furthermore, the sanction should always remain proportionate to the breach of legislation.

3) Award criteria:

Considering that respecting existing laws and regulations is a general obligation, this must never be part of the competitive award criteria. Consequently, as regards the construction sector, social considerations should not play any role in the award phase of the contract. As long as it is not linked to the object of the contract, there is no reason to evaluate tenderers, for example, for employing more than the statutory number of women or disabled persons, or for providing jobs for local long-term unemployed people. And finally, how would it be possible to evaluate the relative weight of different social award criteria, such as equal opportunities, employment of disabled persons and women?

4) Contract performance conditions

Contract performance conditions, conceived by the ECJ (“Beentjes”) and now included in the directives (cf. Article 26 of Directive 2004/18/EC), are the only adequate way to introduce social considerations such as employment, safe and healthy working conditions, as well as equal opportunities and accessibility into public procurement. They are not part of the competition and oblige any contractor winning the contract to provide specific social measures during contract delivery. In any case, in order to comply with EU procurement law, contract performance conditions must be non-discriminatory (each tenderer should have the same possibility of delivering the required measures). Moreover, the ability of the contractor to deliver these measures should, under no circumstances, be used as a selection or award criterion for the tender itself. They also have to be indicated in the contract notice or in the contract documents.



Peter Andrews, GB

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Sub-Commission SOC-1

"Vocational Training"



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"Economic and Social
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1. Vocational training and education: Promoting transparency

In a labour intensive sector like construction, vocational training and lifelong learning play a key role in raising the competitiveness of our industry, in ensuring its long term sustainability and in achieving the objectives of the "Lisbon Strategy".

Contrary to other industrial sectors, in construction it is not the "final product" that moves within the single market, but rather the enterprises and their workforces that have to move to where the "product" is to be constructed. Such mobility plays a crucial role in the competitiveness of the sector and should therefore not be hindered by training and education policies, which are national competences, and which - due to the specificities of each country - sometimes differ significantly one from another.

For these reasons the transparency and the mutual recognition of qualifications is a priority on FIEC's social agenda.

On the basis of existing EU instruments, mainly the European Qualification Framework (EQF), but also ECVET (European Credit for Vocational Education and Training) and Europass (a set of harmonized documents aimed at facilitating the recognition of competences and skills across the EU), two different but complementary initiatives are being developed.

a) The top-down approach, for a future "construction" sectoral qualification framework (SQF)

On the basis of the EQF, which comprises 8 reference levels covering all certificates awarded from the end of compulsory schooling to the higher levels of university education and professional training and which describes the "learning outcomes" of the certificate holder on the basis of 3 descriptors, namely knowledge, skills and competences, thus shifting the focus away from the traditional approach, a first project aims at defining a sectoral qualification framework (SQF) for the construction industry.

Led by the "Berufsförderungswerk der Bauindustrie NRW e.V.", a training institute linked to the Hauptverband der Bauindustrie, one of our 2 German

members, this project involves 8 partners from 5 different countries.

The methodology is based on a subdivision of the construction process in various phases and for each phase a matrix describing the knowledge, skills and competences needed. The aim is then to relate this frame of reference to the various existing national standards, qualifications and certificates, with the aim of improving transparency and the comparability between the various national training systems and therefore achieving a better functioning of the labour market.

b) The bottom up approach, for the recognition of the qualifications of bricklayers/masons

As a complement to this "top down" approach, the European Social Partners for the construction industry, FIEC and EFBWW (the European Federation of Building and Wood Workers), have decided to undertake a joint project focusing on the mutual recognition of qualifications for bricklayers/masons.

The objective is to develop a framework to be applied in the assessment of bricklaying qualifications, to assess and compare the nature, content and regulation of different qualifications and vocational training systems for bricklaying in 8 EU countries (Belgium, Italy, Germany, the Netherlands, Denmark, the United Kingdom (England), Poland and France) and to identify the learning processes whereby qualifications are acquired in each country, including formal and informal learning. On these bases, the bricklaying qualifications will then be related to the respective national qualifications frameworks (NQFs) (where applicable) and an assessment will be made regarding the possibilities, means and difficulties concerning the implementation of EQF/ECVET and the above mentioned Sectoral Qualification Framework in relation to bricklaying.

c) Future skills and qualifications needs

Adapting education and training systems to the specific future skills and qualifications needs of each sector is a crucial element for increased competitiveness and has particular relevance in light of the current economic and financial crisis.

FIEC has therefore actively participated in the study undertaken by an external consultant on behalf of

the European Commission (DG ENTR), which focused on the specific needs of the construction sector.

The main objectives of this study were to identify, analyse, and assess the future skills needs and competencies in enterprises of the construction sector against the backdrop of the need to address skills shortages for the development of the sector's competitiveness. The identification, analysis, and assessment of future skills needs and competencies is based on 4 possible scenarios of future development, on an analysis of the existing education and training systems' ability to address future skills needs and finally on an analysis of new and innovative measures and methods to address the skills needs identified.

The study also formulates some proposals for a flexible strategy concerning measures for upgrading skills and competencies in the European construction sector. The proposed strategies should enable the provision of capacity-building based on the profile and abilities of the target companies to take up economic, demographic, technological and management developments. These should take into account, on the one hand, the varying social and economic conditions throughout the EU, whilst on the other, the diversity of national education systems.

18 cases of good practices that address challenges and education and training needs in the construction sector have been identified and analysed in companies, educational institutions, sector organisations, public authorities and are presented in the study. These cases provide important illustrations of how the strategy for the future development and upgrading of skills for the construction sector could be implemented.

Finally, the study also presents some recommendations for measures and actions to adapt to future skills needs, so that construction companies, and in particular SMEs, which constitute the vast majority of the sector, can pursue competitive advantages by focusing on innovation, quality, sustainability, competence development and offering attractive working conditions.

2. Improving Health & Safety (H&S) : for the benefit of enterprises and their workers

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

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

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

a) Facilitating the development of a H&S culture amongst SMEs through a European guide

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

Therefore, FIEC decided to draw up a European guide for a H&S management system. Such a system, to be endorsed on a voluntary basis, would focus specifically on SMEs, which do not necessarily have the resources to develop and implement such a system, and would be flexible enough so as to take into account the already existing measures at national level. The use of such European guides should facilitate the development of a H&S culture amongst clients and companies.

A FIEC ad-hoc Working group has been working on the content of this draft European guide, which would on the one hand describe the basic requirements necessary to develop a H&S system in a construction enterprise and, on the other, present a series of fact sheets on the various steps to be taken

in order to effectively implement a H&S management system.

This draft guide is now on the agenda of the Social Dialogue, with the ultimate aim of making it a tool to be promoted by the social partners in the various EU Member States.

b) Health & Safety (H&S) cards: an important instrument that should not become an obstacle to mobility

Several Member States have introduced individual H&S cards which are increasingly being demanded by major industry organisations, employers, clients and Government agencies as proof of competence regarding their H&S skills, with the aim of helping the construction industry improve quality and reduce accidents.

Promoting and facilitating the development of H&S cards within Europe is of the utmost importance for FIEC in the context of an industry such as construction, which is increasingly having to evaluate the H&S skills of the growing numbers of EU migrant workers it hires. However, the systems existing in the various countries refer to different forms of training, to different types of occupations and their respective scopes sometimes differ significantly.

FIEC therefore decided to analyse and compare the existing systems in order to ensure that either through mutual recognition mechanisms, which are currently being developed or, if appropriate, through a European H&S card or mutual recognition system, they do not become an obstacle to the mobility of enterprises and workers within the Internal Market.

c) Support for the OSHA (European Agency for Safety and Health at Work) campaigns

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

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

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

Along these lines FIEC has therefore also decided to support the current campaign, which for the first time is bi-annual, covering the period 2008-2009, and which focuses on "Risk assessment", with the aim of promoting an integrated management approach across the EU that takes into account the various steps of risk assessment.

On 17th March 2009, FIEC President Dirk Cordeel was awarded official recognition as partner in the OSHA Campaign on "Risk Assessment from Commissioner Vladimir Špidla, responsible for Employment and Social Affairs,"

On this occasion Dirk Cordeel declared that "*Risk Assessment should be one of the main priorities of any responsible contractor*" and added that "*Any efficient Health and Safety Strategy is based on a collaboration between employers and workers and must be adapted to each company*".

The main objectives of the campaign are, amongst others, to raise awareness of the legal responsibility and the practical need to assess risks in the workplace, to promote and demystify risk assessment, to encourage enterprises to carry out their own risk assessment and to promote the involvement of everyone in the workplace in risk assessment, not only employers.

Risk assessment is the start of the risk management approach and a first step in the development of a culture of health and safety management.

d) Ageing and globalisation: challenges for health and safety

Demographic changes, in particular the ageing of the population, and the globalisation of our economies, which has significantly increased the mobility of the workforce, are creating new challenges for the construction industry.

The following questions should be asked: what are the effects of ageing on employers, workers or social insurance systems? What can contractors do to accommodate all workers so they can stay productive longer, even in a labour intensive industry such as construction? How can contractors adequately take into account the ageing of their workforce in their risk assessment policies? How can enterprises use the experience of older workers for developing an efficient health and safety culture?

Furthermore, globalisation - already a reality in construction - promises benefits but also raises concerns, in particular in the light of the current economic downturn. How can employers and employees benefit from the opportunities linked to globalisation? What are the main challenges concerning occupational safety and health, in particular on worksites where communication is crucial? How does globalisation affect the transfer of best construction practices, including those that improve occupational safety and health? How can we protect national labour standards from the pressures of globalisation? Are the current approaches to international standardisation on occupational safety and health- management systems in construction adequate?

All these questions will be addressed in a conference, organised by the Construction Section of the International Social Security Association, which will take place in November 2009 in Brussels.

Given the importance of these issues and their impact on health and safety policies, FIEC, together with the EFBWW, have decided to support and participate in this conference with the aim of ensuring that through optimal collaboration between employers and workers at company level the industry can reap the benefits of globalisation, whilst at the same time minimising the risks linked to it.

e) Nanotechnologies in the construction industry : opportunities and challenges

The European Union is paying much attention to the emerging industrial use of nanotechnologies and nano-products. The further development of this technology is not easily predictable and encompasses a wide range of possible applications in more or less all industrial sectors.

A highly qualified workforce, able to adapt to new technologies and to implement new opportunities into their traditional work processes, making intelligent use of the possibility of new combinations, is vital for the competitiveness of our sector, competing on an increasingly international market.

The ability to cope with new opportunities also includes the aspect of dealing adequately with possible emerging risks. The capability of anticipating new risks is of the highest importance for the successful implementation of a new technology.

Nanotechnologies will directly or indirectly influence or interrelate with the following policy-areas:

- **Sustainability:** innovative nano-materials/products are claimed to be able to reduce the total use of materials, to improve properties of specific materials resulting in, for example, energy savings, reduced maintenance needs, higher material durability, better weather resistance, etc. The claims that are made are promising and in this respect a growing use of nano-materials/products in the construction industry is expected.
- **Health and safety:** the new properties of nano-materials/products resulting in new products, with possible (new) health and environmental risks are widely discussed in the scientific literature and in public forums. The, as yet, lacking information on health hazards and accompanying risks encourages a precautionary approach when new materials are introduced at the workplace.
- **Vocational training:** the introduction of nano-materials/products in the construction industry may necessitate adaptation of "traditional" working methods to ensure a safe workplace at sites where these new nano-materials are being applied. Therefore a broad activity in vocational training will certainly be required.

Already today, there are a number of very different applications of nanotechnologies in construction. Nano-materials/products are used for example in paints and coatings, flame retardants, glass facades, cement or mortar, cleaning agents, insulation materials, etc.

Undoubtedly, the further development of nano-technologies bears potential progress but also risks.

EFBWW and FIEC, the European Social Partners for the construction industry, have therefore decided to launch a joint project on this issue, co-financed by the European Commission, aiming at evaluating these opportunities and risks.

One of the project deliverables will be to collect existing information about nano-technologies in construction and will then launch a debate with stakeholders, i.e. national representatives and experts from both Social Partner organisations for the European construction industry, EFBWW and FIEC, as well as other main actors of the sectors (materials producers, engineers, architects, regulatory enforcement bodies etc).

A final report, presenting the outcomes of this study, will then be used as a starting point for future social dialogue activities.

3. Economic aspects of employment

a) "Posting" Directive: a key legislation for the construction industry

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

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

In order to discuss and exchange views on the impact of these judgements, FIEC and EFBWW organised a joint seminar in September 2008.

FIEC's position on this matter has remained unchanged : the "Posting" Directive does not need to be amended. It is a well balanced instrument for achieving the objectives of articles 49 and 50 of the EC Treaty on cross border service provision, including fair competition and the social protection of workers temporarily posted in another Member State. FIEC considers that the judgements referred to above pointed to the incomplete or incorrect implementation or application of the Directive by the Member States concerned. The priorities at EU level should therefore focus specifically on these aspects.

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

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

Also with the objective of facilitating the practical application of the "Posting" Directive, FIEC and EFBWW are jointly working on a project, co-financed by the European Commission (DG EMPL), aiming at completing and updating a database on the "Posting" Directive, which will be freely accessible on the internet.

