COUNCIL OF EUROPE CONSEIL DE L'EUROPE

CROSS-BORDER CO-OPERATION TOOLKIT

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INTRODUCTION

Local communities and authorities located alongside international borders often face problems and issues directly related to the presence of the border. Effective handling of such problems requires the development of joint cross-border strategies.

Cross-border cooperation (CBC) is a concerted process of building neighbourly relationships between local stakeholders and authorities on either side of a border, with a view to overcoming such problems and fostering harmonious development of neighbouring communities. Its success should be built on clear concrete objectives and the willingness to cooperate.

Cross-border co-operation does not entail conveying additional powers to border communities or authorities. Rather it is an efficient way for exercising local authority powers. Through cross-border co-operation, communities located in border areas may seek to promote the socio-economic development of the border area, develop economies of scale to provide better services and widen cultural perspectives.

The Council of Europe is the leading European Organization supporting cross-border co-operation as part of its programme to strengthen good governance, build durable democratic institutions and generally reinforce capacity at the local level. It believes that cross-border co-operation, inter alia, enables local authorities to design and implement innovative and effective policies for improving the quality of life of their populations. CBC also fosters a sense of common belonging among citizens, and creates a greater visibility for territories which would otherwise suffer disproportionately from the peripheral position implied by the presence of a border.

The Council of Europe aims at improving and facilitating trans-frontier co-operation in its member states through confidence-building measures to increase tolerance, understanding and good-neighbourly relations between populations; through the provision of legal advice on draft legislation on cross-border co-operation and through assistance towards the setting up of trans-frontier co-operation bodies to ensure that trans-frontier relations are sustained and improved.

The present toolkit, the fifth in a series of toolkits produced by the Council of Europe, is its essential and complete guide to cross-border co-operation[i]. The toolkit is invaluable for countries with or without experience in the field, serving as a step-by-step guide on how to turn cross-border projects mapped out on paper into concrete realities. In so doing, it looks at how to carry out feasibility studies, how to finance cross-border projects, what types of obstacles may arise and how these can be overcome, and how to nurture a cross-border friendly environment. Whether the plan is to organize a jointly run bus route or simply to foster exchanges between civil servants, the CBC toolkit gives a very clear picture of the way ahead.

By making available the concrete experience of individual local authorities and best practice in developing effective cross-border co-operation this Toolkit adds a further brick to the construction of “Europe without dividing lines”.

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CHAPTER 1 – UNDERSTANDING CBC

1.1 Rationale

Cross-border cooperation (CBC) is a concerted process of building neighbourly relationships between local stakeholders and authorities on both sides of national land and sea borders; its aim is to foster the harmonious development of border communities.

Local communities and authorities[1] do not pursue cross-border cooperation activities *per se* and border area citizens do not seek additional complex institutions. But both are eager to see more investments in infrastructure and have better, or even new, public services. They want more efficient waste collection, better employment opportunities, access to a wider culture and participation in markets and facilities that are located in the neighbouring country.

CBC is not about conveying additional powers to border communities or authorities. Rather, CBC is a more efficient way of exercising their powers. Communities located in border areas seek to build up cooperation across borders in order to:

1. Promoting the socio-economic development of the border area.
   E.g. attracting new financial resources; efficiently using local capital (nature, finance, culture, organisations, relationships, etc); improving employment opportunities, etc.
2. Developing economies of scale to provide better services.
   E.g. providing high-quality health-care and education; efficiently managing natural resources (i.e. rivers); upgrading transport infrastructures, etc.
3. Widening cultural perspectives.
   E.g. promoting bilingualism and minority groups rights; promoting cultural diversity within educational curricula; promoting a non-ideological interpretation of history and mutual knowledge and trust, etc.

Despite the wide variety of (past and present) CBC activities, arrangements and participating authorities, the rationale of CBC is to **overcome the peripheral positioning of border areas**. Whether on geographical, economic, social, institutional or cultural terms, border areas all share a certain degree of diversity and distance from their own capital cities and major centres. CBC is about overcoming the consequent sense of isolation and applying joint solutions to issues of common concern with adjacent local communities and authorities.

