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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 2007 EIC "International Contracts Statistics", the total volume of international turnover carried out by EIC member companies in 2006 amounted to around €112 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 more than 60% of new international contracts.

In 2007, the Members of the EIC Board were the following:

Gian Alfonso Borromeo	(Astaldi)	Italy	President
Johan Beerlandt	(Besix)	Belgium	Vice-President
Lefty Panayiotou	(Costain)	U.K.	Treasurer
Thomas Alm	(Skanska)	Sweden	
Michel Démarre	(Colas)	France	
Ebbe Malte Iversen	(Per Aarsleff)	Denmark	
Uwe Krenz	(Bilfinger Berger)	Germany	
Alcibiades Lopez Cerón	(FCC)	Spain	
António Mota	(Mota-Engil)	Portugal	
Gerrit Witzel	(Strukton Groep)	The Netherlands	

President Gian Alfonso Borromeo 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

EIC repeatedly calls on the Multilateral Development Banks (MDBs), and in particular European donors, to duly take into consideration the intrinsic link between infrastructure investment and economic and social development and hence to expand their commitments for infrastructure projects. At the same time, we strongly disagree with the current strategy of the international donor community to increase the share of budgetary aid and the use of country procurement systems, at least insofar as the infrastructure sector is concerned, because under the budget aid and country procurement systems, donors have much less control over the adequate spending of the funds.

Some two years ago, the European Union adopted a new "EU Strategy for Africa". One of the main initiatives that underpin this new policy is the creation of the "EU-Africa Partnership on Infrastructure" which forms the EU's policy response to the infrastructure gap that hinders Africa's development. Obviously, the current lack of infrastructure on the African continent severely constrains economic growth and hampers human and social development. Therefore, the Partnership put forward by the European Commission allocates a total of €5.6 billion from the 10th European Development Fund (EDF 2008-2013) to support regional infrastructure development.

EIC appreciates the renewed commitment of the European Commission and other donors in developing the African infrastructure sector. At the same time, EIC is concerned about the tendency in the international donor community to shift funds from the classic "project approach", i.e. external assistance through project grants and loans, to "budget aid" or "sector wide approaches", i.e. to disburse external

assistance into the partner country's budget. EIC believes that the international donor community would be well advised to differentiate its devolution policy on country procurement systems, taking into account the characteristics of each sector. Bearing in mind the well-known complexity of the infrastructure sector, we would suggest a more gradual approach in this particular segment, in comparison to e.g. the field of supplies, where procurement is more straightforward.

EIC has presented its respective concerns to the European Commission in the framework of two high-level "EU-Africa Business Fora" organised jointly by the European Commission and the African Union in November 2006 in Brussels and in June 2007 in Accra (Ghana). At the Brussels Forum in June 2006, EIC was successful in including statements into the Final Declaration which, once implemented, could result in an increased interest of European contractors in EC-financed contracts in Africa. From the EIC perspective, the most important passages are the following:

- "Business considers that the project approach for infrastructure projects should be maintained and the EC's infrastructure management capabilities reinforced with resources from the private sector and robust project delivery mechanisms should be adopted;
- "The European Commission should form an Africa Task Force to address the strategic, policy, trade and infrastructure challenges related to creating a level playing-field with competitors from other regions; key areas to focus on should be export financing, export credit insurance and public procurement";
- "There is a lack of long-term contracts including maintenance for improved predictability for the road transport";
- "To prequalify for Commission funding, companies should respect environmental, social, ethical and financial standards within the EU acquis communautaire".

At the Accra Forum in June 2007, EU Commissioner for Development, *Louis Michel*, responded positively to EIC's commitment to involve the local construction

sector (companies and workforce) and to respect international social and environmental standards when executing construction works in Africa. In his speech, Commissioner Michel made a specific reference to the EIC proposal and remarked:

« J'ai noté avec beaucoup de satisfaction la prise de conscience en la matière des European International Contractors qui rejoint la nôtre et de leur engagement à employer et former la main d'œuvre locale conformément aux standards internationaux, à coopérer avec les entrepreneurs et les fournisseurs locaux, à transférer leur savoir faire et à respecter et protéger l'environnement. »

A few weeks later, Commissioner Michel offered EIC to represent the private sector as an observer in the Steering Committee of the EU-Africa Partnership on Infrastructure. Thus, **EIC was selected to represent the European private sector at the First Meeting of the Infrastructure Partnership's Steering Committee on 24-25 October 2007 in Addis Ababa, Ethiopia.**

For the future, EIC is determined to engage in a more intense dialogue with the European Commission on procurement policy in order to identify common solutions for the following queries: prequalification process for infrastructure projects, Quality-Based Procurement, updated Conditions of Contract and innovative forms of procurement (DBO and PPP).