The aim of this project is not to collect general information which may be available from other sources, but to focus on those aspects that specifically relate to the construction sector.

This database should therefore act as an innovative, important and useful instrument for ensuring an efficient practical application of the "Posting" Directive by providing a centralised source of information, available both for enterprises and workers, on the specific provisions in force in all the EU Member States.

b) "Joint and several liability" : let's avoid any hasty EU initiative

At the end of 2008, Eurofound (the "Dublin Foundation") finalised its study on "Liability in subcontracting processes in the European construction sector", which examines and assesses the provisions existing in 8 Member States (Austria, Belgium, Finland, France, Germany, Italy, the Netherlands and Spain) on "joint and several liability", in other words the liability of the main contractor for the obligations (fiscal, taxation,...) of its sub-contractor(s), as one of the possible instruments for fighting against undeclared labour.

The main outcome of the report is that significant differences that exist between the various national liability regulations in place in the 8 Member States under consideration. The varying legal traditions and industrial relations cultures in the countries covered mean that research results are highly specific to each national situation and that few elements are transferable.

Substantial differences were also identified in relation to the effectiveness of the existing provisions with regard to their objectives. Each Member State strikes a different balance between preventive measures, sanctions, and enforcement efforts and possibilities, which results in the fact that some Member States face serious problems regarding the effectiveness of their domestic liability rules, while in others no structural enforcement problems seem to exist. However, regarding cross-border subcontracting, considerable enforcement difficulties have been reported in all Member States.

The study shows on the one hand that preventive tools offering incentives to clients or principal contractors through the limitation of or exemption from liability are largely considered a positive element of successful liability regulations and, on the other, that the involvement of the social partners in the development and implementation of the arrangements has proved to be a salient feature of most of the measures categorised as "good practices".

In this framework, some initiatives at the EU level such as the Directive on "Sanctions against employers of illegally staying third-country nationals" or the own initiative "Lehtinen report" on the "Social responsibility of subcontracting undertakings in

production chains" of the European Parliament, aim at developing an EU wide liability legislation.

However, in its conclusions the Eurofound study clearly states that *"given the exploratory and mainly fact-finding and descriptive nature of this report, further more in-depth and case-study based research on this topic would be a prerequisite before any definite conclusions on what works or not could be drawn"*.

FIEC fully shares this view and considers that hasty initiatives at EU level on this issue are dangerous and should be avoided.

c) Study on self-employment and bogus self-employment : a comparative study in 11 Member States

There have always been self-employed workers in the construction industry (craftsmen in particular are often self-employed), however, during the last few years an increase in this form of working relationship has been observed across the EU. According to "Employment in Europe 2005", approximately 14% of construction workers are today self-employed, however this share is higher in some countries, such as Greece (40%), Poland (29%), Cyprus, Italy, Portugal, United Kingdom, than in others.

The distinction between self-employed workers and employees has significant fiscal, social and economic consequences, in particular in a labour intensive sector such as construction. Self-employed workers work under their own professional responsibility; the method of payment of taxes and social security contributions differ between self-employed workers and employees; some working conditions (wages, working time, rest periods,...) governed by collective agreements or by specific legislative, administrative and regulatory provisions are not applicable to self-employed workers.

The appearance of these new forms of employment may at a some stage have definitely contributed to the growing flexibility of the labour market, but it has also led to a growing number of workers with an unclear employment status who are therefore outside the scope of protection normally associated with a traditional employment relationship.

The accession of the new Central and Eastern European states into the European Union and

more significantly the fact that contrary to the free movement of workers, the free movement of services has been applicable to these countries from their accession on 1st May 2004, has further increased this recourse to these new forms of labour and the application of the free movement of services has led to a situation where more and more people become or act as "self-employed" not only to circumvent access restrictions to foreign labour markets, but also to avoid the implementation of minimum social standards and conditions in the host country.

FIEC and EFBWW therefore decided to launch a study, with the financial support of the European Commission (DG EMPL), aiming at comparing how several Member States define self-employment status and how they tackle the problem of bogus self-employment, i.e. workers who to the outside world behave as employed, although they are registered as self-employed.

One of the main outcomes of the study is that the broad character and the lack of precision in legislation often require courts to complete the existing statutory definitions, through the use of tests or on a case by case factual analysis, aimed at distinguishing between the direct employment and self-employment status based on objective criteria, which however increase complexity and uncertainty. Furthermore, the forms of bogus self-employment have gradually become more and more sophisticated, therefore increasingly difficult to identify.

Although situations differ from one country to the other, the study highlights indicative criteria for determining whether a person is in genuine or a bogus self-employment. These criteria are: the absence of a hierarchical relationship with the employer, independence regarding working time and work schedule, liability and risks assumed by the worker, the use of one's own tools, and the fact that one works for several clients.

Another interesting outcome of the study is the fact that in an international context other types of problems may arise, in relation to the question as to whether the competent national authorities have the right to challenge the classification provided by the legislation and the competent authorities of another Member State. In this respect the case law of the European Court of Justice the ECJ has made the E101 certificate (which confirms to the authorities in the host Member State that social contributions for

a worker continue to be paid in the home State and prevents a demand from the host State for Social Security contributions to its own scheme) virtually inviolable and thus has rendered national authorities almost powerless to act against fraudulent postings to their country. Indeed, the authorities of the receiving State, whether social security institutions or the judiciary, are no longer in a position to check whether the substantive posting conditions are met.

Finally, a growing point of concern and an element that is perceived as responsible for the creation of much bogus-self-employment is the increase in the number of "male fide" intermediaries, employment agencies which to a large extent are involved in arranging work assignments for the self-employed. Quite often, in such triangular employment relationships both interlocutors perform some of the functions of the traditional employer, leading to difficulties in defining who the actual employer is.

In order to prevent and fight against the problem of bogus self-employed, Member States have put in place several measures, as well as sanctions. However, in order for these sanctions to be applied, cases have to be brought, proven and won before court, which can be complex. Furthermore, national measures for combating this kind of fraud are usually tailored nationally and are difficult to apply in an international context.

The outcome of this study will certainly contribute to discussions at EU level and within the European Social Dialogue on the modernisation of labour law.

**Social Commission –
(6/2008 – 5/2009)**

Position Papers

FIEC position paper on the «Lehtinen report» as adopted in the Employment “EMPL” Committee of the European Parliament (20/3/2009)

FIEC position on the EP “Andersson Report” on “Challenges to Collective Agreements in the EU” (5/9/2008)

Press Release

FIEC Press Release – Risk assessment should be one of the main priorities of any responsible contractor (17/3/2009)

Answer to public consultation

EFBWW and FIEC joint answer to the Consultation of European social partners on the creation, functioning, outcomes and impact of social dialogue committees (26/11/2008)

Other

EU Summit on Employment on 7/5/2009:
FIEC’s requests and proposals (5/5/2009)

FIEC proposed amendments – European Parliament draft “Lethinen report” (9/12/2008)

FIEC amendments to the proposed directive on “Sanctions against employers of illegally staying third-country nationals” (12/9/2008)

*All these documents are available
on FIEC website www.fiec.eu*



FIEC Position on the European Parliament "Andersson Report" on "Challenges to Collective Agreements in the EU"

5/9/2008 (The following are extracts. The full version can be found on the FIEC web site : www.fiec.eu)

1. Preamble

Given the significant role played by the "Posting" Directive (96/71/EC, hereafter PWD) in the construction sector, which is characterized, amongst others, by a high mobility of its workforce, FIEC shares some of the views expressed in the draft "Andersson Report", namely:

- a. that the freedom to provide services is a cornerstone of the European project and that it has to be balanced against fundamental rights and the possibility for governments and trade unions to ensure non-discrimination and equal treatment;
- b. that the PWD is considered as a "minimum standard" Directive as it allows Member States to go beyond the social minimum core forecast;
- c. the call for taking steps to combat fictitious, so-called "brass plate" companies which seek to avoid complying with the host State's social rules at all costs.

As stated by the European Commission in its 2007 Communication (COM(2007)304), FIEC shares the view that adequate and effective implementation and enforcement of the PWD are key elements in the protection of posted workers' rights. Therefore, in a joint position dated 11/12/2007 "the European Construction Industry's Social Partners, FIEC and the EFBWW, reconfirmed that the PWD does not need to be revised and is a well balanced instrument for achieving the objectives of articles 49 and 50 of the EC Treaty, including fair competition and social protection".

[...]

For these reasons FIEC fully shares the request for a better application of the PWD together with the preservation of fair competition and considers that amending the PWD is not the best way of achieving these goals.

2. Detailed comments

FIEC does not share some of the statements made in the draft "Andersson report" on some of the recent decisions of the European Court of Justice (ECJ), in particular the "Viking", "Laval" and "Rüffert" cases, and their possible impact on the application of the PWD.

A. The recitals and fundamental principles

[...]

The provisions stated in the PWD, and to which the report refers, reflect the subtle balance which has been achieved between the principle of freedom to provide services on the one hand, which is one of the European Community's fundamental freedoms, and the fight against of social "dumping" on the other; the latter being inspired both by the social protection of seconded workers and the maintaining of healthy, fair competition between foreign service providers and domestic companies in the host State.

As a result, the grounds based on the respect of fair competition and the equal treatment of companies with regard to the economic and social provisions to which they must adhere, is **just as important as** those relating to the right of the trade unions to take collective action.

[...]

B. The impact of the rulings and the demands formulated

B.1 FIEC considers that some statements raise concern

- It is not realistic (or indeed imaginable) to reject as such the introduction of a principle of proportionality with regard to the right of trade unions to take collective action. In the ECJ's "Laval" ruling, collective action of this kind led to a total blockade of the Latvian service provider's worksite by Swedish trade unions, and this is unacceptable. Indeed, even though the trade unions' right to take action is recognised in legislation in the majority of EU Member States, a right of this kind must also respect certain limits (see paragraph no. 11 in particular);
- FIEC does not agree on widening the legal basis upon which the PWD was adopted – in other words extending the legal basis from the principle of freedom to provide services to cover the free movement of workers. The free movement of workers is about the freedom of EU citizens to settle and work where they wish to. This has

nothing to do with the right of workers, during their posting, to benefit from wages and working conditions possibly better than those prevailing in their country of origin, (this is the purpose of the PWD). Therefore this is not a matter of the free movement of workers but rather of the principle of freedom to provide services, which must remain the sole legal basis on which the PWD is founded (see *paragraph no. 15 in particular*);

[...]

B.2 FIEC agrees with some of the analyses put forward in the draft report.

For instance, the point of view set out in paragraph no. 13, recalling that the PWD, as it requires adherence to a hard core of social provisions in force in the host State, has always been considered **to be a piece of legislation which makes provision for the application of a minimum basis**.

Moreover, article 3.10 of the Directive states that Member States are still free to go further than this minimum basis. But it must be stressed that such a possibility is subject to the respect of certain conditions and provided that the provisions on working conditions and conditions of employment in question are of a public nature, which do not seem to be satisfied in the Laval case for instance.

3. Conclusions

[...]

Furthermore, FIEC feels that some requests are interesting ideas that deserve to be further explored, **but not through a revision of the PWD**.

For instance, all measures which would facilitate better application of the PWD by the Member States and make more general information available to employers as to their social obligations.

In this respect, FIEC and EFBWW are currently putting in place a data base on the implementation of the "Posting" Directive, focusing on construction related aspects, which will provide information on national social and sectoral legislation to employers and employees in the case of posting in one of the 27 Member States of the UE.

The introduction of an electronic harmonized EU standard form for the prior declaration of posting could also be a very helpful tool. This initiative has been strongly supported by FIEC and the EFBWW, in particular in their joint position papers on the Commission Communications on the PWD. (Joint FIEC-EFBWW positions dated 01/06/06 and 11/12/07 on the Communications of the European

Commission entitled "Guidance on the posting of workers within the framework of provision of services" [COM(2006)159] and "Posting of workers within the framework of the provision of services :maximising its benefits and potential while guaranteeing the protection of workers" [COM(2007)304].)

FIEC position paper on the “Lehtinen Report” as adopted in the Employment “EMPL” Committee of the European Parliament 20/3/2008

On 17th February 2009 the EMPL Committee approved the “Lehtinen Report” on “The social responsibility of subcontracting undertakings in production chains”.

On 19th February 2009, the European Parliament adopted the “Fava Report” on the proposed Directive on “Sanctions against employers of illegally staying third-country nationals”. This report suggests, amongst others, introducing conditional joint and several liability of the main contractor towards its direct subcontractor, if certain checks are not carried out.

Although these two reports address very different issues, they both introduce provisions for a legislative framework for sub-contracting, based on the concept of “joint and several liability”.

Recently two alternative motions for resolution have been submitted by Ms Gabriele Stauner and Mr Phillip Bushill-Matthews, on behalf of the EPP-ED group, and by Mr Jean-Marie Beaupuy, on behalf of the ALDE-PES-Greens groups. These two alternative motions for resolution, together with the “Lehtinen Report” will be voted during the plenary session on 26th March.