The following diagrams illustrate some of the possible factors causing the peripheral positioning of border areas and the consequent effects. This is by no means an exhaustive list of all the forces to be taken into consideration when looking at a border area; nor it is a definition of clear-cut

[1] Local communities and authorities are defined as "communities, authorities or bodies exercising local and regional functions and regarded as such under the domestic law of each State" (Council of Europe (COE), 1980), that is public or public-equivalent bodies who have administrative powers covering a smaller area than those of the State (Explanatory report to the Outline Convention, Article 2) (Council of Europe (COE), 1980).

causal links. The diagrams aim to offer a general representation of the matter, drawing from an analysis of the evolution of CBC in Europe.

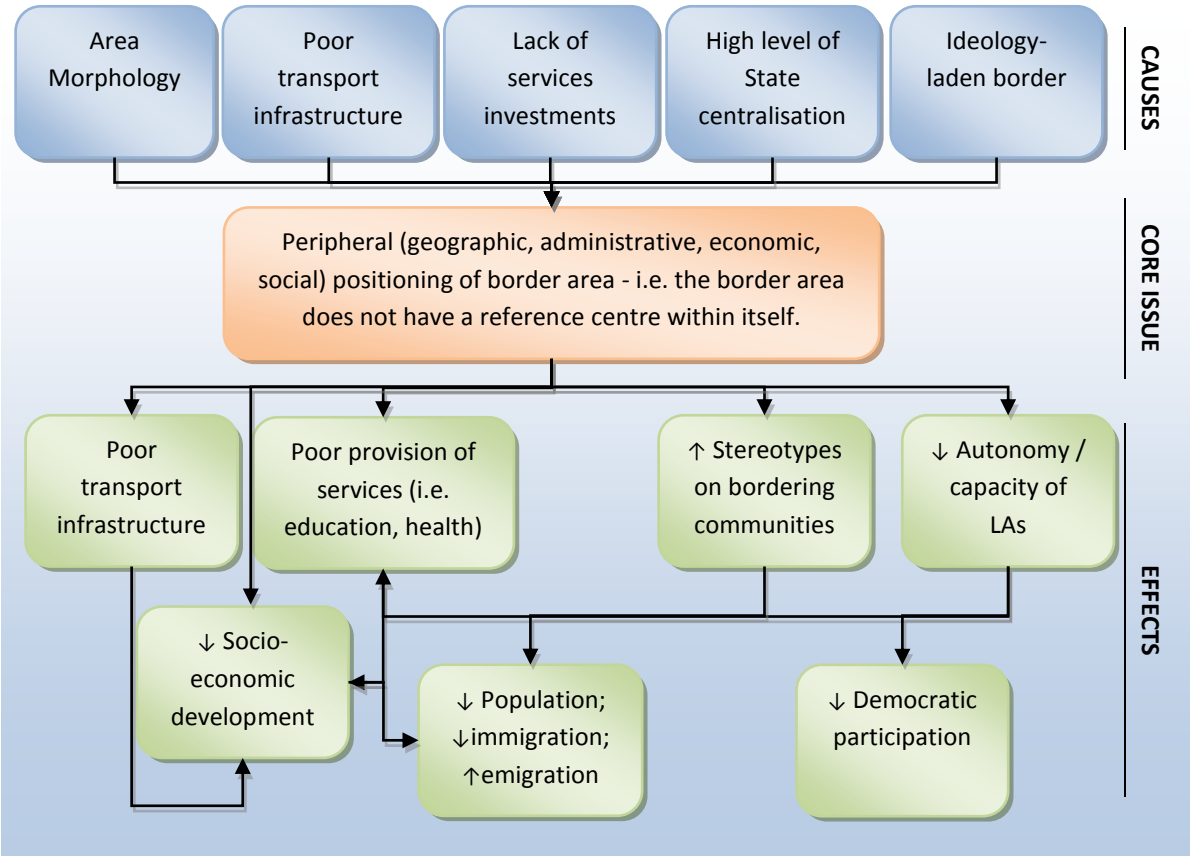


Figure 1 - Peripheral positioning of border areas: problem tree approach

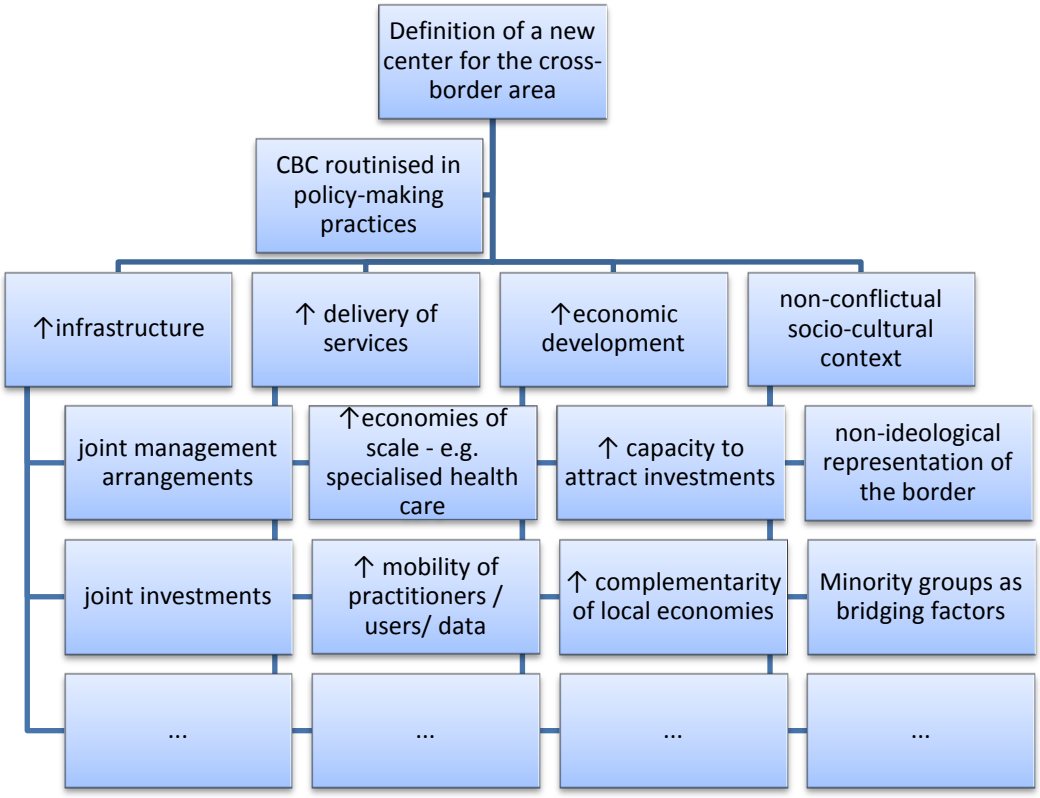


Figure 2 - Peripheral positioning of border areas: solution tree approach

The bottom boxes in the above diagram are intentionally left blank since border areas differ substantially in terms of characteristics, CBC undertakings and arrangements which initiate and build CBC solutions. However, the following represents the main stages within which CBC processes develop:

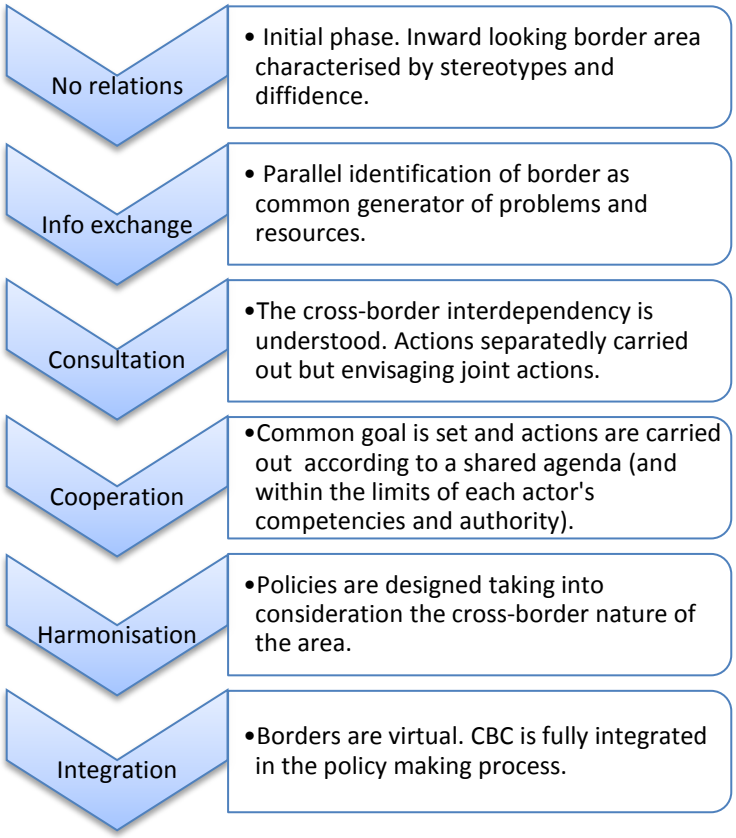


Figure 3 - The stages of CBC

Example 1 - EUREGIO.

EUREGIO, dating back to 1958, represents the first euroregional arrangement in Europe. Established between municipal associations on both sides of the German-Dutch border, EUREGIO aimed to improving local and regional infrastructures, strengthening the local job market and finding local solutions to the decline of local industries mirrored on each side of the border. Local municipalities felt they had more in common with border counterparts than the respective national centres.

"The objectives of EUREGIO correspond to the aims of a unique Europe, but on a smaller, more comprehensible scale. In the past, national borders often came into being by chance or arbitrarily, and people, cultures and areas which belonged together were torn apart. In a united Europe and in the single European market, there are still obstacles at the borders because of different structures, terms of reference, and legislation in the individual member states. Coordination and intensive cross-border contacts can eliminate these obstacles." (http://www.euregio.de - Vision - 20/09/2011)

The heart of CBC policies is not found in particular legal forms, financing opportunities, or acquiring new capacities. **Rather, these policies are founded on the very purpose for which CBC is established: delivering better services and promoting development, becoming more efficient and effective than would have been otherwise possible** (i.e. creatively overcoming the problems that the border imposed on the communities divided by it).

Definitions of CBC. CBC is a highly heterogeneous process in terms of relations, actors, institutional settings, legal frameworks and financial tools involved. For a more detailed discussion on its definition with reference to the international legal framework go to 2.2.1 International legal framework (p. 32).

1.2 Possibilities of CBC

CBC arrangements make it possible to improve the capacity of local communities and authorities to carry out their tasks effectively for the improvement and development of frontier regions in such fields as (Council of Europe (COE), 1980, p. 2):

1. regional, urban and rural development;
2. environmental protection,
3. the improvement of public facilities and services; and
4. mutual assistance in emergencies.

Any CBC arrangement originates when....

a) recognition of a given problem; and
b) policy choices

....are elaborated jointly by local partners on both sides of the border.

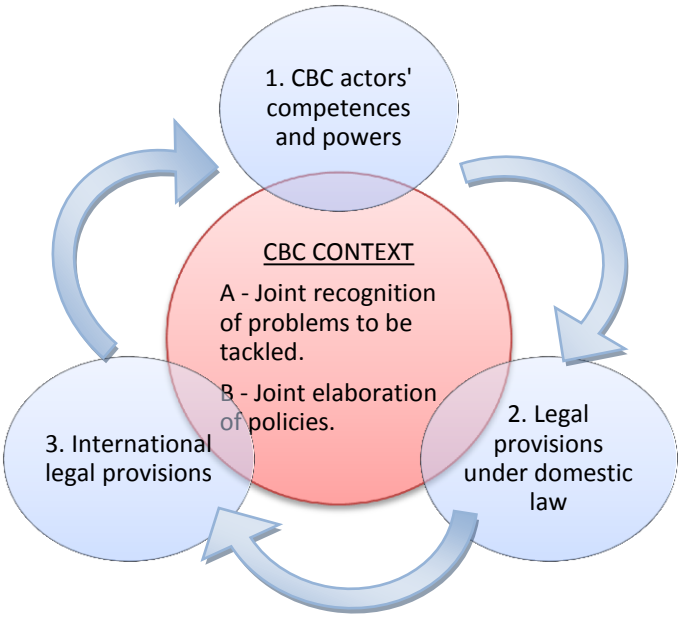


Figure 4 - Factors determining the possibilities of CBC

The combination of three factors (see above) determine the possibilities of CBC:

1. CBC partners' competences and powers.

2. Legal provisions under domestic law.
3. International legal provisions of (bi-/multi-) lateral agreements entered by the states to which the local CBC partners belong.

