

Minutes

List of participants enclosed

1. Approval of the agenda, quorum notification

Dirk Cordeel announces that attendance amounts to 76% of the total FIEC voting rights.
The agenda is adopted as proposed.

2. Welcome by the President

Dirk Cordeel addresses the following items:

- Meetings with 2 Presidents of European parties, namely Wilfried Martens from the European Peoples Party and Annemie Neyts from the European Liberals. FIEC also sent the FIEC messages and Manifesto to the Social Democrats, the Greens and the European Left, but their Presidents were unavailable for a meeting in Brussels prior to the elections. FIEC will now prepare invitations for the meeting with MEPs in Strasbourg in November.
- President and Steering Committee members have, in the last year had, meetings with Member Federations, both in their offices or ours, with European commissioners, with European parliamentarians, with the Czech EU Presidency in Prague, with other construction sector federations and with UEAPME.
- Bernard Huvelin has drafted a report on our sector for the Economic and Social Committee of which he is a Member.
- And our staff has also been active in meeting the persons in the EU-institutions who deal with issues of concern for us and in presenting FIEC views in conferences.
- Much of this has had an impact on FIEC's work and some concern items on today's agenda.

3. Approval of the minutes of the last meetings

Unanimously, the Council approves the minutes of 27/11/2008 (Brussels).
Unanimously, the General Assembly approves the minutes of 19/6/2008 (Dublin)

4. Membership issues

a) United Kingdom – up-date (Peter Andrews)

Peter Andrews explains the developments and the situation of the Construction Confederation and its member federations. The major contractors, having created the "UK Contractors Group" and, partially, joined the CBI Construction Council, have decided that there was no overriding development at EU level which would currently warrant FIEC membership but that using the CBI Brussels desk would be sufficient. He expresses his hope that further developments among the other former member federations of the CC might lead to some British membership in FIEC.

Dirk Cordeel points out that the Steering Committee has asked Peter Andrews to continue his mandate of Vice-President responsible for the SOC Commission and has entrusted him with the special mission of "building bridges" with the UK contractors.

b) Membership candidacy from Malta – FOBC

Dirk Cordeel refers to the explanatory memorandum circulated with the meeting documents.

Without asking any additional questions, Council and General Assembly unanimously approve the membership of the Maltese contractors' association FOBC.

c) Potential new members

Dirk Cordeel refers to the meeting documents and reports from the meetings with BFW, the German member federation of the European Union of Developers and Housebuilders (UEPC), and ISHCCO, the International Safety and Health Construction Coordinators Organization.

Unanimously, Council and General Assembly approve Dirk Cordeel's proposal to continue these contacts in view of coming to more specific agreements with these federations.

5. Finances 2008/ 2009

a) 2008 – certified results

Michel Buro refers to the detailed meeting documents and explains the most important parts. No questions are raised.

b) 2008 – report of the internal auditors

Christian Thiry presents the internal auditors' report with following conclusions:

- take measures in order to receive all subscriptions due,
- a subscription increase of 3% would not be enough to cover the budget deficit

and proposes to give discharge to the Steering Committee and management.

c) 2008 – discharge of Steering Committee and management

Unanimously, Council and General Assembly approve this proposal and give the discharge.

6. Finances 2009/ 2010

a) 2009 – up-date report

Michel Buro explains that, as at 15/6/2009, we have received 96,58% of our subscriptions. Based on the bookkeeping until 15/6/2009, he considers:

- overall expenses are currently slightly better than budgeted.
- we expect to achieve a better result than the budgeted deficit of approx. 109.000 €.
- we hope that this positive development covers at least the cost of organising the non budgeted Strasbourg event with the European Parliament.
- the interest rate on the cash placed in the bank has again increased to 1%.

No questions are raised.

b) 2010 – budget frame

Dirk Cordeel explains the Steering Committee decision to put forward a subscription increase of 2% to the Council and General Assembly in order to adapt for inflation and to submit a specific budget proposal to the Council in November.

This proposal is approved unanimously by Council and General Assembly.

c) 2010 – appointment of external and internal auditor

Dirk Cordeel indicates that the Steering Committee proposes to appoint André Geeroms as external auditor and Christian Thiry and Niels Arkil as internal auditors.

These proposals are approved unanimously by Council and General Assembly.

7. FIEC and EBC/ UEAPME/ NORMAPME

Ulrich Paetzold refers to the meeting documents, explains the most important contents and asks for guidance from the Council and General Assembly.

No questions are raised.