FIEC asks the Members of the European Parliament to vote against the adoption of the “Lehtinen Report and to support the alternative motion for resolution submitted by Ms. Stauner and Mr. Bushill-Matthews on behalf of the EPP-ED group for the following reasons:

1. According to the subsidiarity principle **the decision to introduce a liability scheme, as well as its scope, should be left to the decision of each Member State.**
2. When mentioning the recent Eurofound study on “joint and several liability”, it is incorrect to claim that the schemes adopted in 8 Member States have proven to be efficient. On the contrary, **the study precisely highlighted the fact that the effectiveness of such schemes can be called into question.** Furthermore the fact that **19 other Member States decided not to introduce such a scheme** cannot be simply ignored.
3. The Eurofound study also clearly shows that the schemes put in place by some Member States

vary significantly one from another and some of them also place the client’s liability at stake. **The adequacy, feasibility and possible legal basis of a supra-national joint and several liability system, that would moreover be compatible with the very different liability systems currently existing in some Member States, still needs to be examined and validated.**

4. The adoption of the “Lehtinen Report” would create **additional legal uncertainty and incoherence** as the scope of the liability proposed does not match the one contained in the “Fava Report”.
5. Joint and several liability is not the appropriate instrument to ensure compliance with fiscal and social legislation. **Compliance and enforcement of the existing legislation is the responsibility of the public authorities and it should not simply be put on the shoulders of enterprises.** This is particularly true in the context of the current economic crisis.



Zdenek Klos, CZ

President

*Frank Faraday, FIEC
Rapporteur*

Sub-Commission TEC-1

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



Rob Lenaers, BE

Chairman

*Eric Winnepeninckx, BE
Rapporteur*

Sub-Commission TEC-3

"Environment"



Jan Wardenaar, NL

Chairman

*Niels Ruyter, NL
Rapporteur*

Sub-Commission TEC-2

**"Research, Development
and Innovation"**



Bernard Raspaud, FR

Chairman

*André Colson, FR
Rapporteur*

Sub-Commission TEC-4

"Plant and Equipment"



Juan A Muro, ES (-04/2009)
José Ramón Yannone, ES (04/2009-)

Chairman

*Ricardo Cortes, ES
Rapporteur*

1. Introduction

The activities of the Technical Commission relate to **four** principal themes:

- The environmental pillar of sustainable construction.
- The completion of the internal market in construction products.
- The promotion of research and development.
- Issues linked to construction plant and equipment.

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

2. Environmental pillar of sustainable construction

Sustainability is at the core of the work of FIEC's Technical Commission. Independently of other initiatives promoted through standardisation or through Commission initiatives, FIEC is in the process of drawing up its own vision of sustainability to ensure that construction enterprises are at the forefront of the drive towards sustainability and can fully grasp the market opportunities that will be created through new drivers for change in the industry such as adaptation to climate change and the challenge of securing Europe's future energy supply.

CEN/TC 350 for "Sustainability of Construction Works"

The major venue for concerns linked to the environmental performance of buildings has been within the European Committee for Standardisation (CEN) and more particularly within **CEN/TC 350 for "Sustainability of Construction Works"**. The Commission gave a mandate to CEN in March 2004 to proceed with drawing up a standard for the assessment of the "integrated environmental performance of buildings". The suite of standards, when implemented, will provide a method for evaluating a building over its entire life-cycle. During 2008, the work of the TC in developing life cycle assessment criteria was extended from covering simply environmental considerations to social and

economic aspects. FIEC continues to monitor the work of this committee which expects the first standards to be published during the course of 2010.

The ongoing work in CEN has triggered debate as to how labelling schemes for buildings can be used to support or complement standards once adopted or indeed how labels, using other indicators that those being drawn up by CEN can be useful drivers for promoting sustainable buildings. In this regard, FIEC believes that demand for such labels should be a predominantly market driven process and represents a huge opportunity for building firms.

Lead Market Initiative

On 21st December 2007, The European Commission launched the "**Lead Market Initiative**", aimed at promoting the innovation and the development of large-scale markets with international potential. This horizontal policy concerns six key markets of which one is **sustainable construction**. In the roadmap prepared for the Commission by the "Taskforce on Sustainable Construction," a number of policy instruments have been identified in order to take the Lead Market Initiative forward. These include:

- Action to assess national building regulations in order to adopt a performance based approach.
- Strengthening the Energy Performance of Buildings Directive to include "performance targets and evolving standards for new construction.
- Expand the scope of "Eurocodes" in order to integrate sustainability aspects into construction design.
- In the revised Construction Products Directive, provide for better procedures to obtain European Technical Approvals that take into account sustainability criteria.

A steering group and working groups dealing with different aspects of the Initiative have been established by the European Commission. For further information and on FIEC's involvement on this initiative please refer to the specific chapter at the beginning of this report (see p. 14-15).

3. Energy Efficiency and Climate Change

The Commission, on 23rd January 2008, unveiled its long awaited "**Climate Change Package**" in which

it aims to give concrete form to its ambitious "20 20 20" goals; i.e. a 20% increase in the use of renewable energy, 20% reduction in CO₂ emissions and a **20% gain in energy efficiency**. The package was formally adopted by EU Heads of State and government and the European Parliament at the end of 2008 and the different directives are currently being transposed into national law. The package consists of a number of specific legislative proposals aimed at setting national targets for reductions in carbon emissions, improving and widening the European emissions trading scheme, measures relating to carbon capture and storage as well as encouraging gains in energy efficiency.

Energy efficiency has been the focus of much attention from the European Commission in recent years and a central tenet of this policy has been the Energy Efficiency Action Plan that was launched in October 2006. "The Action Plan outlines a framework of policies and measures designed to realise the estimated savings potential of over 20 % of the EU's annual primary energy consumption by 2020". As far as buildings are concerned, the potential for gains in efficiency are, according to Commission figures, around 25-30%.

In November 2008, as part of the overall Second Strategic Energy Review, the Commission unveiled its proposal for a recast of the Energy Performance of Buildings Directive (EPBD), that was originally adopted in 2002. The current Directive has been difficult to implement, in large part, through a lack of trained energy certifiers. One of the major innovations of the recast has been to bring down the threshold that applies to certification of existing buildings undergoing major renovations and which is currently set at 1000m². One of the priorities behind the Commission proposal is moving towards low and zero energy buildings. The recast has reached the stage of first reading in plenary in the European Parliament. The European Parliament has sought to be much more ambitious than the Commission in its requirements on Member States to reach zero energy buildings by 2019 with the mandatory minimum use of renewable energy in each new building though it does remain to be seen whether Member States will agree to such an ambitious timescale. The Parliament also included an obligation for Member States to introduce fiscal and financial incentives for the promotion of energy efficiency and report on these to the Commission.

FIEC supports bringing all buildings into the scope of the Directive and continues to emphasize that **the most cost-effective solution for securing gains in the energy efficiency of buildings is when they undergo major renovation**. FIEC cautions however that in order to ensure the effectiveness of energy efficient renovation works, the use of experienced professionals should be encouraged. In this light, the application of a reduced rate of VAT to energy saving construction products alone should be ruled out as it would undermine the very aim of improving energy efficiency and would also promote undeclared work.

"Sunrise" project – Photovoltaic installations in buildings

The "Sunrise" project aims to promote the increased use of photovoltaic (PV) applications in buildings. FIEC participates in the project together with the leader EPIA (European Photovoltaic Industry Association), WIP, a renewable energy consultancy, the "European Association of Electrical Contractors" (AIE) and the "International Union of Architects" funded under the sixth framework programme (FP6). The duration of the contract is 30 months. FIEC's role will be the dissemination of RTD results and other relevant information across the industry linked to PV applications.

FIEC's dissemination activities began during the 2008 Dublin Congress when representatives of the PV industry presented the aims of the "Sunrise" project together with examples of projects where PV installations had been used. A further event is organised in May 2009 with a more technical dissemination workshop to be held in Milan.

4. The Construction Products Directive (89/106) (CPD) and proposal for a Construction Products Regulation

The implementation of the directive remains focused on efforts in CEN and EOTA (European Organisation for Technical Approvals) for the production of "harmonized technical specifications". CEN ultimately expects to publish about 483 product standards as well as some 1500 supporting standards, principally dealing with test methods and evaluation of conformity. By end March 2009, a total of 400 product standards had been formally approved, of which 350 had been cited in the Official Journal.

A further 50 had either passed - or had reached - the CEN enquiry stage, whilst a further 17 were under preparation for CEN Enquiry.

**Commission Proposal for a Regulation on Construction Products COM(2008)311
23rd May 2008**

The Commission unveiled its proposed Construction Products Regulation on 23rd May 2008. There are a number of points of concern to construction enterprises in this new regulation. These are:

Unlike the situation at present, the proposed legislation effectively enables the manufacturer to **declare performances** only for those “essential characteristics” of the product that are mandatory in the Member State where he wishes to market his product. By permitting the manufacturer to make available CE marked products on the single European market that are based on declarations of performance that contain information for one or only a few Member States, users will need to be more vigilant than ever in order to know whether the products meet the required performance. This may well generate an extra burden for contractors who, in some cases, will need to test products themselves to know its performance and whether and under which circumstances it can be used.

FIEC continues to hold the view that the Declaration of Performance and therefore CE marking should be obligatory when an essential characteristic of a product in relation to basic works' requirements is covered in the harmonized technical specification. This means that the Declaration of Performance should continue to make reference to all essential characteristics covered by the harmonised standard including the use of “No Performance Determined” or NPD to ease the burden of product testing.

Another point of concern as regards the reliability of the CE marking is the Commission's proposal for the creation of a Specific Technical Document (STD). As a result of intense lobbying from organisations claiming to act in the interests of micro and small and medium sized enterprises., the Commission has introduced a simplified procedure for micro-enterprises and for the non-series production of construction products. This procedure will enable a manufacturer to replace performance assessment (formerly referred to in the CPD in this context as “conformity assessment procedure”) with a STD.

Both FIEC , representing without discrimination the interests of both SMEs and larger firms, and CEPMC, the European Council of Producers of Materials for Construction have long been concerned that the use of such a facility by certain categories of enterprise would lower confidence in the CE marking and maintain that the appropriate place for deciding the level of, and procedure for conformity assessment should be set out in the texts of the relevant harmonized standards and should be set on the basis of the volume of production rather than the size of enterprise.

FIEC and CEPMC organised a joint breakfast on 8th October 2008 in the European Parliament together with the European Association of National Builders Merchants Federations (UFEMAT) on the theme of the Commission's proposal for a Construction Products Regulation. The event saw an in-depth discussion of the proposed regulation involving parliamentarians, Commission and Council Presidency representatives, as well as a wide range of views from industry.

The European Parliament's Internal Market and Consumer Protection Committee voted on the Commission proposal on 11th February 2009. The European Parliament voted in plenary session on 24th April 2009. Due to differences within the Council, most notably on the question of the declaration of performance, there has been no possibility of finding a political agreement between the Council and the European Parliament. It is now expected that the text will be adopted at the earliest in early 2010.

5. CE Marking cross-referenced to websites

For some time, it has been the intention of certain product manufacturers, to put most, if not all, the information accompanying the CE marking on websites. FIEC has insisted that the **information called for by the CPD must continue to appear on the CE marking itself** (hardcopy) even if additional information (e.g. recommended fixing instructions) are cross referenced from the CE marking to a website. Since this is an issue of profound importance to both FIEC and CEPMC, it has been mutually decided that FIEC and the European Council of Producers of Materials for Construction (CEPMC)

should establish a dialogue on the matter with a view to finding common ground.

Meanwhile, an adapted version of the ZA annex template that accompanies standards (in so far as their harmonised part is concerned) was put to the Standing Committee for Construction to make provision for information accompanying the CE marking to be made available via electronic means, notably through the use of websites. On 3rd December 2007 this template was approved by the Standing Committee and was taken up by some technical committees in the European Committee for Standardisation (CEN). Subsequently the European Commission announced its decision to prevent the revised ZA annex from being adopted and has instructed CEN to amend all standards featuring the modified annex.

In the context of the future Construction Products Regulation, having the right information regarding a given product on hand on the construction site will be essential. FIEC has been campaigning to ensure that information – linked to regulatory CE marking – regarding the performance of a product continues to appear on the batch of building materials themselves or when more practical is delivered in paper form with the product. Representatives of product manufacturers have been campaigning to replace such information with a unique identification code that would be linked to a database on the Internet. While FIEC believes that IT solutions have their place on the construction site, it cannot be the responsibility of product users who incorporate thousands of different products on site to search through information on the Internet to identify and know the declared performances of the product purchased. This would effectively transform the responsibility of the manufacturer to provide information to the user to actively search on databases and on websites.

A number of meetings have been held between CEPMC and FIEC on the issue with a view to reaching a common ground. While these discussions are ongoing, FIEC continues to maintain that:

- **the contractor or engineer must continue to receive all required information linked to the product on site without recourse to using the Internet** in order to identify the product and know the product delivered corresponds to what was ordered.

6. Standardisation Issues

FIEC's vision of Standardisation:

As of the end of March 2009, building and civil engineering works represented the second largest sector in terms of the volume of documents published by the European Committee for Standardisation (CEN).

Given the significant share of construction in the volume of standards CEN produces both through construction product standards and through design standards such as the Eurocodes, it is vital that construction enterprises are aware of how standardisation affects their work. By the same token, it is also crucial that the voice of construction enterprises are heard in CEN Technical Committees (TCs). Construction enterprises are, for the most part, small and medium sized companies and have specific needs in the development of product standards. Their needs are very different to those of SME product manufacturers for example.

