

# EUROPEAN INTERNATIONAL CONTRACTORS (EIC)



**Philippe Dessoy, BE**  
President



**Frank Kehlenbach, EIC**  
Director

European International Contractors (EIC) represents the international interests of the European construction industry vis-à-vis European policy makers and international financial institutions. Its full members are construction federations from 15 European countries which have internationally active member firms.

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## A) Organisation

EIC was founded in 1970 and has been registered since 1984 as a legally independent business association under German law in Berlin. Its mandate is to promote the interests of the European construction industry in relation to its international business activities. To this end, the federation maintains close relations with all European, international and other important organisations with policies relevant for the international construction business, including the European Commission (EC), the European Investment Bank (EIB), the European Bank for Reconstruction and Development (EBRD), the OECD, the World Bank as well as other relevant non-governmental organisations, such as FIDIC or CoST, the Construction Industry Transparency Initiative.

At the end of 2015, the composition of the EIC Board was as follows:

- President Philippe Dessoy (BESIX, Belgium)
- Vice President George Demetriou (J&P Avax, Greece)
- Treasurer Per Nielsen (NCC, Sweden)
- Guillermo Aparicio Torres (FCC, Spain)
- Jesper Arkil (Arkil Holding, Denmark)
- Duccio Astaldi (Conditte d'Acqua, Italy)
- Selim Bora (Summa Group, Turkey)
- Juha Kostiainen (YIT, Finland)
- António Mota (Mota-Engil, Portugal)
- Karl-Heinz Müller (Strabag International, Germany)
- Christophe Pélissié du Rausas (VINCI Concessions, France)
- Wouter Rimmelts (BAM International, Netherlands)
- Karl-Heinz Strauss (PORR, Austria)

President Philippe Dessoy also represents EIC as a Vice-President on the FIEC Steering Committee.

## B) Mission & Priorities

EIC is the only industry association representing the interests of internationally active European contractors in the policy making process led by the EU institutions and involving other international organisations and financing institutions and society at large.

EIC advocates fair international competition and balanced contract conditions, quality-based procurement and innovative project delivery schemes as well as sustainable construction methods.

EIC fosters new business opportunities for European contractors by promoting a closer collaboration between development and commercial financiers and by promoting Public-Private Partnerships internationally.

EIC provides a unique forum for networking and sharing experience regarding all matters relating to the international construction business.

Within the broad range of operating conditions influencing the work of European international contractors, the following topics had the highest priority for EIC in 2015:

### I. FIDIC Standard Forms of Contract

For more than 40 years, EIC's Working Group Contract Conditions has been reviewing and commenting on the FIDIC standard forms of contract. The work of the group has been condensed into several high-quality publications known as the EIC Contractor's Guides, which not only provide its membership with a quick overview on the potential risks and pitfalls of the FIDIC forms but also influence the debate on fair and balanced contract conditions in general.

The group's current focus is on the envisaged updates of the FIDIC 1999 suite of contracts, expected to be published in 2016. EIC started its "friendly review" of the update of the FIDIC 1999 "Yellow Book" in October 2015. As a matter of principle, EIC calls upon FIDIC to abstain from realigning the risk profile, which was increased already with the FIDIC 1999 suite of contracts and subsequent forms, to the further detriment of the contractor.

EIC further calls upon FIDIC to continue with its time-honoured tradition, whereby the FIDIC standard forms of contract take the form of a "manual of good engineering practice prepared by engineers for practical use". Given that the FIDIC 1999 "Yellow Book" is widely accepted in the market, EIC recommends that FIDIC concentrates its drafting work on closing existing loopholes and amending those passages that require improvement or correction in line with FIDIC users' experience rather than embarking upon an extensive rewrite of the current edition.

Members of the EIC Working Group Contract Conditions are also in the process of discussing the draft of the planned new FIDIC/ITA standard form of contract for Underground Works with the respective Task Group. EIC agrees with the current conceptual approach that the employer be obliged to provide a preliminary design that is detailed enough to allow the contractor to prepare a tender design and to calculate a tender price. EIC requests that the employer be asked to describe the scope of the works by means of measures that the contractor shall undertake to perform the works and in the case that additional measures become necessary, the contract provides for a mechanism to agree on additional cost and time.

### II. Abnormally Low Tenders

Over the past years, the issue of Abnormally Low Tender (ALT) prices of works contracts has become a major concern for the Multilateral Development Banks (MDB) and their borrowers under public sector projects. To address this, the MDBs have agreed that a special MDB Working Group, co-ordinated by the European Bank for Reconstruction and Development (EBRD), be tasked with the identification of potential solutions to this issue.

The EBRD invited EIC's feedback on possible practices to define and reject ALT. Due to the fact that there is currently no commonly accepted definition of what constitutes an ALT or a framework to detect such tenders in practice, EIC summarised its perspective in a Position Paper in February 2015 which was largely endorsed by CICA and, with minor qualifications, also by FIDIC.