II. Dialogue with the World Bank and OECD on Country Procurement Policy

EIC remains sceptical about the new strategy of the World Bank, the OECD Development Assistance Committee (DAC) and the European Commission to increasingly use country systems in procurement for donor-financed infrastructure projects. EIC believes that the World Bank's Standard Bidding Documents form an appropriate benchmark for tendering major construction works and that the donors would best support the process by staying committed to and supervising the procurement as well as the execution phase.

The international donor community decided in March 2005, in the context of the so-called "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". EIC immediately drafted its first **Position Paper on Country Procurement Systems** in which we expressed our concern that further decentralisation in procurement will bring less harmonisation and efficiency in aid-funded infrastructure delivery since the application of a multitude of national systems leads to both a watering down of international standards and reduced international competition.

The initial proposal was withdrawn by the Bank due to persistent opposition from the U.S. government but was tabled again internally in May 2007 in the lead-up to the resignation of its former president Paul Wolfowitz. Upon becoming aware of the renewed initiative, EIC placed itself at the forefront of criticism both of the content as well as the rather intransparent procedure of the Bank's so-called "Status Report on Country Systems in Bank-Supported Operations". EIC's endeavours prompted echoes from fellow industry federations from the U.S. and several European countries.

As a result, the World Bank Executive Board decided in June 2007 to link the future decision-making process to a large web-based consultation effort. The Bank therefore designed a public electronic forum in order to promote constructive dialogue with a range of stakeholders as the Bank was proceeding in defining a methodology for piloting the use of country systems.

Over that period, EIC became one of the leading actors in the ongoing dialogue between the policy-makers and the private sector. We presented the industry's perspective in the **Meeting between the OECD Business and Industry Advisory Committee (BIAC) and the OECD-DAC / World Bank Joint Venture for Procurement (JV)** on 18th September 2007 in Copenhagen. EIC urged the World Bank to differentiate its devolution policy on country procurement systems taking due account of the characteristics of each sector. Bearing in mind the complexity of the infrastructure sector, EIC suggested a more gradual approach in the infrastructure sector, reminding the international donor community of their own pledge given in Article 4(v) of the "Paris Declaration" (2005), that "where corruption exists,

it inhibits donors from relying on partner country systems”.

III. Standard Bidding Documents and International Standard Forms of Contract

EIC constantly monitors the latest trends in International Competitive Bidding and Conditions of Contract in order to advise its member companies on the risks and pitfalls of these standard bidding or contract documents. EIC also liaises with the responsible draftsmen in order to ensure that the sample documents provide for a level playing-field between employer and contractor.

Over the last two decades, turnkey and design-build(-operate) contracts have become much more commonplace, with the contractor being responsible not only for the design and the management of the project but in some cases also for the performance of the facility. This is a very complex type of contract that demands its own special procedures and processes and to date there has been no standard contract form on the market which would cover the three stages from the project design through to the execution of the construction works and the long-term operation and maintenance phase.

EIC is therefore appreciative of the fact that FIDIC has now taken the initiative to draft an innovative form of contract which over time might pave the way for the construction industry to be able to compete on quality, efficiency, and life-cycle cost rather than the “lowest evaluated construction cost”, at least for major infrastructure projects. Thanks to the long-standing dialogue with FIDIC on standard forms of contract, EIC was invited in March 2007 to review the draft version of the new FIDIC Design-Build-Operate Contract. Even though EIC welcomed FIDIC’s embracing of the DBO concept, we observed in the **April 2007 commentary** that the FIDIC DBO Draft virtually placed the contractor in the owner’s or concessionaire’s role, whilst at the same time, limiting his freedom of operation through the schedules and the manuals. We also voiced the concern whether a “one size fits all approach” would do justice to the various sector specific issues in transport, energy and water. Another query raised was whether the insurance industry would be ready to offer corresponding products. When scrutinising the so-called “pre press version” of the FIDIC DBO Contract, which was published in September 2007,

EIC was pleased to note that many of its comments had been taken on board by the draftsmen.

In parallel, the EIC Working Group “Contract Conditions” worked on an “**EIC Contractor’s Guide to the MDB Harmonised Edition of the FIDIC Conditions of Contract for Construction**”. That EIC commentary will be useful to avoid confusion between the different MDB FIDIC Versions. At the origin of this confusion is the permission, given by FIDIC in 2005 at the World Bank’s request, to incorporate a modified version of the 1999 FIDIC “New Red Book” as the General Contract Conditions for the harmonised procurement documents. After some critical remarks from the industry, a revised “MDB Harmonised Edition of the FIDIC New Red Book” was published in March 2006 which, as a matter of fact, took into account several comments from the “EIC Contractor’s Guides” published between 2000 and 2002. However, the 2006 document still falls short of an acceptable industry standard when it comes to the independence of the Engineer or the use of the Performance Guarantee – a criticism which is notably equally shared by FIDIC itself. EIC has raised these issues various times with the World Bank and expects the Final Version for 2008.