Although the possibilities of CBC are determined by the interplay of these factors and local communities and authorities across borders might have different competences and powers, it is possible to identify (i) the main local authorities' (LA) functions; and (ii) the main possibilities of CBC for different domains of activities.

Table 1 - Classification of major Local Authority functions

	TYPES	CATEGORIES
DIRECT FUNCTIONS	REGULATORY FUNCTIONS	- Development planning
		- Environment protection
		- Commercial and health regulation
		- Traffic management
	COMMUNITY SERVICES AND THEIR INFRASTRUCTURE	- Economic development
		- Education and school facilities
		- Social services
		- Health centres and sanitation
		- Cultural services, facilities and events
		- Communal police; fire service; rescue/civil protection
		- Registers (civil status, population; property/cadastre), certifications
	PUBLIC UTILITIES AND THEIR INFRASTRUCTURE	- Water supply and distribution; sewerage
		- Waste Management
		- Urban heating; energy supply
		- Public transport; roads and lighting; car parks
		- Public gardens and green areas
	INDIRECT FUNCTIONS	- Human resources management and development
		- Procurement of goods and services, legal advice
		- Budgeting; tax collection; accountancy and bookkeeping; internal audit
		- Maintenance of buildings and equipment; catering and cleaning
		Electronic data processing

Table 2 - CBC possible objectives per domain

DOMAIN		POSSIBLE OBJECTIVE
ENVIRONMENT, AGRICULTURE AND SPATIAL PLANNING	Environmental management and protection	- Harmonise environmental policy in areas of common interest by achieving political coordination and consensus on goals and measures to reach them. - Maintain modern, well-equipped rescue/civil protection services able to manage natural hazards.
	Agriculture	- Rationalise water management and the use of available water sources, to extend water distribution and improve settlement. - Promote common quality standards and sanitary regulations.
	Spatial planning (i.e. regional)	- Develop concerted policies on land use based on socio-economic analysis of the area.
	Urban planning (i.e. twin cities)	- Develop concerted urban plans for both cities to rationalize other policies (housing, enterprise zones, roads…) and deal effectively with issues that cross borders (social housing, transport).

		- Share planning procedures to ensure criteria for development does not favour one municipality.
	Water management	- Harmonise use of equipment (river dikes, purification station, fresh water quality control) to ensure water distribution. - Join in project development to attract capital investment.
	Waste management	- Find adequate locations for landfills and share their use and acquire necessary equipment and/or infrastructure. - Develop joint or concerted policies for recycling and solid waste management to achieve better environment protection.
TRANSPORT AND COMMUNICATIONS	Public Transport	- Establish rational and cost effective public transport system for the cross-border area crossing borders and connecting transport nodes (e.g. extra-urban bus/train stations, airports). - Ensure continuity of public transport routes to main cross-border area centres (i.e. avoid transport changes at border-crossing).
	Transport infrastructure	- Share policy goals and priorities in the development of roads, network and harmonise/coordinate road construction so to avoid interruption at border crossing. - Harmonise/coordinate maintenance work. - Develop concerted policies to avoid duplication of major transport infrastructure in the cross-border area. - Harmonise traffic security regulations.
	Communications	- Negotiating with private partners preferential telephone charges and specific codes for the cross-border regions as a whole. - Developing cross-border mail delivery bypassing national distribution centres.
ECONOMY AND EMPLOYMENT	Local development	- Promoting joint socio-economic analysis of the cross-border area. - Joint territorial marketing. - Joint organisation of vocational courses raising skills on local know-how (i.e. traditional production, etc). - Promoting a joint Chamber of Commerce. - Promoting joint representation at international bodies (e.g. shared regional office in Brussels).
	Cross-border labour force	- Promoting joint initial and in-service vocational training. - Establishing joint employment offices. - Providing information on rights and obligations (i.e. double-taxation, insurances, social security, etc) for cross-border workers. - Facilitating custom controls (and visa regime) for daily cross-border workers (where relevant).
	Business and industry	- Promoting a joint/collaborative Chamber of Commerce(s). - Promoting joint/collaborative association(s) of entrepreneurs, unions, etc. - Promoting wherever possible PPPs (i.e. private actors can act more freely than LAs at the cross-border level). - Establishing joint yellow-pages for cross-border area.
	Technology	- Developing concerted investment policies for RTD. - Developing joint Business Incubators
	Tourism	- Developing concerted promotion policies. - Developing concerted policies for exploiting common tourism resources. - Harmonising standards for tourism infrastructure. - Co-ordinating cultural events.