FIEC is currently in the process of finalising its "Principles for Standardisation" recalling that standardisation is not be an aim in itself but rather must respond to needs of the market. One of the key problems expressed by companies and especially SMEs is the way in which standards are written and the need to cross reference what can amount to dozens of standards to apply one correctly. In this regard some kind of guidance document for standards use describing how to apply test methods in a step by step manner could be of use, in particular, to SMEs.

FIEC is also involved with activities within CEN to improve the clarity and applicability of standards for small and medium sized enterprises.

SME access to standardisation:

In the Council conclusions of September 2008 on Standardisation and Innovation, The Council of Ministers pointed, among other items, to the need to promote SME access to the standardisation process. The Council was responding to Commission Communication COM (2008) 133 "Towards an increased contribution from standardisation to innovation in Europe" published in March 2008.

Previously FIEC had expressed concern about the way in which increased funding aimed at improving the participation of SMEs in the standardisation process was allocated. These concerns were as follows:

- Funding does not currently represent value for money in the building sector.
- Money should not be disbursed to those organizations claiming to represent interests that are in fact conflicting (such as manufacturers and contractors).
- **Prior to making any further decisions about additional funding, the Commission should carry out a detailed and transparent consultation and analysis of the impact of funds already disbursed.**

Partly in response to such observations, the Commission commissioned a study on "SME Access to Standardisation" and at the same time investigated the effectiveness of the action undertaken by organisations receiving Commission funding for the promotion of SME interests in standardisation. FIEC was consulted on both studies and this exercise contributed to the drafting of FIEC's own Principles for Standardisation.

One of the first results of this exercise is that one such organisation, NORMAPME, the European Office of Crafts, Trades and Small and Medium sized Enterprises for Standardisation has contacted FIEC on several occasions, stressing FIEC's representativeness for construction SMEs and offering closer collaboration.

7. FIEC involvement in research activities

The on-going RTD framework programmes contain significant provisions in the field of energy, both in terms of energy efficiency and renewable technologies. More particularly the EU Commission's Executive Agency for Competitiveness and Innovation (EACI), previously known as the Intelligent Energy Executive Agency (IEEA) has allocated funding amounting to €730 million over 7 years (2006-2013) aimed at the dissemination of energy technologies as well as training initiatives. In general FIEC involves itself in dissemination activities of research results.

FIEC is currently involved in the following research projects:

- **ChemXchange** project on chemical safety management for construction SMEs- (see "Implementing REACH in the construction industry").
- **Sunrise** project on promoting the uptake of photovoltaic installations in buildings. (see "Photovoltaic technology in buildings- Sunrise Project")
- **ASIEPI** project (*Assessment and Improvement of the EPBD Impact (for new buildings and building renovation,)*) covering technical aspects of implementation of the Energy Performance of Buildings Directive in the Member States through benchmarking and awareness raising. The project has secured funding under the European Commission's Intelligent Energy Europe (IEE) SAVE programme.
Website: www.asiepi.eu
- **Cygnum** project: This research proposal will investigate a process for the manufacture of pre-insulated timber-frame wall panels, using recycled materials. The results will provide low-cost panels which will enable greater accessibility to low-energy ecological housing, with a target U value of 0.16 or better. It will also maximise air tightness, thus minimising the natural air movement from outside to inside.
- **Mobi3con** will provide an inexpensive, robust handheld solution for easy 3D data management at the construction site that could save the sector/industry € 6.2bn annually Reduce design deviations in construction SMEs that cost an estimated € 2.8bn in annual maintenance. Support the growth of construction industry SMEs for 6.6% with 70% ROI.
Website: <http://mobi3con.eii.ee>

8. The European Construction Technology Platform (ECTP)

The "Cooperation" work programme in FP7 may be expected to contribute to the implementation of the **Strategic Research Agenda (SRA)** of the ECTP. The real challenge here for the industry will be its success or otherwise in coming forward with RTD proposals to match the provisions of the SRA.

The ECTP was restructured in 2007 with a view to rendering the platform more simple and intelligible

and to improve its internal communication. The representation of stakeholders and especially the role of the National Technology Platforms (NTPs) was reinforced and a new post of Secretary General created. The High Level Group (HLG), assisted by a new Executive Committee will remain the principal decision making body and will oversee implementation of the Strategy Research Agenda as approved in June 2007. The European Council for Construction Research, Development and Innovation (ECCREDI) has joined the HLG. While ECCREDI seeks to encourage innovation and research in the so called 'technology followers' which for a large part comprise SMEs, ECTP is more involved with assisting the construction access to funding at the EU level. Both FIEC and ECCREDI are members of the ECTP.

Energy Efficient Buildings – Public Private Partnership (E2B PPP):

One of the key projects that the ECTP has sought to promote is the Energy Efficient Buildings – Joint Technology Initiative (or E2B JTI). The initiative, announced by the ECTP at its conference in November 2006, is intended to become a large scale industry driven research programme that seeks to achieve the Commission's climate change goals by investing heavily in improving the energy performance of the built environment.

At the end of 2008 it was announced that the Commission would switch its support from the JTI to a **public private partnership** with a budget of €1 billion (50/50 Commission funding/private funding); The E2B group has now created an association comprising building firms and research institutes that will be the main interlocutor with the Commission for research needs for construction in the field of energy efficiency.

FIEC through ECCREDI is involved with the work of this association.

9. The revision of the Waste Framework Directive

The Waste Framework Directive was adopted through a political agreement between the European Parliament and the Council in June 2008. FIEC had long campaigned for the removal from the scope of the directive of "**uncontaminated excavated**

materials which can be used in their natural state whether on the same **or another site**".

Regrettably the text of the adopted Directive does not exclude the transport of uncontaminated excavated material between sites from its scope thus continuing to impose burdens linked to waste and transport permits for contractors in many Member States. In this regard FIEC will now concentrate its efforts on the "**end of waste**" criteria which will be adopted over the coming years through the "comitology" procedure in order to ensure that the procedure for removing the waste definition from material is made as streamline as possible.

In order to prepare FIEC's position for the drafting of such criteria, a temporary working group has been created within FIEC's Environment sub-commission.

10. Implementing REACH in the construction industry

The "Registration, Evaluation and Authorisation of Chemicals" (**REACH**) Regulation entered into force on 1st June 2007 and is the most stringent legislation to date, covering the manufacture, import and placing on the market of substances used alone or in preparations and articles. REACH seeks to replace the piecemeal legislation that preceded its adoption. In future only substances that are registered by the importer or manufacturer will be permitted for use.

Pre-registration of substances under REACH ended on 1st December 2008 and many in the construction industry are looking to understand how this complex and far-reaching regulation will affect them as **downstream users of chemicals**.

Construction workers as downstream users:

Both construction product manufacturers and professional users of such products are **downstream users**. It is important, however, to distinguish between producers of preparations in the process of making construction products (such as concrete and sealants), groups which interpretive documents refer to as "**formulators**"; the suppliers of those products and the so-called "**end users**", professional users who incorporate products in construction works.

Under REACH such users of substances (whether alone or in preparations) are required to pass on

and request information on the risks associated with specific intended uses of the product.

The main **obligations** incumbent on downstream users

- As downstream users, construction firms will need to ensure that their intended use of the product is covered in the "**Exposure Scenario**" attached to the Chemical Safety Report ("CSR"). If that use is not covered, it is their responsibility to inform their supplier and request the latter include that use in the scenario; failing this, the operator may need to draw up its own "CSR".
- Downstream users are required to inform their suppliers of any new information on hazards or flaws in the risk management measures provided in the "Exposure Scenarios".
- For some substances, usage may be subject to certain conditions granted in authorisation further up the supply chain.

FIEC has been in favour of the REACH legislation from the outset, as construction enterprises have often had insufficient information as to the hazardous properties of the substances they were handling, both from the point of view of the internal environment of buildings as well as from that of health and safety of workers. Nevertheless, for many contractors the question of their legal obligations under REACH has been the cause of a degree of confusion and concern. FIEC is therefore currently working towards a practical guide for contractors through a specific working group within FIEC's environment sub-commission.

ChemXChange project – Helping SMEs implement REACH:

An important initiative in this field is the "ChemXchange" project under the leadership of FIEC's Norwegian member federation EBA which has secured funding from the European Commission under the 7th Framework Programme (FP7) for research. This project is specifically aimed at SMEs and will offer the construction industry a tailor-made, low cost, fully digitalised system that centralises the collection and quality assurance of the required chemical information thus helping enterprises to meet their requirements under REACH. The project consortium will consist of 13 participants drawn from

5 European countries. FIEC is dissemination manager for the project.

11. Construction plant and equipment

Sub-Commission TEC-4, established in 2006 and managed by FIEC's Spanish member federation SEOPAN, has been following 4 topics:

- The training and qualifications of machine operators;
- Information concerning European requirements for the erection of temporary installations;
- Impediments to the cross border movement of mechanical plant.
- Theft of equipment from construction sites.

Work on following up the results of the 2006 questionnaire concerning the **training and qualifications of machine operators** is still ongoing in cooperation with FIEC's Social Commission. Agreement in principle has, however, been reached as to the need for the mutual recognition of vocational qualifications of tower cranes and excavating machines.

Another questionnaire circulated in September 2007 to member federations addressed impediments to the **cross-border movement of equipment**. The responses received helped FIEC to request an introductory meeting with the European Commission on 25th November 2008 to discuss the problem. Further meetings are likely to follow as FIEC gathers together more practical examples of administrative obstacles that prevent contractors from transporting their own equipment across borders. In this FIEC will collaborate with the European Rental Association (ERA), which has carried out a similar study, with a view to sharing data and possible joint political action.

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

**Working Breakfast – Construction Products Regulation –
European Parliament – 8/10/2008**



Catherine Neris (MEP), Ulrich Paetzold, Rob Lenaers, Andreas Schwab (MEP), Zita Pleštinská (MEP), Dr Erwin Kern (CEPMC President), Den Dover (MEP)

**Technical Commission –
(6/2008 – 5/2009)**

Position Papers

FIEC position – planned revision of Directive 2002/91/EC on the Energy Performance of Buildings (EPBD) (1/10/2008)

FIEC position and amendments to the Commission proposal for a new Construction Products Regulation [COM(2008) 311] (1/10/2008)

Press Releases

FIEC Press Release – Commission proposal for Construction Products Regulation - FIEC gives qualified support to EP plenary vote (29/4/2009)

FIEC Press Release – Recast Energy Performance of Buildings Directive – first reading plenary vote in European Parliament (27/4/2009)

FIEC Press Release – Commission Proposal for construction products regulation (2/3/2009)

CEPMC-UFEMAT-ACE-FIEC Press Release: Has the Commission abandoned the goal of harmonisation in the construction sector? (28/1/2009)

FIEC Press Release – Recast Energy Performance of Buildings Directive (13/11/2008)

FIEC Press Release – Commission proposal for Construction Products Regulation (9/10/2008)

Other

FIEC recommendations for the IMCO vote – Harmonised conditions for the marketing of the construction products (Report: Catherine Neris) (16/4/2009)

FIEC comments – Harmonised conditions for the marketing of the construction products (Report: Catherine Neris) (15/4/2009)

FIEC contribution to the European Commission consultation on energy networks (TEN-E) (30/3/2009)

*All these documents are available
on FIEC website www.fiec.eu*

FIEC Position – Planned Revision of Directive 2002/91/EC on the Energy Performance of Buildings (EPBD)

1/10/2008

Recasting of the EPBD Directive

FIEC, through its member federations, is committed to achieving the EU's target of improving energy efficiency by 20 %, reducing greenhouse gas emissions by 20 %, and increasing the share of renewables by 20 % by 2020. On 23 January 2008 the European Commission put forth an integrated proposal for Climate Action. FIEC considers the revision of the EPBD a crucial instrument in achieving the EU's objectives.

The implementation of the EPBD by Member States has been a slow process but has helped spur interesting national initiatives. However, more needs to be done to realise the full potential of possible energy savings.

In our view, the following points need to be taken into account when recasting the EPBD in order to fully realise this potential:

Solutions

1. The best form of energy is energy not used
2. The most cost-efficient solutions – above all others – are implementing energy saving measures when buildings undergo major renovation. This activity must therefore be promoted as an absolute priority.
3. Before implementing any measures to save energy, it is vital to look first at what is most affordable which implies the following:
 - a. Economies in space heating and cooling through better insulation
 - b. High efficiency boilers and air-conditioning units for heating/cooling and water heating
 - c. Smart metering of electrical energy use
 - d. Energy efficient lighting and appliances
 - e. installation of renewable energy solutions.

Measures: how to make it happen: a regime of fiscal incentives, regulatory sticks and better information promoting a client-driven bottom-up approach!

1. Fiscal measures/incentives to promote energy efficiency:

- a. Stop taxing the most cost-efficient solution of them all: apply at least a reduced level of VAT on energy efficiency works and components used in buildings when installed by professional contractors.