IV. Promotion of Public-Private Partnerships

EIC promotes the PPP concept world-wide as an alternative procurement method which brings additional value for money through the introduction of the life-cycle cost concept. EIC endeavours to make its contribution to PPP capacity-building by sharing its experience with those national administrations that are considering the implementation of the PPP concept in their country.

Whilst the PPP concept has flourished over the past few years, mainly in sectors that generate adequate cash flows, such as telecoms, ports, airports and natural gas pipelines, the right blend of public and private funding has yet to be determined for transport and water infrastructure projects, where social acceptance of user fees is lacking or there is no guarantee of the necessary return on investment.

With the aim of providing interested public sector entities as well as MDBs with a user-friendly consultation document for the efficient preparation and implementation of privately

developed infrastructure projects, EIC published in April 2003 the **"EIC White Book on BOT / PPP"**. After presenting the recommendations of the "EIC White Book" in the political ambit, it became clear that several recurring misconceptions had entered public debate with the potential of undermining the credibility of the entire PPP philosophy.

Consequently, EIC published a political supplement to the **"EIC Memorandum on Frequently Asked Questions on PPP"** with a more general response to the critical issues in order to contribute the European industry's viewpoint to the discussions on the national, European and international levels. The new EIC Memorandum seeks to explain why the PPP concept has a strategic advantage over conventional project programming and for which types of infrastructure or public sector buildings a Government would benefit from entering into a comprehensive partnership instead of separating the design, construction and operation phases. Subsequent to the launch of the document in September 2006 in Valencia, EIC presented the new PPP Memorandum in the course of 2007 at various political conferences organised by the OECD, the EBRD and the European Commission.

V. Environmental, social and ethical standards in Export Credit Insurance

EIC calls for a reasonable wording and interpretation of new environmental, social and ethical standards in the context of the relevant OECD Agreements on export credit finance and insurance in order not to jeopardise the competitiveness of European international contractors vis-à-vis their competitors from non-OECD countries.

Over the past few years, EIC has observed that the OECD Export Credit Group has tightened the framework regulations on environmental, social and ethical aspects of export finance and export credits. This unilateral commitment has placed the OECD industry at a serious disadvantage vis-à-vis its non-OECD competitors. A renewed round of rule tightening came into force in June 2007 when, for the first time, the OECD Recommendation on "Common Approaches on the Environment and Officially Supported Export Credits" made a reference to the *"International Finance Corporation's (IFC) Performance Standards"* and thus to the core labour standards of the International Labour

Organisation (ILO). One year before, in May 2006, the export credit agencies (ECAs) of the OECD had already agreed to adopt new ethical standards by adopting a new *"OECD Action Statement on Bribery"*.

Whilst being itself in favour of a high standard of competition in the international construction industry, EIC is nevertheless concerned about this "race to the top" which creates an unlevel playing-field in certain market segments due to the fact that competitors from other regions are not interested in keeping pace with OECD standards. As a **Member of the OECD's Business and Industry Advisory Committee (BIAC)**, EIC was able, however, to ensure during the consultations with the OECD Export Credit Group to limit the application of the IFC Performance Standards to cases of non-recourse project finance. Regarding the future ECA agenda, EIC is pleased to note that for 2008, the OECD Committee will have a more balanced agenda and shall discuss the need for increased co-operation with emerging countries and the possibilities to remove the restrictions on ECA support for local costs, which is particularly relevant for international construction projects.

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 20th April 2007, the British Member Federation hosted an EIC Conference in London with a Workshop entitled **"The British Perspective on Market Opportunities for European Contractors"**. In the three Round Tables, EIC member companies discussed the future opportunities of international contracting in the present growth regions China/ India, the Gulf region and Central & Eastern Europe.
- The EIC Conference on 12th October 2007 was hosted by the Portuguese Member Federation in Cascais, Portugal. The Workshop focused on **"Opportunities for European Contractors in the field of Renewable Energies & Energy Efficiency"**.

In the three Round Tables, participants discussed the market potential in building energy-efficient dwellings, hydro and nuclear power plants and in the diversification of the construction business.

- The 2008 EIC General Assemblies will take place on 16th May 2008 in Milan, Italy, where the topic shall be “**What Future for the international business of European contractors?**” and on 03rd October 2008 in Amsterdam, where the issue of “**Climate Change and Delta Protection**” will be the theme.

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



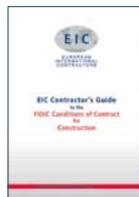
• **EIC Publications**



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 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

For FIEC publications, please refer to p. 65