EIC supports the approach that, if the lowest tender price transpires to be substantially below the second price ranked tender, the MDB procurement rules should oblige its borrowers to investigate such a

low bid and reject it, in case it is proven to be an ALT. Whereas EIC agrees with the MDB assumption that all tenders below a defined threshold need to be checked in regard to their ALT risk when they are considered for a contract award, we call upon the MDBs to abandon the current option for Borrowers to increase the Performance Security in case of a suspected ALT, once a reliable and practical mechanism to deal with an ALT is in place.

### III. World Bank Procurement Framework

Since 2012 the World Bank is undergoing the first comprehensive review of its procurement system. In July 2015, the World Bank's Board of Executive Directors approved a new policy governing procurement in projects financed by the Bank which shall be implemented in 2016.

EIC participated actively in the various rounds of consultations and called upon the Bank to ensure that International Competitive Bidding (ICB) remains a mandatory procurement arrangement for high-value investments, with appropriate Bank oversight. For large and complex infrastructure projects, EIC advocated the maintenance of the Bank's "golden standard" of procurement documents and practices.

At the end of the process, EIC's lobbying impact on the final version of the New Procurement Framework was visible in the following rules: the Standard Procurement Documents remained in place for International Competitive Bidding, the use of the "Most Economically Advantageous Tender" became acceptable also in the context of works contracts, the option of Sustainable Procurement was introduced on a voluntary basis, Alternative Procurement Arrangements were admissible on a case-by-case basis only after a rigid evaluation process, contract-related complaints will be considered by the Bank and contract management support will be targeted on significant high-risk and high-value contracts.

### IV. Design Build and Operate Schemes

The European Commission is currently studying the possibility of expanding the procurement options under the PRAG to Design-Build and Operate (DBO) schemes in order to maximise the impact and value added of EC funds earmarked for EU external actions. A study commissioned by the

Directorate-General for International Cooperation and Development (DG DEVCO) has established that there are significant advantages of Design-Build and Operate contracts, when compared to conventional design-bid-build approach, for instance concerning the delivery of more sustainable long-term assets, the enhancement of quality and efficiency of end-user services, technology transfer to the developing country, better risk control and best value-for-money procurement.

EIC supports a paradigm shift towards DBO schemes, which could lead to more efficient project management and deliver more value-for-money for the EU itself, its partner countries and the companies involved in infrastructure delivery. EIC recommends awarding the project on the basis of the "economically most advantageous tender" to be established by using a "two-envelope system" which guarantees that the technical proposals are evaluated first with the effect that the technical solutions that are most attractive to the Contracting Authority can be selected without any bias from the knowledge of the price of that solution.

EIC's Working Group "Africa" submitted its comments at various stages of the EU study and the EU Commission concurs with EIC's call for a balanced risk allocation also under Design-Build and Operate schemes. In particular, the Commission has assured EIC that it does not intend to deviate from the conventional risk allocation as laid down in the present version of the General Conditions for Works Contracts financed by the EDF. The European Commission is presently preparing two pilot projects in Africa to be tendered with bespoke amendments of the existing General Conditions for re-measurable works contracts.

### V. EU Blending 2.0

The group also followed-up on its proposal for a revised blending instrument that advocates the blending of EU grants and European soft loans for so-called "non-commercially viable" public sector infrastructure projects in Africa ("Blending 1.0") with commercial bank financing covered by European export credit insurance capacity ("Blending 2.0").

EIC's concept "Blending 2.0" suggests that eligible development finance institutions syndicate a certain tranche of the loan amongst commercial banks to the extent that such funds can be guaranteed by comprehensive insurance cover from export

credit agencies (ECAs). This model could catalyse additional private sector finance for typical public sector infrastructure projects that do not generate sufficient direct project income but are critical for the social and economic development of the country.

In September 2015 EIC President Dessoy met EU Development Commissioner Neven Mimica in Brussels, to present the EIC concept for a revised Blending Mechanism. Commissioner Mimica emphasised the importance of catalysing additional resources from the private sector in order for the global development community to deliver on its far-reaching post-2015 Development Agenda. He was interested in the EIC concept and invited EIC to present it at a meeting of the EU Platform for Blending in External Cooperation (EUBEC).

In October 2015, EIC presented its proposal for a "Blending 2.0" concept at a meeting of the Technical Group on Private Sector Participation of the EU Platform for Blending in External Cooperation (EUBEC) in Brussels. The EIC proposition was supported by the European export credit agencies from Belgium (Delcredere/Ducroire) and from Denmark (EKF). The European Banking Federation (EBF) added that the EIC concept would improve the competitive situation for European exporters, in particular in Africa, where their non-OECD competitors had easier access to subsidised financing. EUBEC members referred to the "Lake Turkana Wind Power Project" as a recent example of a close collaboration between DFIs and ECAs and encouraged European international contractors to pro-actively approach the European development finance institutions with their project ideas at an early stage.