8. Communication policy

Elco Brinkman presents the activities undertaken in the area of communication both as concerns the regular publications such as:

- Annual Report 2009 : distributed at the Congress
- Statistical Report 2009 : distributed at the Congress
- Brochure “Key figures” : distributed at the Congress
- “FIEC Flash” : monthly electronic newsletter
- “Blue Book” on the developments of the 30 priority projects Trans-European Transport Network (*“provisional version” due to difficulties in collecting the information*)

as well as the activities aiming at strengthening FIEC’s visibility, such as :

- Continue the development of the FIEC website
- FIEC page in “Construction Europe” (monthly magazine)
- During the last 12 months :
 - o 25 position papers, answers to consultations, etc.
 - o 15 press releases
 - o Participation with FIEC speakers in nearly 30 conferences, seminars, etc.

Elco Brinkman and Dirk Cordeel insist on the fact that member associations also have to play their part: more visibility at national level is needed. Reference to FIEC in national publications, events, websites, etc. do not incur any additional costs, but would be very helpful in order to make FIEC and its work more attractive for the member firms.

Elco Brinkman also mentions two future actions envisaged, namely:

- Possible collaboration with “Construction Europe” for the organisation of “European construction awards” on the occasion of the BAUMA fair in Munich (April 2010).
- Meeting in Strasbourg with the new Members of the European Parliament on **25th (cocktail dinner) and 26th (lunch) November.**

In particular, as regards the latter event in Strasbourg, all the Member Federations are kindly invited to actively participate in ensuring the presence of a large number of MEPs.

9. Activity reports FIEC, EIC, CICA

a) ECO / SOC / TEC / TEN-T / SME / MEDA

ECO

Bernard Huvelin thanks Mr. Jean-Jacques Massip for the work he has undertaken within ECO over the years.

Bernard Huvelin reports on the EU economic recovery plan, which, in comparison to the US (6% of GDP) and the Chinese (4,5% of GDP) recovery plans, appears to be very insufficient (only 0,3% of GDP from EU and EIB budgets).

He gives several examples of the measures adopted in this framework, namely:

- The permanent reduction of VAT rates for renovation of private dwellings;
- The encouragement to use accelerated public procurement procedures;
- 3,98 bn. € earmarked to energy infrastructure projects over 2009 and 2010;
- 1 bn. € PPP project for energy efficient buildings;
- Reduction of employers' social charges on lower incomes to promote employability of lower skilled workers;
- Creation of the European Fund 2020 ("Fonds Marguerite") for energy, climate change and infrastructure, in partnership with national public investors.

He explains that on 9/6/2009 the ECOFIN Council adopted a report on the initial results of the EU and national recovery plans, which is being presented at the ongoing European Council 18-19/6/2009, and that the representative of the European Commission will develop this point during the conference tomorrow.

He concludes that a close exchange of information on this issue should continue to take place amongst the Member Federations through the FIEC Secretariat.

As regards the organisation of the activities of the ECO Commission and the TEN-T Ad-Hoc Working Group on "infrastructure" issues, Dirk Cordeel explains that, following a decision taken within the Steering Committee, the Ad-Hoc Working Group will be integrated in the ECO Commission and that Luisa Todini will become Co-President of the ECO Commission.

SOC

As a complement to the information on SOC activities contained in the Annual Report, Peter Andrews develops in more detail the issue of "joint liability" of the main contractor for the debts (unpaid wages, social security and other fiscal payments, etc.) of his sub-contractor(s), which is increasingly being promoted at European level by representatives of trades unions as a useful instrument for fighting undeclared labour.

Peter Andrews highlights 3 recent initiatives at the EU level in particular, namely:

- a. **Eurofound study** (finalised), which analyses the legislative liability schemes existing in 8 Member States (AT, BE, FI, FR, DE, IT, NL and ES).

b. Directive on “Sanctions against employers of illegally staying third-country nationals”

(adopted), which states that :

- the liability of the main contractor is limited to the direct sub-contractor;
- if a contractor has undertaken his obligations defined under national legislation (e.g. checking identity documents) with due diligence he shall not be held liable.

c. European Parliament “Lehtinen” report (adopted), which asks the European Commission to establish a clear-cut EU legal instrument introducing joint and several liability at Community level, which respects the different legal systems in place in the Member States and the principles of subsidiarity and proportionality;

This resolution of the European Parliament is not a legally binding instrument, but it will certainly be used in the future for putting political pressure on the Commission to launch some EU initiative on this matter.

These recent legal and political developments have encouraged the advocates of broader joint and several liability schemes (to be put on the shoulders of the main contractor) to continue and increase their political pressure on the European Commission.

Although there are no legislative initiatives on this issue on the European agenda at the moment, the recent European elections and the renewal of the Commission in the autumn give us more time to adjust our strategy, define a clear FIEC position and prepare for what will come next.

Peter Andrews concludes his intervention by mentioning that within SOC-3, the sub-commission dealing with “economic aspects of employment”, a working group has been set up to tackle this issue and experts of several Member Federations are already working on this question.