- b. Consider introducing graduated tariffs (and even graduated VAT!) for carbon intensive energy supplies that rise with energy use, which is generally the contrary to current practice.
- c. Link energy performance certificates to a fiscally neutral system of graduated rebates in property taxes.
- d. Invite the Commission to carry out a study aimed at evaluating best practice in terms of national fiscal incentives, tax rebates, subsidized feed-in tariffs for renewable solutions, etc. and encourage the adoption of best practice across all member states.
- e. Using the results of the study, consider setting up a new dedicated and carefully targeted EU funding programme to assist member states in implementing energy saving measures in existing buildings.

2. Legislative measures

- a. When the Energy Performance of Buildings Directive comes up for revision in 2008, rather than just reducing or eliminating the 1000 m² threshold when buildings undergo works of major renovation, also consider linking (voluntary) certification and some form of fiscal rebate. For example, owners of buildings currently face increased property taxes through increased value by major renovation. Adaptation of such fiscal measure should then promote not just certification (which in itself does not achieve any energy saving!) but would encourage householders to have their buildings certified and thereby qualify for a fiscal rebate, once having raised the energy performance of their building to an appropriate level.
- b. Consider introducing PPP solutions as financing instruments aimed at raising the energy efficiency of public buildings.
- c. Provide landlords with incentives to undertake energy efficient investment for their rented properties, thus solving the split incentive problem: Why should I invest in energy saving works when I do not directly benefit?

3. Technical considerations and supply side measures

(The implementation of energy efficiency measures in existing buildings calls for an “integrated” as opposed to a “piecemeal” approach, especially in the case of older buildings with solid masonry walls which are particularly difficult to insulate):

- a. Member states should be required to evaluate national “u” value requirements and standards that properly respond to national climatic conditions and integrate these into their national technical regulations.
- b. More concerted national technical solutions are required to address the technical and cost difficulties encountered in insulating existing solid masonry walls.
- c. Increase training of construction tradesmen responsible for implementing energy efficiency measures in buildings especially in terms of advising householders on how best to proceed.
- d. Promote smart metering of individual appliances to demonstrate to householders where their money is going!

4. The Greatest Challenge of them all: Changing attitudes and behaviour!

- a. Major information campaigns are required to fight ignorance and explain in detail what needs to be done to raise the energy performance of buildings.
- b. Establish national information points in all major towns and cities.
- c. The European Commission and Member State governments should finance the production of extensive and detailed TV programmes informing consumers on how best to bring about savings in energy.

Summary of Main Points

1. The revised Directive should significantly lower or delete the 1000m² threshold for minimum performance requirements for major renovations to include a majority of existing buildings.
2. Certification of buildings should be linked to fiscal measures to incentivise householders to undertake works leading improvements in energy efficiency.
3. Emphasis should be on the most cost efficient measure. This could be the improvement of insulation or the use of highly efficient boilers

and air conditioning units. Such measures should be promoted through subsidies.

4. Member States should apply, wherever possible, lower rates of VAT for services linked to the installation of energy efficient materials and appliances such as insulation and new boilers.
5. The “split incentive” problem should be tackled by providing support to landlords to carry out improvements in energy efficiency in their rental properties.
6. EU structural funds for improving the energy efficiency of the existing housing stock should be made available also to the pre-2004 Member States. In this special attention should be paid to older housing stock.
7. Training of contractors in technical aspects linked to the correct installation of insulation material and techniques for air-tightness enabling the optimal level of energy performance should be promoted.
8. In general, the information on energy use is essential for the understanding of householders on how to better control and regulate their energy consumption. Smart metering systems should be made available to all householders.
9. Appropriate renewable solutions should be developed as a second step in order to further reduce energy consumption.
10. High profile and large scale information campaigns are needed to change perceptions and attitudes of the public towards the energy performance of their homes (e.g. through communicating infrared photographs).



Luisa Todini, IT

President

Stefano de Marinis, IT
Coordinator

1. The FIEC "Blue Book"

For 16 years, the "Blue Book" – providing information linked to the development of the 30 priority projects of the Trans-European Transport Network (TEN-T), in particular their financing and stage of completion – has represented a very important communication and lobbying tool for FIEC, especially in its relations with the Commission's Directorate General for Energy and Transport (DG TREN), as it collects data coming from those contractors that are actually undertaking works.

The "Blue Book" is not only a lobbying instrument towards the EU Institutions; it is also a source of information for construction companies and a useful tool for FIEC Member Federations' own publications on national infrastructure. Moreover, the "Blue Book" can be effective in Member Federations' dealings with their national ministries as a way of ensuring completion of the TEN-T network remains at the forefront of the political agenda. Gathering data is in itself a way of keeping the focus of contracting owners and public-sector project investors on successfully carrying out the projects.

In 2008, the newly created Ad-Hoc Working Group on TEN-T, Chaired by Mrs Luisa Todini, participated in the drawing up of the 15th edition of the "Blue Book", unveiled at the occasion of the FIEC Congress in June 2008 in Dublin. The 16th edition will be published in June 2009.

2. Putting forward credible proposals on TEN-T policy to the European Commission

Beyond its main task of preparing the yearly "Blue Book", the Ad-Hoc Working Group has, since the very beginning, been active in putting forward proposals (to DG TREN) for the future direction of the TEN-T network.

The working group has actively contributed to the European Commission's Green Paper (published in February 2009), on the TEN-T policy review, both in the planning stage and later in the consultation phase. In particular, two FIEC keynote speakers, Vice-President Elco Brinkman and the working group's coordinator Stefano de Marinis, participated in the DG TREN "TEN-T DAYS" conference which took place in October 2008.

In all these forums, the Ad-Hoc Working Group has highlighted the following main messages:

- The completion of the on-going 30 priority projects must remain the overriding priority for policy makers so as to set the right example for project owners and investors.
- A network approach is conceivable, through the creation of a "priority network", based above all on the existing 30 priority projects, and possibly integrating a limited number of appropriate interconnections and communication hubs, so as to create an intermodal network of high strategic value.
- This priority network should form the major plank of the TEN-T policy and benefit more substantially from all possible financing sources. These sources include amongst others:
 - Increased Community (TEN-T budget) and EIB (European Investment Bank) funding;
 - Increased Structural and Cohesion funds dedicated to TEN-T projects;
 - Enhanced role of the private sector, through the set up of a flexible and incentive based framework for public-private partnerships (PPPs) in their various forms and sizes;
 - Raising the earmarking of revenues ("Eurovignette", Emission Trading Schemes, VAT income surplus, excise on energy...) to TEN-T projects;

- Setting up a "Eurobond", in the form of a "European sovereign debt funds" or of a common management of national loan issuance and national debts, with the aim of reducing the burden of TEN-T investment debt on national budgets.

Further to these various proposals, FIEC has also pledged for the most optimal coordination possible of all these possible financing resources (both public and private).

The results of the Commission's consultation should be made public in mid-2009 and the Ad-Hoc Working Group will closely follow up the initial results and further participate in the debate.

In any case, the Ad-Hoc Working Group benefits from the current attention being given in the European Institutions to transport policy in general, and the TEN-T 30 priority projects in particular. The friendly reception experienced by Mrs Todini while meeting Commissioner for Transport Tajani, and EIB Vice-President Scannapieco - namely on the question of FIEC's involvement in the recently created European PPP Expertise Centre - in September 2008 is proof enough that FIEC's input on this issue is very welcome.

Working Group "TEN-T" – (6/2008 – 5/2009)

Contributions and amendments proposals

FIEC contribution to the Green Paper on the future TEN-T policy (30/4/2009)

FIEC amendments proposal on the EPs draft report on the Green Paper on TEN-T (17/2/2009)

FIEC contribution to the forthcoming DG TREN "Green Paper" on TEN-T (24/7/2008)

Press Releases

FIEC Press Release – EIB Forum: construction industry major partner to build sustainable cities and promote sustainable mobility (13/3/2009)

FIEC Press Release – Breaking the credit squeeze - FIEC calls for investment in infrastructure to secure long-term EU growth (15/10/2008)

*All these documents are available
on FIEC website www.fiec.eu*

FIEC contribution to the Green Paper on the future TEN-T policy30/4/2009 *(The following are extracts. The full version can be found on the FIEC web site : www.fiec.eu)*

[...]

FIEC main recommendations**a) Organisation of the TEN-T policy**

1. FIEC does not support any of the 3 proposed options but supports a 4th option which would maintain the two-layer structure of the TEN-T planning with:
On the one hand, the comprehensive TEN-T network. Its achievement should remain a goal for the development of EU territories, and especially for structural and cohesion funds. This network is also a consistent scope for EU regulation and standards to improve interoperability, safety, and efficiency of transports.
On the other hand, a priority network, geographically identified, based above all on the existing 30 priority projects, and possibly integrating a limited number of appropriate interconnections and communication hubs, so as to draw up an intermodal network of highly strategic value.
2. The objectives of the TEN-T being concrete improvements by nature, it should not be developed an unclear and undetermined conceptual pillar.

b) A stronger and more efficient TEN-T budget

3. Strongly increase the TEN-T budget.
4. Concentrate the TEN-T budget on the priority network and its strategic sections to guarantee the leverage effect of the grants.
If however the possibility to select further TEN-T projects over time remains open, projects out of the comprehensive network should be funded according to their contribution to the five challenges: the coexistence of freight and passenger transports, the development of airports, the development of a polycentric network of sea and inland port, the adaptation of existing waterways, and the logistics of freight transport.
5. Award grants rather to the works phase than to the studies, in order to encourage Member states and project owners to accelerate the project achievement. This implies first to establish detailed and binding project timetable with launching and completion dates, and second to make it possible for the EU to commit funds beyond the programming period, given the duration of projects preparation.

6. Adjust the grants according to the respect of the timetable, making it possible to increase it in case of anticipation.

c) Coordination and planning

7. Designate European coordinators for all priority projects, with a special attention given to cross-border sections; reinforce their status and their individual mandates in term of section planning.
8. Facilitate the establishment of Intergovernmental Commissions (IGC) and of single project owners on the cross-border sections, which should be given a consistent geographical scope, and an ambitious mandate with clear objectives. The Commission should play a driving role in this regard.
9. Reinforce the Declaration of European interest, which should entail consequences on simplification of consultation and planning procedures.
10. Develop Member States' responsibility for failing to launch or complete parts of the priority network on time.

d) Other financing sources

11. Earmark ETS and Eurovignette incomes to the TEN-T projects.
12. Dedicate a small share of VAT or excise on energy to the development of the TEN-T, with limited impact on purchase power of the citizen.
13. Set up Eurobonds, in form of "European sovereign debt funds", or of a common management of national loan emissions and national debts, with the aim of reducing the burden of TEN investment debt on national budgets.
14. Further encourage EIB involvement and readiness to take risk.
15. Develop the Cohesion Fund, the priority of which should remain TEN projects.
16. Permit an ERDF and EAFRD contribution to the TEN-T in all EU regions according to their specific challenges in terms of economic / rural development.
17. Create a flexible and incentive framework for PPPs in their various forms and sizes.
18. Ensure the best possible coordination of all financing resources (public and private).

[...]





Frank Dupré, DE

The SME-Envoy

*Ulrich Paetzold, FIEC
Rapporteur*

Micro, small, medium-sized and larger firms

The European construction industry is overwhelmingly made up of SMEs and family-owned businesses. This reality is reflected in the membership of FIEC's member federations. Through its membership base, FIEC represents, without any discrimination, all sizes of construction firm ranging from micro, small and medium-sized firms to larger and very large firms. The strength of FIEC's initiatives and positions are rooted in the fact that they are based on the views and experience of such a wide variety of enterprises.

In addition to the general consideration given to the interests of SMEs in each separate issue addressed by FIEC's commissions, sub-commissions and working groups, the FIEC SME Envoy double-checks that no FIEC position paper or action contains elements which would be contrary to the interests of SMEs and family owned businesses.

In addition to the general reference to the other chapters of this Annual Report, an issue shall be reported which is high on the agenda of the European institutions and in which FIEC is also involved:

SMEs and doing business abroad

On 25/3/2009, FIEC attended the "High level Stakeholder Conference" on this issue, hosted by Commissioner Ashton (Trade) and Vice-President Verheugen (Enterprise). This conference focussed on the highly successful support services offered by the EEN (European Enterprise Network), the successor of both the "Euro-Info-Centre Network" and the "Innovation Relay Centres Network". The EEN, of

which FIEC is an "Associate Member", is part of the EU's "Competitiveness and Innovation Framework Programme" (CIP) and specialises in facilitating cross-border cooperation of enterprises and research bodies.

According to Commissioner Verheugen, economic developments clearly show that large enterprises are unable to react quickly enough to change, whereas SMEs have all the potential and innovative forces to create numerous jobs. Therefore, the principal aim of the EEN is to foster these innovative forces, complementing the Commission's efforts to simplify administrative requirements and improve legislation.

On 7/5/2009, during the "European SME week", the European Economic and Social Committee's "Advisory Committee on Industrial Change", CCMI, organised a conference entitled "How to support SMEs in adapting to global market changes - SMEs: helping them think global". In the same context, the ECOSOC-CCMI is preparing an "own initiative report" entitled "How to support SMEs in adapting to global export and import markets" (CCMI/064). In both initiatives, FIEC has been represented by its Director General in his capacity as "Delegate" in the CCMI and "co-rapporteur" of the CCMI-report.