## VI. Corporate Responsibility (CR)

EIC fully supports the efforts of International Organisations and International Financing Institutions to agree on a robust set of environmental, ethical and social standards which would be instrumental in satisfying the expectations of all stakeholders in international construction projects and in creating a level playing field for all internationally active contractors.

Since 2011, EIC officially endorses the Construction Sector Transparency Initiative (CoST) which aims at increasing the transparency and accountability for publicly financed infrastructure worldwide. EIC is currently participating in the

strategic review process of the Construction Sector Transparency Initiative (CoST) which explores how the CoST initiative can increase its impact to support communities worldwide.

In 2015, EIC organised a Workshop on "Connecting Partners - Supply Chain Responsibility in International Construction Projects" in connection with its autumn 2015 conference in Rotterdam with the objective of identifying strategies for European international contractors to respond to the challenges arising from CR requirements. As a result of this Workshop, the EIC Board decided to launch a new Working Group on "Corporate Responsibility" in order to highlight the performance of European companies in applying CR standards in their international operations. Bearing in mind the new Sustainable Procurement option incorporated in the World Bank's New Procurement Framework, the Working Group will also prepare technical advice to clients seeking to incorporate sustainable procurement criteria into their tenders.

## C) EIC Statistics

In October 2015, EIC released its annual International Contracts Statistics with the help of its Member Federations. The statistics, which list international turnover and new contracts, give an in-depth view of how the market is developing for European contractors and is more accurate than other comparable statistics as it incorporates companies' international construction business rather than their entire group turnover.

International turnover of European contractors affiliated to EIC's Member Federations remained at a high level in 2014, rising to more than €165.6 billion, up 2% compared with 2013. EIC Member Federations from 13 European countries reported figures for 173 internationally active contractors for 2014.

In addition, EIC comprised an analysis of the development policies of the European countries represented in the EIC network (including UK). The EIC analysis on Official Development Assistance (ODA) supports Member Federations with their lobbying activities on a national level. It shows that most countries are far from reaching the international agreement to raise their ODA to 0.7% of the donors' national income.

On the basis of the latest available OECD data on ODA for the year 2014, the majority of EIC Member

countries distributed more than 60% of their ODA bilaterally. Only Italy and Spain allocated more than 50% of their ODA to multilateral organisations. According to the analysis most European countries invest less than one fifth of their bilateral ODA in infrastructure projects with the two major donors France and Germany being the only exceptions. France spent 36% and Germany spent 41% of national ODA on infrastructure in 2014.

## D) EIC Conferences

Twice a year, in spring and autumn, representatives of all Member Federations are invited to gather for the EIC General Assemblies which are followed by a Workshop. These Workshops are either topic-related and highlight particular framework conditions important for all European international contractors, such as export credit insurance, guarantees or the influence of IT on construction, or they examine the present situation in the construction market of a specific region. At these occasions, expertise is brought into the discussion from outside the

industry by engaging high-level speakers from various institutions to contribute to the discussion. The conferences are traditionally attended by senior international managers from leading European contractors as well as related industries.

On 16-17 April 2015, Italian Member Federation ANCE hosted the EIC conference in Florence with a workshop on World Market Opportunities for European Contractors.

The autumn conference on 8-9- October 2015 was hosted by EIC's Dutch Member Federation NABU in Rotterdam with a workshop on Connecting Partners – Supply Chain Responsibility in International Construction Projects.

For joint FIEC/EIC activities please refer to page 20.

**To sign up for the monthly EIC Newsletter and further information on EIC activities, conferences and members, visit the EIC website: [eic-federation.eu](http://eic-federation.eu)**



## EIC publications



EIC Turnkey Contract, 1994



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



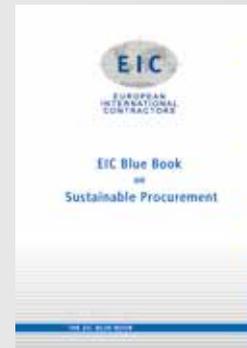
EIC White Book on BOT/PPP, 2003



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



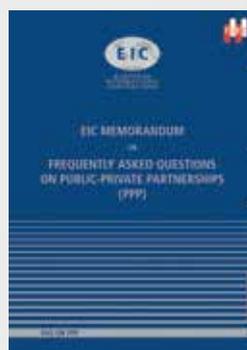
EIC Contractor's Guide to the FIDIC Conditions of Contract for EPC Turnkey Projects, 2003



EIC Blue Book on Sustainable Procurement, 2004



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



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



EIC Contractor's Guide to the MDB Harmonised Edition of the FIDIC Conditions of Contract for Construction (June 2010), "The Pink Book Guide", 2011