HEALTH AND WELFARE SERVICES	Health care	- Providing information on social and medical services offered on each side of the border. - Provide language courses to health care professionals to facilitate cross-border take-up rate of services. - Establishing joint monitoring and database on illnesses on a cross-border basis. - Establishing joint front-offices and services for counselling.
	Health infrastructure	- Exploit economies of scale to develop cross-border specialised care centres. - Setting up a mutual disaster relief plan. - Setting up permanent framework for joint training and exchange of medical and/or paramedical staff.
	Social security and cross-border workers	- Improving social security cover for frontier workers or the principle of the territoriality of provisions (eg, the principle of the accumulation of contributions). - Establishing conventions between health insurance funds regarding costs of treating frontier workers in hospitals on each side of the frontier, going beyond the principle of territoriality that governs all national social security systems(Ricq, 2006).
EDUCATION AND CULTURE	Education services	- Promoting school twinning, exchanges and cross-border visits. - Raising awareness on the neighbouring communities languages, history and culture in schools programmes. - Arrangement of bilingual teaching programmes. - Facilitation of access to schools across the border. - Establishment of cross-border schools, programmes and/or curricula. - Promoting reciprocal accreditation systems.
	Cultural action	- Promotion of cultural activities across the cross-border area (festivals, concerts, museums, etc). - Promotion of joint cultural activities.
	Youth and sports	- Organisation of sporting events and competitions between partner schools or other associations. - Arranging youth camps which include young people from both sides of the border. - Organisation of cross-border UN-model types of activities.
	Common cultural heritage	- Promotion of cultural routes which bring out common cultural characteristics across frontier areas. - Promotion and protection of the cross-border architectural heritage. - Development of concerted policies in the management of the heritage sites.
	Media	- Promoting the cross-border co-production and joint broadcasting of programmes of cross-border interest. - Promoting cooperation among media to provide news on the cross-border area as a whole. - Promoting entirely cross-border media (web, TV, Radio, news-paper).
	Bilingualism	- Promoting bilingualism policies in line with *European Charter for Regional or Minority Languages Cets N. 148*

The concrete CBC objective is a decisive factor that impacts on all its other characteristics, including its legal, administrative and financial frameworks. However, knowledge about, and the constructive use of, such frameworks are indispensable for ensuring the coordination, development and sustainability of CBC activities.

Table 3 - Possible objectives of CBC in the administrative domain

	DOMAIN	POSSIBLE OBJECTIVE
CROSS-BORDER STRUCTURAL AND ADMINISTRATIVE ARRANGEMENT	Structural/administrative measures	- Promotion of the establishment of local and regional association which have as their objective the fostering of cross-border cooperation. - Joint establishment / support of cross-border research centres studying relevant CBC matters. - Organising periodic meetings among LAs and relevant stakeholders.
	Legal, administrative and technical measures	- Mapping the state of cross-border cooperation. - Identifying the appropriate tools (legal, administrative, financial) to develop joint cross-border bodies. - Training civil servants and relevant stakeholders on CBC practices. - Raising awareness on the benefits of CBC. - Drawing up agreements (within the limits imposed by the existing legal framework) facilitating CBC. - Joint lobbying activities at national and international authorities to improve the legal framework for cooperation.
	Project making and management	- Develop the capacity to design and manage joint project to gain access to dedicated funds from the EU and other donors. - Informing private organisations about the external funding (i.e. from international donors) available for CBC actions and coordinating their efforts.
	Financial measures	- Promoting support from the public and/or private sector for CBC actions. - Eliminating obstacles to the use of local and regional budgets for CBC actions.