Ricardo Gomes, PT

President

Maria Angeles Asenjo, ES
Rapporteur

In 2008 the FIEC MEDA Vice-Presidency focused on the creation and development of the **“Union for the Mediterranean”**.

The “Union for the Mediterranean” was launched at the Paris Summit, on 13th July 2008, in the presence of representatives of 43 countries as well as European and International Institutions. At that event, a Joint Declaration was adopted by Heads of State and Government with the aim of giving a new impulse to the Barcelona Process set up in 1995.

The “Union for the Mediterranean” should foster the Euro Mediterranean partnership in at least three very important ways:

- by raising the political profile of the EU's relationship with its Mediterranean partners,
- by providing for further development and strengthening of multilateral relations,
- by making these relations more tangible and visible through additional regional and sub-regional projects.

The Union for the Mediterranean has identified six priority projects:

- Removing pollution from the Mediterranean,
- Establishment of maritime and land highways,
- Civil protection,
- Renewable energies: Mediterranean solar plan,
- Higher education and research, Euro Mediterranean University,
- Mediterranean business development initiative.

On 3rd-4th November 2008, the Foreign Ministers from the EU and the Mediterranean partner states met in Marseille to agree on the institutional

structure of the Union for the Mediterranean, the work program for 2009, the main fields of cooperation and the implementation of the projects referred to above.

One of the decisions was that the co-presidency shall apply to summits and meetings: one of the co-presidents will be from the EU and the other from the Mediterranean partner countries. The role and functioning of the secretariat was clarified and Barcelona was chosen as its seat.

In the 2009 work programme, an indicative list of meetings was adopted, comprising among them ministerial meetings in relation to water, sustainable development, transport, urban development and energy. The work program is being closely followed by this Vice-Presidency.

Other important issues under the cover of this Vice-Presidency are the development of the **European Neighbourhood Policy**, the **extension of the major trans-European transport networks to the neighbouring countries**, **Euromed ministerial meetings**, **EuropeAid policy** and the **European Investment Bank (EIB) support through the Facility for the Euro Mediterranean Investment and Partnership (FEMIP)**.

Information on all the above issues has been provided to FIEC members in several **MEDA Newsletters** drawn up in 2008 which are available on the FIEC website.





Per Nielsen, SE

President

Frank Kehlenbach, EIC
Rapporteur

Joint FIEC/EIC Working Group "Ethics"

For a number of years, various international institutions, e.g. the World Bank Group, the Organisation for Economic Cooperation and Development (OECD) and the European Union have rightly been focusing a large amount of attention on issues such as "Good Governance" and "Capacity-Building" in developing countries, and they are particularly concerned with the phenomenon of corruption. Yet, efforts to curb corruption have intensified not only beyond the borders of the European Union, but also within the EU Member States and at EU level over the past few years. Furthermore, some civil society organisations have singled out the construction industry as a sector which, according to their perception, is particularly prone to unethical business practices.

Against this background, the European construction industry, represented through FIEC and EIC, have identified a need for our sector to respond constructively with a policy statement to the various misconceptions and simplistic policy statements which unjustifiably cast a bad light on the construction sector in general and which neither acknowledge the growing efforts of many construction companies to implement a irreversible process towards the elimination of corruption within the corporate ambit nor the fact that they themselves have been often the victim of extortion and other types of unethical requests.

This is why the FIEC Steering Committee and the EIC Board decided to set up a Joint FIEC/EIC Working Group on "Ethics" in order to define and draft a policy statement which would enable both federations to present the view of the European

construction industry in the political debate. The group had been given the task to produce a document which would be valid for the large stock-listed companies as well as for small and medium-sized enterprises (SMEs). In addition, the policy paper should address both the home market and activities abroad, and it should be fit for being disseminated internally, i.e. within FIEC and EIC Member Federations, as well as to the outside world, i.e. policy-makers on the EU and World Bank level, the EU Member States as well as to NGOs and the public at large.

The Joint Working Group started its work in summer 2007 and was able to finalise its drafting work in 2008. On 27 November the FIEC Steering Committee adopted the final text of the "FIEC/EIC Statement on Corruption Prevention in the Construction Industry" which was confirmed by the EIC Board on 29 January 2009.

The joint statement makes it clear that FIEC and EIC strongly oppose corruption in its diverse forms as an unacceptable phenomenon in national and international business transactions. Not only does it raise moral and political concerns, undermines good governance and distorts international competition, it has negative effects on business, since it adversely affects the quality of works, economic efficiency and potentially damages the image and reputation of the whole construction industry. At the same time, FIEC and EIC expect the public sector to complement private sector initiatives to fight corruption by closing loopholes that allow or even encourage unethical behaviour on the "demand side", in particular during the tender and the project delivery phases. Evoking the adage that "it takes two to tango", the joint statement concludes with concrete recommendations to all parties involved in the construction process which are invited to act simultaneously within their sphere of influence in order to make progress on this important issue.

FIEC/EIC Statement on Corruption Prevention in the Construction Industry

29/1/2009

The **European construction industry** accounts for investments of around 1.500 billion per year, equating to around 10% of the GDP of the European Union and around 53% of EU gross fixed capital formation. The European Union's 2.3 million construction enterprises, of which 97% are SMEs with less than 20 workers, employ a total workforce of 13.5 million, whilst some 26 million workers depend directly or indirectly on the construction sector. The international revenues of European contractors amounted in 2007 to some 121 € billion, of which 65 € billion were generated outside Europe.

FIEC is the **European Construction Industry Federation**. Through its 33 national Member Federations (26 EU & EFTA, Croatia and Turkey), FIEC represents construction enterprises of all sizes, small and medium-sized enterprises as well as global players, carrying out all forms of building and civil engineering activities. **European International Contractors (EIC)**, which has 15 national Member Federations, represents the interests of the European construction industry in all aspects related to its international construction activities.

Declaration of the European construction industry

FIEC and EIC strongly oppose corruption in its diverse forms as an **unacceptable phenomenon in national and international business transactions**. Not only does it raise moral and political concerns, undermines good governance and distorts international competition, it has negative effects on business, since it adversely affects works quality, economic efficiency and potentially damages the image and reputation of the whole construction industry.

The construction sector is often denounced as particularly prone to corruption, however, FIEC and EIC are strongly opposed to all kinds of simplistic statements based on perception indices, as they are biased against our sector, which is by its very nature and the number of parties involved more visible and open to the general public. As a matter of fact, the construction industry is characterised by a high degree of delegated powers and authority due to the fact that construction companies have to construct their products at sites provided by the client. This puts a high burden on the people locally in charge who are dealing with high values and might be exposed to doubtful proposals that would facilitate progress.

While construction companies are not blameless, the fact is that, over the past decade, many **European contractors** have invested substantially in ethical policies, the adoption and publication of codes of ethics, the training of personnel and the application of internal and even external control mechanisms to implement in-house corruption prevention systems. Whilst the possibility of individual misbehaviour can never be excluded, these companies have started to take positive steps in their sphere of influence to implement **irreversible processes towards the elimination of corruption** which also includes a "zero tolerance" policy on unethical behaviour within the corporate ambit.

Positive leadership is now required from the Governments, public clients and funding agencies to reinforce and complement the initiatives taken by the private contracting companies. Regrettably, FIEC and EIC see **much less enthusiasm on the part of Contracting Authorities and Governments**, inside and outside Europe, to enact similar anti-corruption policies within their sphere of influence.

The European construction industry also deplores the **lack of determination on the part of the bilateral, European and international funding agencies** to closely supervise the execution of the infrastructure projects financed by them and to intervene in the case of unethical practices.

The difficulties arising from the lack of support of the public sector are multiplied for European construction companies when executing work **outside the OECD**, where they are not facing a **level playing-field**. European contractors are committed to international environmental, social, corporate and ethical standards stipulated by the OECD, the EU and the companies' shareholders, often large institutional investors, whereas their **local competitors or those from emerging countries, of which some huge ones are state-owned, are unlikely to be affected by such standards** or the resulting sanctions.

FIEC and EIC consider that the public sector appears to be only concerned with putting in place more stringent regulation in order to punish private sector misconduct. We find that this limited strategy is short-sighted and expect the public sector to balance sanctions for private sector misconduct with equally ambitious plans. We expect these efforts to include the creation of a transparent procurement framework fostering on all levels a **fair competition**

in infrastructure tenders, thereby acknowledging the principle that *"it takes two to tango"*. For instance, the public sector could complement private sector initiatives to fight corruption by **closing loopholes that allow or even encourage unethical behaviour on the "demand side"**, in particular during the tender and the project delivery phases.

The global fight against corruption would be reinforced if anti-corruption tools were identified that **encourage positive behaviour by all parties** rather than just penalising unethical behaviour by one party. Such measures should be implemented in a **holistic manner** to the extent that **all stakeholders must act simultaneously** within their sphere of influence.

FIEC and EIC recommend that

- the **Private Sector** acts in accordance with its published Codes of Conduct;
- the **Clients/Contracting Authorities** also implement a **Client's Code of Ethics** and introduce **Quality-Based Selection Processes** that include
 - a *positive weighting* during the tender procedure for companies with credible anti-corruption policies,
 - *standard contract provisions* which not only allow the client but also the *contractor to suspend or terminate the contract* in the case that unethical offerings or pressure are made, including the delay or withholding of payments due, in order to facilitate progress of the contract;
 - or types of *corruption insurance or compensation mechanisms* for companies which suffer financial losses subsequent to the refusal to accept unethical offerings;
- the **Consulting Engineers** maintain and **defend their professional independence** throughout the project even in difficult situations, e.g. reject awarding a project to an inappropriate bidder or abusing his certification authority;
- the **Funding Agencies** assume their **responsibility throughout the project** and maintain a **full-scale supervision or audit** where public funds are involved, e.g. by insisting on clear rules on fair, prompt and efficient dispute resolution mechanisms or by the introduction of incentives for Governments and Contracting Authorities to adopt strict anti-corruption policies.
- the **Donors** refrain from giving **any type of budgetary aid** or permission to use **country procurement systems** – at least insofar as the infrastructure sector is concerned – to countries which are not in control of their budget.

The civil society has proposed recently the introduction of a nearly **complete transparency in public sector construction projects**, including the disclosure of commercially confidential data. FIEC

and EIC acknowledge the underlying motives for such a request. However, under the traditional tender and contract system, under which clients, unfortunately, use the "lowest bid criterion" for selecting the contractor, the disclosure of this type of data would harm the company's position vis-à-vis the client and its competitors and, therefore, is not acceptable.

By contrast, we must emphasize that this suggested transparency initiative is standard practice under innovative project delivery mechanisms, such as **partnering or alliancing**. Experienced private clients in many parts of the world, and a few public clients as well, favour this approach since they appreciate its partnership spirit and they experience that it brings better financial and economic results than the traditional contractual models. We believe that the opportunities for enhancing transparency in public sector construction projects could be enhanced if more public clients would be prepared to enter into innovative contract forms.

FIEC and EIC consider themselves as **legitimate stakeholders and vital partners** in the global fight against corruption. We now call upon the bilateral, European and international funding agencies to enter into a serious dialogue with the construction industry in order to identify efficient tools for the fight against corruption.



Michel Démarre, FR

President



Frank Kehlenbach, EIC

Director

Organisation

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

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 context of European Union integration and harmonisation, the work of EIC aims primarily at improving operating conditions for the European construction industry at international level. For this purpose, EIC maintains close relations with all international and other organisations whose policy is of relevance for the international construction trade, for instance with various European Commission Directorates General (DGs), (Trade, Development and EuropeAid) the European Bank for Reconstruction and Development (EBRD), the Organisation of Economic Co-operation and Development (OECD) and the World Bank.

According to the 2008 EIC "International Contracts Statistics", the total volume of international turnover carried out by EIC member companies in 2007 amounted to around €121 billion. This excellent result was confirmed by the latest survey on the "Top 225 International Contractors", published in the *Engineering News Record* magazine, which illustrated that EIC member companies accounted for about 60% of new international contracts.

In 2008, the Members of the EIC Board were the following:

Michel Démarre	(Colas)	France	President
Gerrit Witzel	(Heijmans)	The Netherlands	Vice-President
Uwe Krenz	(Bilfinger Berger)	Germany	Treasurer
Duccio Astaldi	(Condotte d'Acqua)	Italy	
Håkan Broman	(NCC)	Sweden	
Jon Dale	(Whessoe)	U.K.	
Werner Dekkers	(Besix)	Belgium	
George Demetriou	(J&P Avax)	Greece	
Enrique Fuentes	(Group Ferrovial)	Spain	
Juha Kostianen	(YIT Corporation)	Finland	

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

Tasks and Objectives

The three main objectives of EIC are the following:

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

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

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

I. EU-financed infrastructure Projects in Africa

Following the severe cutback of multilateral, European and bilateral development lending for infrastructure during the years 1996 to 2003, EIC welcomes the renewed commitment of the European Union and other multilateral donors in developing the infrastructure sector in developing countries, and in particular in Africa. At the same time, EIC thoroughly opposes the tendency in the international donor community to shift donor funds for the infrastructure sector from the classic "Project Approach", i.e. external assistance through project grants and loans, to "(Sector) Budget Aid", i.e. the disbursement of external assistance into the partner country's budget, as this aid modality "remains exposed to a significant risk of misuse" (European Court of Auditors' Special Report 2/2005) and exacerbates the already unlevel playing-field between European international contractors and their overseas competitors in Africa.

