

**Minutes of the meeting of the Working Party on Employment
of the Sectoral Social Dialogue Committee for the Construction Industry
Brussels, 27 April 2006**

The meeting was chaired by André Clappier, who welcomed the participants and read out the agenda, which was adopted.

1. Approval of the minutes of the meeting of 9 November 2005

The minutes were approved, subject to some changes requested by the FIEC and accepted by the FETBB. The amended minutes would be translated at a later date.

2. Posted workers Directive 96/71/EC

Laetitia Passot reported on the joint data bank project, which was intended to provide employers and workers in the construction industry with useful information on working conditions and formalities in the various Member States when workers were posted to them.

Werner Buelen said that there was a cordial atmosphere within the project Steering Committee, but pointed out the need for precise information on the various systems of national collective agreements, and would have preferred it if the experts had more time. He confirmed that in Sweden, employers and workers had agreed to appoint a new expert due to a conflict of interest at the lawyer's practice which the experts had originally selected for that country.

The Chairman was gratified that the work had gone well and that the social partners had reached a consensus on creating this database, which would be very useful for the sector.

3. Commission communication COM (2006) 159, Guidance on the posting of workers in the framework of the provision of services

The FIEC noted the draft joint statement proposed by the FETBB following publication of the Commission communication. The FIEC thought the draft excellent, but had to obtain the approval of its affiliated members.

Werner Buelen detailed the proposal for a joint position which confirmed that the posted workers Directive did not need to be revised. He thought it unfortunate that the Commission had tried to reintroduce Articles 24 and 25, which had been deleted from the preliminary draft of the service Directive, by the reference to a unilateral choice of case law.

He said that the problems of implementing the posted workers Directive were mainly due to poor cooperation between the Member States and their liaison offices with regard to checks on posted workers. The FETBB thought that some Member States were not giving proper recognition to the category "self-employed workers", and that this was enabling certain companies not to apply social legislation to workers who were actually their employees. The FETBB called on the Commission to become more involved in monitoring the Member States' administrative failures in dealing with these situations.

The FIEC broadly subscribed to this analysis and would soon be indicating whether it could sign the proposal for a joint position.

4. Proposal for a Directive on services in the internal market

The social partners were pleased that Articles 24 and 25 had been deleted from the revised draft Directive as the construction industry had requested.

However, they found the new proposal more difficult to understand. The FETBB was awaiting the conclusions of its CLR expert before issuing an opinion. The Commission was accused of manipulating Parliament.

The social partners agreed to define a joint action for the rapporteurs on the text.

5. Undeclared work in the construction industry

The FIEC reported on its progress in drafting a guide to good practices regarding undeclared work.

The FETBB congratulated the FIEC on its work and described the various stages of its own study on the subject. It was suggested that, once that study was completed, the social partners adopt a joint position to be drafted by an *ad hoc* Working Party.

The FIEC was not opposed to this suggestion, but preferred to await completion of the study before setting up a Working Party.

6. Portability of supplementary pension rights

Discussion of the draft Directive on the portability of supplementary pension rights

The FIEC said that this was a complex matter involving disparate national regulatory aspects, with major differences between countries. At present, it was difficult to arrive at a joint position on the matter without first knowing the likely impact of the text. It was therefore essential to know the results of the study which the FETBB had undertaken, with Commission support, before deciding if a joint position was possible.

Werner Buelen stated that the steering group for the study (on which the FIEC was represented) would be meeting on 10 May 2006.