

# EUROPEAN INTERNATIONAL CONTRACTORS (EIC)



**Duccio Astaldi, IT**  
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 are directly or indirectly affiliated to FIEC and 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.

According to the latest EIC International Contracts Statistics for the year 2013, the total volume of international turnover carried out by EIC member companies amounted to €163 billion. This good result was confirmed by the latest survey "Top 250 International Contractors" published by the magazine Engineering News-Record showing that the market share of European contractors on the global construction market amounts to more than 50%.

At the end of 2014, the composition of the EIC Board was the following:

President Duccio Astaldi (Condotte d'Acqua, Italy)  
Vice-President George Demetriou (J&P Avax, Greece)  
Treasurer Per Nielsen (NCC, Sweden)

Plácido Álvarez Holgado (FCC, Spain)  
Jesper Arkil (Arkil Holding, Denmark)  
Philippe Dessoy (BESIX, Belgium)  
Juha Kostianen (YIT, Finland)  
António Mota (Mota-Engil, Portugal)  
Karl-Heinz Müller (Strabag International, Germany)  
Wouter Remmelts (BAM International, Netherlands)  
Frédéric Roussel (Colas, France)  
Emin Sazak (Yüksel Insaat, Turkey)  
Karl-Heinz Strauss (PORR, Austria)

President Duccio Astaldi also represents EIC as Vice-President on the FIEC Steering Committee.

## B) Objectives & Priorities

EIC has the task of achieving the following three main objectives:

- EIC aims to **create new business opportunities** by advocating a closer collaboration between development and commercial finance and by promoting the PPP concept on the global level.
- EIC advocates **better market conditions** by improving the political and legal framework conditions for the international business activities of its member companies.
- EIC provides a **unique forum for networking** and the exchange of the latest international experience.

Within the broad range of operating conditions influencing the work of European international contractors, the following topics had the highest priority for EIC in 2014:

### 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. At the FIDIC Annual Conference 2014, EIC stated that the latest FIDIC edition contains a rather demanding risk profile for contractors when compared with earlier forms of the last century, but – except for the “Silver Book” – still provides a fair balance of risks and responsibilities between the parties.

At the above occasion, EIC expressed its concern about the negative effects connected with the uninhibited misuse of FIDIC forms by many clients around the globe and suggested a rigid FIDIC policy to prevent such unwelcome practices.

FIDIC is currently considering the introduction of “Golden Clauses” in FIDIC General Conditions in order to thwart the over-tweaking of FIDIC based contracts, where the intention of the forms is lost.

### II. Abnormally Low Tenders

The Working Group “Contract Conditions” also scrutinises the Procurement Policy and Standard Bidding Documents of the Multilateral Development Banks. The European Bank for Reconstruction and Development (EBRD) approached EIC in 2014 for comments on an intended MDB policy revision concerning Abnormally Low Tenders (ALT). Currently, none of the MDB's procurement rules contain any references to ALT and the MDB Harmonised Standard Tender Document for Works contains no provisions that would permit the rejection of a tender purely on the basis of a low price.

EIC voiced its general support for a policy that would assume the submission of an ALT if the lowest tender price transpires to be substantially, say more than 15%, below the second lowest price offered and/or in excess of 25% below the average prices offered in the tenders. However, certain reservations, qualifications or adaptations should be made for complex or innovative works, e.g. Design-Build. With reference to the UNCITRAL Model Procurement Law, EIC recommends a mandatory requirement for an ALT to be investigated and rejected if proven to be an ALT. By contrast, EIC generally advises against a higher level of Performance Security because the negative consequences of such a “remedy”, including the potential misuse by clients, would by far outweigh the positive aspects.

### III. World Bank Procurement Framework

The EIC Working Group “World Bank Procurement” continued to scrutinise and comment on the policy papers and working documents published by the World Bank with respect to the review of its operational procurement policy and procedures. The second stage of the review was launched in November 2013 and a “New Proposed Procurement Framework - Phase II” was presented to World Bank Executive Directors in July 2014. In autumn 2014, the World Bank conducted multi-stakeholder consultations in 37 countries with more than 1,500 participants representing government, the private sector, academia, and civil society.