Infrastructure needs are huge on a global scale and EIC observes funding difficulties for new construction, rehabilitation and maintenance world-wide, but in particular in the developing world. Whilst the World Bank responded to the increased client demand for infrastructure lending with its "Infrastructure Action Plan", the European Union launched in October 2007 the "EU-Africa Partnership on Infrastructure" which aims at creating the infrastructure networks that will secure the interconnectivity of the African continent and its different regions in order to promote interregional integration. The Infrastructure Partnership is a key element in the overall framework co-operation between Europe and Africa and is defined further in the Joint EU-Africa Strategy which was adopted in December 2007 at the EU-Africa Summit in Lisbon.

EIC was invited by the European Commission to attend the **launch of the "EU-Africa Partnership on Infrastructure" in Addis Ababa as an observer** and was also a **co-organiser of the EU-Africa Business Summit on 7 December 2007 in Lisbon**. The Business Summit brought together African and European business leaders and renewed the private sector's commitment to work with the African and the European Union to strengthen Africa's economic development, with a special focus on infrastructure. On EIC's proposal, the following passages were recorded in the Final Statement of the EU-Africa Business Summit.

The private sector considers itself as a vital partner [...] and we would suggest the following concrete actions:

- *Prioritise infrastructure projects according to their impact on regional integration and development potential for the entire continent ("Trans-African Networks");*
- *Ensure that foreign contractors use local man power and local private sector in the whole project cycle and ensure project sustainability over the project's lifecycle;*
- *Progress could be achieved by:*
 - *Facilitating access to credit facilities for African contractors which would allow them to develop their operation skills;*
 - *Integrating the operation and maintenance phase into the project (Design-Build-Operate type of contracts) to fight against an early depreciation of the investment done;*
 - *Fostering joint ventures between European and African infrastructure providers with real and concrete technological transfer;*
 - *Establishing coherence between global development policy objectives, such as ownership, accountability and environmental, social and ethical standards and the donor-financed procurement process;*
 - *Implementing an in-depth dialogue between the Forum and the European Commission on procurement policy for infrastructure works.*
- *Define appropriate financing arrangements depending on the project's commercial viability and its potential to attract private finance. To attract foreign direct investment in connection*

with Private Public Partnerships (PPPs), African states have to assure adequate legislation for PPPs.

As a follow-up to the Lisbon Summit, EIC intensified the dialogue with the European Commission's EuropeAid Co-operation Office and with DG Development on EU-financed infrastructure projects in Africa. In this context, however, European business and policy-makers must acknowledge that over the past decade China has become an important and influential player in Africa and is increasingly a source of political and financial support for African governments, particularly in countries with economies that are resource-endowed. Considering the massive increase of Chinese "tied aid" soft loans and the systematic subsidisation of Chinese state-owned construction companies over the past years, EIC perceives a severe distortion of competition on the African infrastructure market.

Against that background, **EIC actively participated in the European Commission's public consultation on the subject of "The EU, Africa and China: Towards trilateral dialogue and co-operation on Africa's peace, stability and sustainable development"**. Whilst the Commission's DG Development took due note of EIC concerns with respect to a trilateral dialogue, it obviously attached greater value to the arguments of the political campaigners in favour of a trilateral dialogue. Hence, the official Final Report published by the European Commission on 14 July 2008 included the following findings:

- *Most of the replies indicated a clear competitive advantage for China in the infrastructure sector because of the Chinese pragmatic and business oriented approach in building infrastructure without conditionality and without setting pre-conditions ... The readiness to take risks was estimated to be higher than with Western actors.*
- *2 out of 15 respondents of African nationality see some European countries as the source of evil in Africa which they are now remedying. One African opts clearly for a division of labour: China could focus on the infrastructure part and the EU on good governance and training/capacity building.*
- *Infrastructure, notably management and know-how is also a sector where EU competencies are widely recognized. Taking into account that the*

main Chinese competitive advantage lies in the construction of infrastructure, there seems to be a clear potential for trilateral co-operation in this sector. To the extent possible, trilateral co-operation should take into account the African wish for a division of labour between China and the EU in Africa.

The European Council concluded on 10 November 2008 – based on the respective Communication by the European Commission – to "co-ordinate the EU and China's efforts more closely around priorities which reflect Africa's needs". The Council avoided, however, making any specific commitment with respect to the infrastructure sector and stressed that such trilateral dialogue should be developed progressively in the existing fora and within the framework of the structures established in the bilateral partnerships in order to promote democratisation, political and regional integration, good governance and respect for human rights. Thus, the EIC concerns have been acknowledged by the leading European policy-makers and we shall closely monitor future political developments in this area.

II. Policy Dialogue with the OECD

Under the auspices of the Organisation for Economic Co-operation and Development (OECD) more than 100 Ministers, Heads of Agencies and other Senior Officials endorsed on 2 March 2005 the so-called "Paris Declaration on Aid Effectiveness" and committed their countries and organisations to increase their efforts in harmonising development aid procedures. In December of the same year, the three European institutions adopted the "European Consensus on Development" which reflects the EU's willingness to comply with the principles agreed in the "Paris Declaration". Since the adoption of the "Paris Declaration", EIC has been fiercely advocating against the over-ambitious donor reliance on partner countries' financial and procurement systems and has voiced repeatedly its concern that the use of sub-standard Country Procurement Systems might jeopardise the well-established international procurement standards.

On account of its lobbying activities, EIC was invited in September 2008 by the OECD and the European Commission as the only private sector representative to attend the 3rd High-Level Forum on Aid Effectiveness in Accra, which gathered

more than 1,200 delegates from over 100 donor and developing countries, from multilateral and bilateral funding agencies and from some 60 NGOs. Delegates in Accra adopted a new Declaration, the so-called "Accra Agenda for Action" that clearly reflects the spirit of the "Paris Declaration", as it spells out that "donors agree to use country systems as the first option for aid programmes".

The Chairman of the Working Group "Africa", Mr Yannick Moulin, addressed the conference in the roundtable on "Alignment" and stated on behalf of EIC that European contractors were not opposed to the principles of the "Paris Declaration" provided that it guaranteed fair competition. However, European contractors have experienced that international competition for donor-financed infrastructure projects is actually distorted in favour of state-owned companies from outside the OECD region which are not subject to the same legal, economic, social and corporate minimum criteria as companies from inside the OECD. EIC in addition identified inconsistencies between the development policies of the OECD-DAC and those of the new donors. For instance:

- Whilst the OECD is recommending more *untied aid*, new donors were practicing *tied aid*;
- Whilst the OECD is promoting *budget aid*, the new donors are promoting *barter trade*, (the so-called "Angola mode");
- Whilst the OECD is promoting *international standards* in many aspects, the new donors are satisfied with applying *local standards*.

Besides its contacts with the OECD Development Assistance Committee (DAC), EIC also liaised with the OECD's Trade and Agriculture Directorate which launched a project that aims at quantifying barriers to trade and services by developing "**Services Trade Restrictiveness Indices**". The construction sector has been chosen as one of three pilot sectors.

On 11 December 2008, the OECD hosted an Experts Meeting on Construction Services in Paris of which the key purpose is to provide the expert judgement needed for the weights and scores for the "Construction Services Trade Restrictiveness Index". The meeting brought together experts from the business sector, regulators, policy makers and analysts in order to identify and rank the most important barriers to trade in construction services. **EIC President Démarre represented both EIC and**

FIEC in the event and reminded the OECD that it was sending confusing messages to the European construction industry: Whilst the trade unit was promoting more liberalised construction markets inside and outside the OECD, the OECD-DAC through its development policy was actually closing the door for European contractors in the developing world. As a result of the experts meeting, the OECD presented a ranking of the most burdensome regulatory measures in connection with Construction Services.

III. Consultation with the World Bank on Country Procurement Systems

The international donor community decided in the context of the "Paris Declaration on Aid Effectiveness" to strengthen national procurement systems and to "progressively rely on partner country systems for procurement when the country has implemented mutually agreed standards and processes". Shortly afterwards the World Bank adopted a strategy on "Expanding the Use of Country Systems in Bank-Supported Operations" which in the year 2008 entered a decisive stage. EIC responded to the World Bank's policy proposal with several critical Position Papers on Country Procurement Systems and expressed its concern that further decentralisation in Bank-financed tenders would bring less harmonisation and efficiency in aid-funded infrastructure project delivery.

From the very beginning, EIC has been adamant in warning the donors in general and the World Bank in particular that this new policy might eventually lead to a "watering down" of international standards, to a decrease in control of donor funds and eventually to a higher risk of corruption. The arguments forwarded by EIC provoked the World Bank to launch in autumn 2007 an "e-Forum on the use of Country Systems for Procurement" in order to promote a constructive dialogue with a wide range of stakeholders.

In February 2008, EIC reminded the Bank in a further Position Paper on the Bank's Revised Proposal for a Piloting Program (dated March 20, 2008) that the latest Bank document still contained some serious shortcomings, such as:

- *The OECD/DAC procurement benchmarking tool does not reflect the "generally accepted international practice", as incorporated in the harmonised master bidding documents.*

It is descriptive in character and cluttered with ambiguous terms such as "adequately", "appropriate", "sufficient", "reasonable", etc. which cannot provide sufficient guidance for evaluation;

- *The Draft Proposal allows "a deviation from a strict interpretation of the provisions of the Bank's Guidelines". For contracts that "might attract foreign competition", it merely requires the existence of national sample bidding documents (NSBDs);*
- *Whilst it is true that Multilateral Development Banks retain certain flexibility with respect to ICB thresholds, it is common World Bank practice to define a certain monetary range. For instance, in construction works, the normal range applies from 5 - 20 million US\$ above which ICB procedures apply. The Draft Proposal omits to define any monetary threshold and dodges to woolly language, such as "complex and non-standardised procurement". EIC submits that any project with a contract value above 20 million US\$ is complex and non-standardised.*

EIC urged the World Bank's Executive Board to instruct the Bank's management to convene a Technical Working Group (including industry experts) in order to draft a more effective proposal for a piloting programme and warned that, if the current proposal proceeded unamended, small and medium-sized companies (SMEs) would be particularly affected, since they simply do not have the capacity to adapt to numerous national procurement systems.

The Piloting Programme for the Use of Country Procurement Systems in Bank-Supported Operations was finally adopted on 24 April 2008. However, shortly before the meeting, a "**Supplemental Note**" was circulated within the World Bank in which the **main EIC concerns were acknowledged and addressed** in a credible manner. In effect, the supplement:

- *Proposes the exclusion of complex projects from the piloting programme;*
- *Limits any changes to the Bank's Procurement guidelines strictly to the pilot countries and for an initial 2-year period.*

- *Confirms and outlines how the complaints system would function in any pilot;*
- *Expands the proposal for a Technical Advisory Group to also include industry representatives.*

Thus one of the key demands of EIC was taken up by the World Bank. On 7 August 2008, the World Bank published the Terms of Reference for an "International Technical Advisory Group" (ITAG) which was given the mandate to "advise on the countries/sectors/projects that would be appropriate for inclusion in the piloting programme". The ITAG is composed of seven private sector representatives (from all world regions) and seven public sector representatives (3 from donor organisations, 2 from civil society and 2 independent experts from academia). **EIC was successful in nominating two representatives – for the EU and the OECD regions – to the ITAG.** The kick-off meeting of the group took place on 9 December 2008 in Washington D.C.

IV. Standard Bidding Documents and International Standard Forms of Contract

International contractors and clients in general agree that the FIDIC standard forms of contract have been and still are important for facilitating the tendering and negotiating of international construction contracts. For almost 40 years, starting with the Third Edition of the old FIDIC "Red Book" back in the 1970s, it has been a well-established tradition that FIDIC consult EIC as a "friendly reviewer" for its new or updated standard forms of contract. Following this tradition, EIC closely monitors the development of new FIDIC standard forms of contract through its various drafting stages.

In September 2007, FIDIC released for comment and review a pre-press version of the newest addition to its suite of standard contract forms, the "Conditions of Contract for Design, Build and Operate Projects" (the "Gold Book"). As a friendly reviewer, EIC responded within a short period of time with an **EIC Comment on the pre-press version of the FIDIC "Gold Book"** in which critical comments were raised with respect to the role of the Employer's Representative, the scope of the Performance Security, the interrelation between the liabilities under the Design-Build and the Operation phases, the Claims and Disputes procedure.

FIDIC took on board several of EIC's proposals for amendment and published the First Edition of the FIDIC Conditions of Contract for Design, Build and Operate Projects in September 2008. During the launch seminar, the **EIC President was given the floor to present the EIC view on the new FIDIC document**. President Démarre voiced his appreciation that FIDIC had taken the lead in drafting such an innovative form of construction contract which opened the door for a competition based on quality and lowest life-cycle cost rather than the "lowest evaluated construction cost". It was EIC's hope for large and complex infrastructure projects, the FIDIC DBO Contract may become the preferred tool of clients and financiers to build more quality, integrity and sustainability into their projects.