Peter Andrews thanks the chairmen, rapporteurs and members of the 3 SOC sub-commissions, as well as the FIEC Secretariat, for the excellent work done over the last 12 months.

In the following discussions several participants (BE, DE, ES, FR, IT, NL) explain the specificities of their national systems.

Mr. Clappier (FR-FNTP) stresses, on the one hand, the importance of having a clear FIEC position on this matter and, on the other hand, the possibility, if needed, to stop any legislative initiative of the Commission by a joint agreement at Social Dialogue level.

Dirk Cordeel indicates that if there is to be any legislative initiative at the EU level, FIEC must ensure that liability is limited to the direct sub-contractor only (1 level maximum).

Mr. Knipper (DE-HDB) explains that the German federations have very recently succeeded in having part of the German legislation on joint liability, which had placed an unjustified burden on the shoulders of contractors, repealed and replaced by a system of pre-qualification. He adds that if any legislation is introduced at EU level, the principle of subsidiarity must be respected and any Member State having a “better” system must be allowed to maintain it.

Several participants stress that most Member Federations are opposed to EU legislation on this matter.

In conclusion, and in order to prepare for a scenario in which EU legislation is proposed, the participants agree the following, which also serves as guidance for the FIEC working group on this issue:

1. The liability of a contractor must be limited to a maximum of 1 level of sub-contracting (i.e. the direct sub-contractor only).

2. If a contractor has undertaken the due diligence checks defined by his national legislation (check of documents/ public information systems, pre-qualification system etc.) he shall not be held liable, if the information provided proves incorrect or outdated at a later stage.
3. If the Commission commences work on a proposal for EU legislation, then FIEC should seek to reach an agreement with EFBWW on this matter.

TEC

Zdenek Klos starts by thanking the work of the sub-commissions over the past year before going on to detail two points that have been high on the agenda of the Technical Commission.

The first is the ongoing discussion on the Commission proposal for a **Construction Products Regulation**. He briefly describes the debate in the European Parliament and the opposition of the Commission to many of FIEC's concerns on the Declaration of Performance. He goes on to request Members' assistance towards their respective national authorities in support of the FIEC position.

On the subject of **sustainable construction** Zdenek Klos describes the discussion earlier in the Steering Committee on the need expressed by the Technical Commission to raise the profile of the subject within FIEC and announces that two decisions were taken: one to create a section on sustainability in the Flash, the other to deal with items linked to sustainability in the Steering Committee under the heading "sustainability". No discussion follows these points.

TEN-T

Luisa Todini presents the 16th edition of the "Blue Book" on the state of progress of the 30 TEN-T priority projects. This is again a provisional version due to the lack of information – or only partial information – from some Member Federations, despite all efforts from the FIEC Secretariat and the President himself to collect data.

She recalls that the "Blue Book" is not only a lobbying instrument towards the European and national institutions, but also a source of information for construction companies and Member Federations, and reports on the contributions received and the consequent results of the survey.

She then refers to a survey undertaken within the working group in order to assess the data collection problem, the added-value of the "Blue Book" and the possible solutions to improve it.

On this basis, she proposes to try to collect the data not once a year but all over the year, and to involve the CD Members and contractors in the Member Federations more intensively, in order to help identify the contractors involved in the projects and facilitate the collection of data.

Finally, she reports on the Green Paper on the revision of the TEN-T guidelines and policy and explains that the Council conclusions on this issue were approximately in line with the FIEC position.

A discussion follows on the sources of data provided to FIEC for the "Blue Book". In some countries, it is impossible to get data otherwise than through the responsible ministry, this therefore gives no added-value to the "Blue Book" as the Commission receives the same information.

Dirk Cordeel recalls that the "Blue Book" must have an added-value in pushing governments to accelerate investment in infrastructure.

Alicia Revenga (ES-SEOPAN) explains the difficulties encountered in Spain, where several projects involving many different contractors are on-going, in trying to collect information from other sources than the ministerial ones. She considers however that the "Blue Book" is a very useful publication.

Stefano De Marinis (IT AGI) underlines the importance of cross-checking the information provided by official sources with that collected through contractors or clients.

MEDA

Mario Lupo (IT-AGI) informs participants about an international MEDA conference co-organised by the Italian construction associations ANCE and AGI together with the Italian Ministry for Transport which will take place in Rome on 1/10/2009 (*Note : in the meantime the conference has been postponed in 2010*).

The 2 main themes that will be addressed in this conference are the development of infrastructure and equipment and technology in the framework of energy production from renewable sources.

b) Ethics

On behalf of the absent Per Nielsen, Ulrich Paetzold gives a brief presentation:

- Per Nielsen has participated in an International Advisory Group (IAG) meeting in London within CoST.
- CoST stands for "Construction Sector Transparency Initiative" and is a project funded by the UK Department for International Development and the World Bank with the aim of "improv[ing] the confidence of the public and the supply chain in the implementation of the procurement process".