The group drafted a position paper that responded to several complex issues, such as Value-for-Money decision-making, alternative procurement arrangements, international competitive bidding, prior review thresholds, complaint mechanisms, etc., where stakeholders had very different ideas on the best approach to take. The position paper was endorsed by CICA and sent to the Bank's management and to the European Directors at the World Bank. More generally, EIC criticised the fact that the new policy outline could lead to a high level of uncertainty for both Bank staff and Contracting Authorities due to its general vagueness and ambiguity. The position paper was submitted together with a FIDIC position thus presenting a unified position of the global construction and consulting engineering industry composed of two complementary documents. The feedback received from stakeholders will be incorporated into the final policy, which is expected to be presented to the Board of Executive Directors for their approval in summer 2015.

#### IV. Design Build and Operate Schemes

The main focus of EIC's Working Group "Africa" was on reviewing a study commissioned by the European Commission's Directorate-General for International Cooperation and Development (DG DEVCO) concerning the application of Design-Build and Operate (DBO) methods to EC-financed infrastructure projects in developing countries. The respective study found some significant advantages of Design-Build and DBO contracts, when compared to the conventional design-bid-build approach, for instance the delivery of more efficient and 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.

Whilst the group agreed with many of the findings in the study, it called upon DG DEVCO to ensure a fair contractual risk allocation. Concerning the responsibility for complementary studies, particularly on geo-technical information, the group stressed that, as a general principle of fairness, the client must always be responsible for the information provided, as contractors rely on such information for the purpose of defining their bids and for the execution of the works.

The European Commission has agreed with most of EIC's comments and has announced that it will seek EIC's further expertise and advice on the drafting of its new Design-Build standard form of contract.

#### V. "Blending 2.0" proposal

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").

On the request of EIC, the European Commission hosted in July 2014 a Roundtable with European Development Finance Institutions and European Export Credit Agencies (ECA) to discuss EIC's proposal for closer cooperation between these institutions in order to enhance the blending agenda of the European Commission. The ECAs that were present also expressed their interest in backing Developmental Financial Institutions (DFI) in project financing as this allows them to get involved in higher risk projects, although in countries with a high level of sovereign debt, such as in Sub-Saharan Africa, concessional requirements may oblige them to work with non-sovereign / private partners. The Commission has committed itself to pick up the main aspects of the Roundtable with EIC in the context of the Technical Group 6 of the EU Platform for Blending in External Cooperation (EUBEC). In this group, DFIs and the Commission are working together to identify concrete options that address how EU blending can further catalyse private financing.

#### VI. International Competitiveness

EIC took a leading role in the activities of the Thematic Group on "International Competitiveness" coordinated by the European Commission and took part as rapporteur in the 3<sup>rd</sup> Meeting of the High-Level Tripartite Strategic Forum concerning the EU Communication on the European Commission's "Construction 2020" Action Plan in March 2015. The purpose of the event was to take stock, together with officials and experts from Member States, stakeholders and Commission services, of the actual implementation of this sectorial initiative within the policy framework for industrial policy. The Director-General of DG Enterprise and Industry, Daniel Calleja Crespo, emphasised that one of the Commission's priorities was to ensure enhanced market access for European companies to construction markets in third countries.

In this context, EIC's proposal for "Blending 2.0" has been adopted as a key recommendation. Other important conclusions were the need to maximise the benefits from current Free Trade Negotiations, for instance by addressing the protectionist U.S. regulation in the dredging sector in the context of TTIP, to promote the Eurocodes in third countries and to apply best practice in achieving Mutual Recognition Agreements concerning professional qualifications.

## VII. Development Agenda

The UN is currently determining its future development framework as the target year of the Millennium Development Goals has been reached in 2015. The Post 2015 development Agenda is expected to be adopted at a Special Summit in New York in September 2015. In preparation, EIC voiced the respective views of the European construction industry through the Business and Industry Advisory Committee (BIAC) to the OECD.