At the same time, Mr. Démarre informed the expert audience on some of the critical items which EIC had discussed with the FIDIC drafting committee over the past two years. For instance, EIC would have expected that the risk of interference by the Employer or his Representative would have been minimised, as it was the case in the FIDIC EPC Turnkey Contract ("*Silver Book*"). Furthermore, whereas the standard form implied that the Performance Security shall partly be valid for the operation phase, EIC was doubtful whether a security for such a long period of time will be issued at all by a bank or a surety. In addition, EIC questioned the necessity of extending the validity of the Performance Security into the Operation Service Period in the light of the existence of an Asset Replacement Fund and a Maintenance Retention Fund. Last but not least, EIC had discovered some very practical drafting ambiguities, e.g. in relation to the Commissioning Certificate. Mr. Démarre announced that **EIC would publish in due course an EIC Contractor's Guide to the FIDIC DBO Contract** in order to provide users with a tool to understand the contractor's viewpoint when negotiating such complex contract agreements.

EIC General Assemblies

Every six months, EIC holds its General Assembly on the invitation of one of its 15 Member Federations in a different European country. In connection with these conferences, Business Workshops are organised on issues related to the international construction business which are traditionally attended by senior international managers from the leading European contractors.

- On 16th May 2008, the Italian Member Federations hosted an EIC Conference in Milan with a Workshop titled "**What Future for the International Business of European Contractors?**". During the workshop, participants discussed the strategies that could be implemented to maintain European leadership in international construction activities. The subsequent roundtables highlighted the three issues "International Success Strategies: Be local or be specialised – any other option?", "Diversification: Traditional Construction, Services, Concessions – what is the future optimal blend?" and "International Business: stock market and family-ownership – which advantages?"
- The EIC Conference on 3rd October 2008 was hosted by the Dutch Member Federation in Santpoort near Amsterdam. The Workshop focused on "**Sustainable Construction in Delta Areas**" and dealt with the challenges that arise from climate change. Participants discussed how urban delta areas could be protected from rising sea levels and tried to identify innovative solutions for enhancing the sustainable development of the built environment in delta areas.
- The 2009 EIC General Assemblies took place on 28th April 2009 in Stockholm, Sweden, where the topic was "**The Impact of the Global Financial Crisis on the International Construction Business**".
- A further assembly is planned for 9th October 2009 in Antwerp, where the issue of will be the theme of "**Green Building: Trends and Challenges**".

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



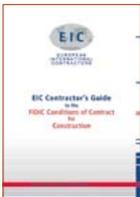
• EIC Publications



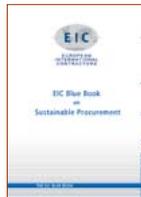
EIC Turnkey Contract, 1994



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



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



EIC Blue Book on Sustainable Procurement, 2004



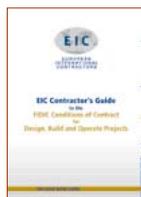
EIC White Book on BOT/PPP, 2003



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



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



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

For FIEC publications, please refer to p. 79





Manuel R. Vallarino

President



Director General

New management team:

Following the resignation of Jean-Pierre Migeon, Jacques Benatar was appointed as CICA Director General, taking over the role in the last quarter of 2008. Since then, he has been assisted on a full time basis by Philippe Lacoste, a trained lawyer.

Revised Master Procurement Document (MPD)

After some years of negotiations, the final main clauses were agreed to the revised Master Procurement Documents with Heads of Procurement of the World Bank & Multilateral Development Banks. Although CICA did not obtain all the changes it had argued for, it was decided to bring a temporary halt to discussions, thus giving the time for the World Bank to bring final touches to the whole document. The objective is to remove all delays on the new version of the MPD ensuring publication as soon as possible and possibly even by mid 2009. The World Bank Heads of Procurement are open to resume negotiations on some "pending" CICA requests later on, after the publication of the new version of the MPD.

Country System Procurement (CSP)

CICA is very closely monitoring rules on how to give countries access to CSP through experts who participate in the ITAG Task Force. CICA has a number of significant concerns on CSP being adopted without the appropriate precautions in order to ensure rules which promote and respect ethics, transparency, fair competition and fair as well as balanced contract clauses. Very little progress was made by ITAG in its first year of activity. The next ITAG Meeting was due to be held in May 2009. Nevertheless, we must note that some progress has been achieved in eight western African countries

where internal screening institutions have been set up with close assistance from the World Bank on procedures documents and contract awards: these institutions have a board composed by representatives of government, the private sector and NGOs with equal voting rights. The World Bank and Multilateral Development Banks are a crucial factor in the success of this kind of institution. But there is still much room for improvement.

The "Well Prepared Contract" (WPC) (new denomination of the "Turnkey Contract" which was possibly misleading terminology).

After having presented the WPC to the World Bank's Procurement Department, CICA continued to press home the importance of this concept to the bank's Infrastructure Department. The concept of a well prepared contract implies that preliminary tasks, to be completed by the Owners are of the utmost importance. These tasks must be very well carried out and include all the permits, surveys, geotechnical and environmental studies, well prepared designs and the definition of the areas where the relevant materials are to be used (e.g. for road construction etc.), this in order for the works on the jobsite to start well and throughout the contract, enable the project to be carried out according to the specifications. This will avoid subsequent claims, disputes and/or arbitration procedures. Moreover, a WPC will prevent compromise in terms of works quality as well as irresponsible and unethical pressures on contractors. Whenever possible, involving the contractors before tendering argues in favour of having a WPC. The proper qualification and selection of the design offices, the advisors and the engineers who will be involved in the job are crucial to the success of operations on site. Based on its concept note, CICA will propose practical measures and clauses in order to try to turn these important principles into reality.

Fight against corruption and unethical behaviour

This subject is still on the table. This fight must be a common goal of owners, the international financial institutions and all the stakeholders who must work together in order to discourage malpractice. CICA's motto "it needs two to tango" shows that, at any level and at any stage of the construction process (including the choice of the project to be financed, the eligibility, the qualifications of the providers, designs, etc.), improper behavior may arise from any of the parties involved. Among other examples, we can point out that a "Well Prepared Contract" and a detailed bill of quantities (with the related break down of prices) accurately reflecting the tasks to be completed (including the environmental aspects, training programmes and technology transfer if and when required) are key factors for fair competition, good governance and for preventing problems during completion of the works.

ILO and other international labour institutions

Due to the diversity of the CICA's membership, it is important to note that attitudes towards trades unions vary across continents. As a consequence, it is difficult for CICA to set up an internal position. This is the reason why, it was decided to ask, for the time being, FIEC (which participates in these meetings and working groups as officially recognised European construction sector social partner) to keep CICA informed of developments. FIEC kindly accepted. We thank FIEC for its cooperation on this important matter.

Co-operation with FIDIC:

A Common Position Paper on fighting corruption and promoting ethics and good governance has been set up and is in the process of being signed by the Presidents of both organizations. Other topics which are the subject of consensus will be tackled in common.

- **CICA/IFI08 Meetings on Dec. 10 & 11, 2008.** This annual event, organized with the World Bank, took place at the IMF and the Bank's Washington DC premises. It was an opportunity for the World Bank, Multilateral Development Banks and for the CICA Board and Council Members to express their concerns and their positions on the various

topics which are of common interest. The majority of these have been outlined above. Among other important decisions taken, The World Bank expressed its concern on the PPP subject and it was decided to set up close cooperation between the World Bank/ other Multilateral Development Banks and CICA on this topic. This will be one of the additional subjects which will be addressed in 2009. It is important to point out the participation of the World Bank Infrastructure Department which made a highly astute presentation of the Sustainable Development Action Plan (SIAP).

CICA against the global financial and economic crisis:

Infrastructure and social housing are key issues for fighting the crisis. CICA's main concern is how, as quickly as possible, to translate the billions of dollars that all governments and international financial institutions are injecting in the markets into the real economy. A CICA position paper was established at the beginning of 2009 proposing solutions to bring this about. It will be widely disseminated and relayed by our organizations at national level.

MEMBERSHIP

- **IFAWPCA:** the Asia-Pacific Federation of the Construction Industry finally withdrew from CICA for internal reasons. Nevertheless, the IFAWPCA Board kindly invited CICA to their 37th Convention which was held in Dhaka (Bangladesh) in February 2009. The CICA President and Director General attended and highlighted the importance of Asia-Pacific being fully integrated into the global contractor community on one hand, and on the other hand the importance that in its position papers CICA can thoroughly reflect key issues and concerns of IFAWPCA which will be conveyed at world level.
- **African Federation for Construction Contractors' Associations (AFCCA):** Africa is a Continent which has its specific problems and is mainly constituted of developing and least developed countries where poverty is the daily reality of tens of millions people. Everybody knows and it has been extremely well brought into focus by FIEC and EIC, that investment in infrastructure is key for a country's development; This is further enhanced by easy communication between countries (roads, railways, harbors, etc.)

and the well being of populations. More than anywhere else, it is of utmost importance that the construction industry is well represented at all levels in discussions and can well articulate and defend its concerns. Coaching and promoting contractors to join forces to make their voiced heard in countries where federations do not yet exist and/or are not active, as well as pushing these national federations, once formed, to build up an active and dynamic AFCCA. This is one key for Africans to be able to speak strongly with a single voice to their governments, to the IMF, to the African Development Bank and more generally to all International Financial Institutions. CICA is mobilizing its network to lend its support to this build-up. CICA will convey their needs and concerns and will defend their goals. As a first step, a provisional status of "CICA Observer" will be defined and granted in order for them to express and table all their concerns and participate to CICA Council meetings, working groups and events.

- **"Friends of CICA":** A status of "Friends of CICA" is in the process of being defined. The Friends of CICA will have a number of significant advantages. They will be able to attend CICA Council Meetings and will be encouraged to participate in specific CICA contacts with leading representatives (Presidents/DGs) of international financial institutions, the IMF, United Nations, special government agencies, etc. The "Friends of CICA" will also be invited to special events which take place all over the world. Finally Friends of CICA will have a link from the CICA Website (which is currently being revamped) to their own website.

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

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



1. List of participants

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

ACE	Architects' Council of Europe
CEMBUREAU	European Cement Association
CEPMC	Council of European Producers of Materials for Construction
EAPA	European Asphalt Pavement Association
ECCE	European Council of Civil Engineers
EFBWW	European Federation of Building and Woodworkers
EFCA	European Federation of Engineering Consultancy Associations
EURIMA	European Insulation Manufacturers Association
FIEC	European Construction Industry Federation
UEPC	European Union of Developers and House Builders

2. Policy Paper

The Construction Sector

- construction = building, civil engineering and all related activities
- construction = largest 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 that 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 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.

Relationship with other Sectoral Coordination Bodies

- ECF participants will remain in close contact and collaborate with sector specific coordination bodies, such as:
 - FOCOPE "The forum for construction in the European Parliament " as well as the Parliament's Intergroup "Urban Logement".
 - 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, in addition to exchanging views on topical matters going through the legislative process in the EU institutions 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)
- Energy efficiency in buildings and carbon emission reduction in the built environment.

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

website:

www.ecf.be





www.fiec.eu

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



With many further developments, the FIEC

site has now become:

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

FIEC Periodical Publications

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



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

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



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

• **Trans-European Transport Network – Progress update ("Blue Book")** (1/year)



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

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



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

• **Annual Report** (1/year)



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



Construction in Europe: 100 years of FIEC (2005)



The FIEC Principles for Sustainability (2005)



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

For EIC publications, please refer to p. 72

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

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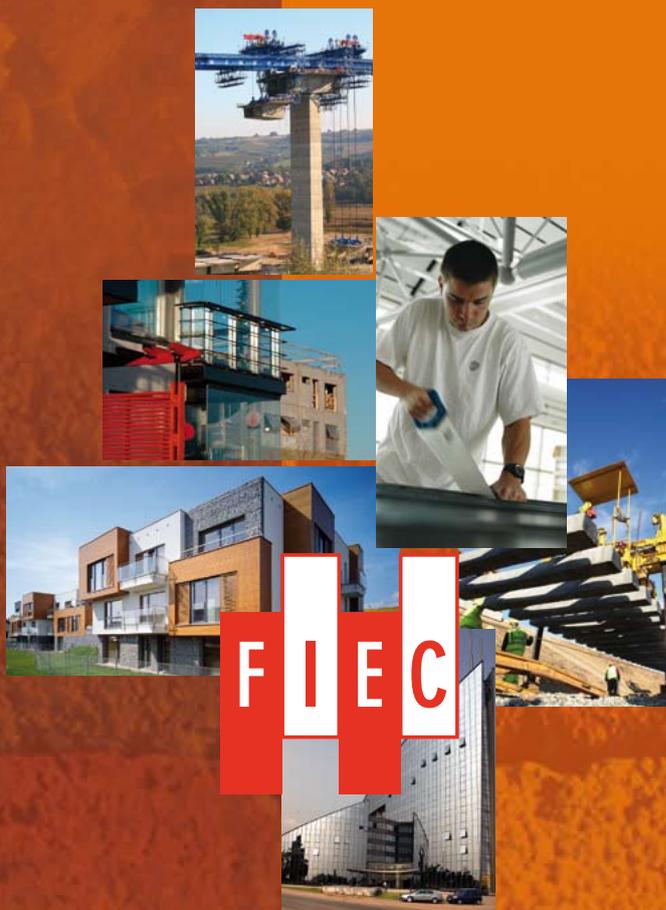
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