Based on this meeting and the documents distributed, the following observations are highlighted:

1. CoST is still in an early stage.
2. There seems to be a lack of common understanding of the project.
3. Despite the fact that the project is complicated and involves many parties, roles are not yet defined and an organisation chart is missing as are job-descriptions.
4. Much of the discussion concerns terms of reference and test runs.
5. The prevailing objective seems, from our (EIC and FIEC) perspective, principally to look at the issue with a holistic view and absolutely not in terms of "bash the contractor".
6. The project is more focused on procurement agencies than the contractors with the aim of ".....enhancing the accountability for the procurement agencies"
7. It has been said that the industry needs a level playing field.
8. But within the group that met, even if its numbers were few and not representative of the owners of the project, some members retained the old mentality i.e. the contractor is the one to blame.

In summary, it should be stressed that CoST has much more in common with our Joint Position Paper than had initially been anticipated and there are really no material differences. Therefore, it is proposed to contact them and see if collaboration/ participation in this can be the continuation of the FIEC/ EIC Ethics WG.

Unanimously, this proposal is approved.

c) EIC

Michel Démarre, EIC President, gives an overview of recent key activities of EIC:

- Joint **EIC-EC Round Table** on Infrastructure in ACP Countries
- Collaboration with the "**International Technical Advisory Group**" that monitors the **World Bank's** Pilot Programme on "Country Systems"
- Participation in the **3rd High-Level Forum on Aid Effectiveness** organised by the **World Bank** and the **OECD**
- Joint **FIEC/EIC Statement** on Corruption Prevention
- New EIC Contractor's Guide to the **FIDIC "Gold Book"** (DBO Contract)

- Meeting with the **CEO of the International Finance Corporation (IFC)** on the promotion of Public-Private Partnerships in the developing world

He then presents EIC's future tasks:

- EIC shall review the **European Development Fund (EDF) General Contract Conditions for Works** and the possibilities to **increase quality in the EDF tender process** together with the European Commission.
- EIC Representatives shall, on the same basis as "ITAG" Members, monitor the **selection of eligible countries, sectors and individual projects** in connection with the World Bank's Pilot Programme on "Country Procurement Systems"
- EIC Working Group "Contract Conditions" shall comment on the **new FIDIC Draft Subcontract for Construction**
- Further **EIC Lobbying on PPP with the World Bank Group** (incl. MIGA + IFC)
- Next **EIC Conference** on **9/10/2009 in Antwerp** (Belgium)

d) CICA

Manuel Vallarino, President of CICA, presents CICA's latest developments and activities:

- new Management team:
 - ❖ Jacques Benatar, Director General
 - ❖ Philippe Lacoste, Assistant to the Director General
- Main concerns:
 - ❖ Fighting the crisis: CICA Proposals "Time is of the essence"
 - ❖ The new WB Master Procurement Document (MPD)
 - ❖ Country System Procurement (CSP)
 - ❖ The "Well Prepared Contract" (WPC)
 - ❖ Procurement for countries under civil law
 - ❖ Fight against corruption and unethical behavior
 - ❖ ILO and other international labour institutions
 - ❖ Africa
- CICA/ IFIs meetings, Washington, 2-3/12/2009
- Friends of CICA

(Note: all details are available from the Powerpoint presentation in the FIEC website's "members" area)

10. Preparation of conference:

"Construction and the Global Economic Crisis: Finding solutions for renewed jobs and growth"

Bernard Huvelin explains the programme of the conference, which takes place the next day. He explains that he intends to concentrate his political conclusions on 2 items:

1. Speed of procedures and decisions,
2. Create the basis for sustainable development.

He calls upon FIEC and its Member Federations to further spread these proposals.

11. Honorary title

Dirk Cordeel presents the Steering Committee proposals.

Unanimously, Council and General Assembly bestow the title of „Honorary President“ on
Daniel Tardy, FR (FIEC President 2006-2008)

Unanimously, Council and General Assembly bestow the title of “Honorary Vice-President” on
Paul Naudo, FR (last ECC President 1985-1988)

Paul Naudo thanks FIEC for this honorary title and recalls some of the developments and persons having finally led to FIEC in its current shape.

(Note: Daniel Tardy addresses the FIEC General Assembly on the occasion of the Gala dinner the following day.)

12. Next FIEC Congresses :

- a) 2010: Cyprus (27-29/5/2010).
- b) 2011 : ?

13. Miscellaneous

No question is raised, no comment made.

14. Next meetings

- a) Council of Presidents: 25-26/11/2009 (Strasbourg)
- b) General Assembly : Friday, 28/5/2010 (Cyprus)

Dirk Cordeel closes the meeting at 18.30.