The input of EIC and other industry federations led to an agreement within the OECD Development Assistance Committee (DAC) in December 2014 that moves towards a broader definition of aid flows. This new definition, provisionally called "Total Official Support for Sustainable Development" (TOSD) could complement Official Development Aid (ODA) measures, covering "the totality of resource flows extended to developing countries and multilateral institutions in support of sustainable development and originating from official sources and interventions, regardless of the types of instruments used and associated terms". In practice, this would mean that non-concessional loans and export credit finance and insurance would be counted under the new paradigm. This new mechanism will in turn create incentives for more proactive efforts to deploy official development finance in ways that will leverage additional private finance for development, also in the infrastructure sector.

These changes are to be confirmed at the UN Summit on Development Financing in Addis Ababa in July 2015, before finally being adopted as part of the Post-2015 Development Agenda in September 2015.

## C) EIC Conferences

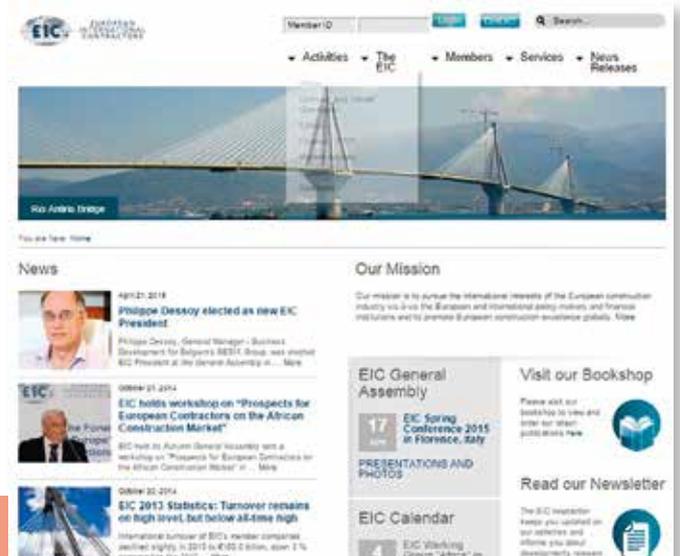
Twice a year, in spring and autumn, representatives of all member federations are invited to gather for the EIC General Assemblies which are followed by a Workshop. These Workshops are either topic-related and highlight particular framework conditions important for all European international contractors, 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 11 April 2014, UK member firm Lagan construction hosted the EIC conference in Belfast, Northern Ireland with a workshop on The Impact of Innovative Contract Models on the Planning and Execution of Large and Complex Projects.

The autumn conference on 17 October 2014 was hosted by the Portuguese member federation FEPICOP in Porto with a workshop on Prospects for European Contractors in the African Construction Market.

For joint FIEC/EIC activities please refer to page 18.

To sign up for the monthly EIC Newsletter as well as more information on EIC activities, conferences and members, please go to the EIC website [www.eic-federation.eu](http://www.eic-federation.eu).



## EIC publications



EIC Turnkey Contract, 1994



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



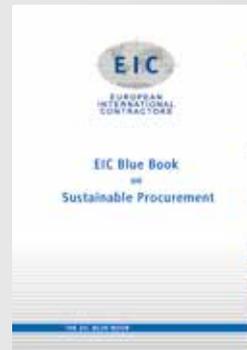
EIC White Book on BOT/PPP, 2003



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



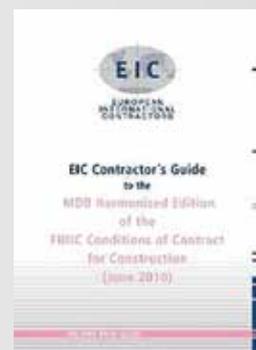
EIC Blue Book on Sustainable Procurement, 2004



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

For FIEC publications, please refer to p. 69