1.3 Different kinds of CBC

CBC development varies considerably from one border area to another. Several factors account for such diversity within and beyond European borders. The following table groups relevant factors by macro-areas.

Table 4 - Factors determining the variety of CBC development

Macro-area	Intervening factor
History	- Age of border (long established vs. recent) - History interpretation (shared vs. opposite) - Territoriality (continuity vs. fraction) - ...
Culture	- Language - Ethnicity - Religion - Role of minorities - ...
Economy	- Level of socio-economic development - Cooperative / competitive businesses

	- State subsidies - Advantageous positions deriving from the border (e.g. customs economy) - Infrastructural endowment - ...
Stakeholders	- Socio-cultural operators - Economic operators - Administrative operators - Institutional operators - Propensity to cooperate (of the above actors) - Stakeholders coordination - ...
Legal framework	- Degree of State centralisation - Local communities and authorities competencies / powers - Bi- / multi- lateral undertakings entered by States - Membership of EU - Relationships between neighbouring States - ...

CBC arrangements are strongly determined by the provisions of the available legal framework. The scope, substance and structuring of CBC arrangements are determined by the rules governing the international activities of local communities and authorities, their powers and prerogatives (i.e. under domestic law) on the one hand, and the provisions set out in the international agreements concluded by the States to which they belong, on the other.

1.4 Reasons for creating CBC

Local communities and authorities are elected to run public affairs within the boundaries of their jurisdiction. Their legal position prevents them from taking responsibility for matters outside it. Cooperation with bordering counterparts is not an explicit part of the function.

Successful CBC is based on concrete issues and has concrete goals. In such a perspective, CBC is not a spontaneous behaviour of the leaders of local communities and authorities but a cooperative process recognised as indispensable to reach given objectives more effectively.

Domestic laws regulating the CBC activity of local communities and authorities vary greatly from one country to another. However, CBC is consistently (i.e. often independently of geo-political differences) a tool for local communities and authorities to exercise the powers they already enjoy in a cross-border perspective. Such a perspective is assured by the cooperation of border counterparts. Local communities and authorities agree to coordinate their policies and implementation strategies in areas of their competences but with a cross-border magnitude (n.b. law enforcement and direct regulatory powers are often excluded from the scope of CBC).

Local communities and authorities face problems and issues directly related to the presence of a border; often, these problems are amplified by the border. Dealing with such border problems requires developing joint cross-border strategies. However, cooperation is often hindered by a lack of reciprocal confidence and ideological competition, but cross-border partnerships can lead to the real improvement of living conditions across the border area as a whole. This is what CBC does. Its success must be built on clear concrete objectives and the willingness to cooperate.

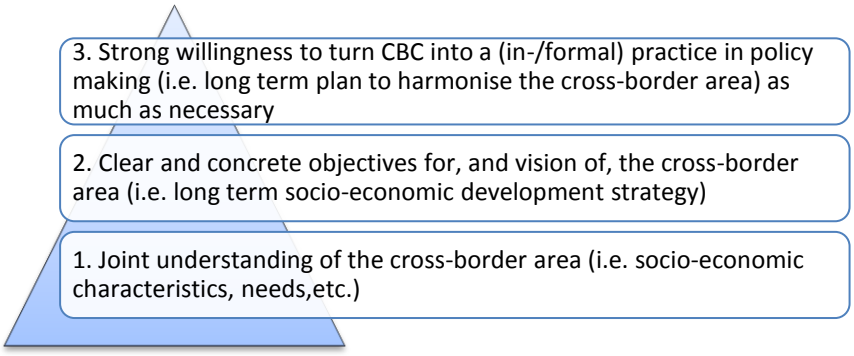


Figure 5 – Critical success factors for CBC

1.4.1 Mutual knowledge and trust

Enhancing mutual knowledge and trust among cross-border counterparts is an essential requirement for effective CBC. The 'peaceful co-existence' of populations in a border area is not only a necessary condition upon which CBC may flourish but also a key component for the sustainability of any CBC relationship. Border areas often suffer from a recent history characterised by tragic events such as the establishment or "protection" of a border line: neglecting minority groups' rights, forcing migration and imposing violent policies of cultural homogenisation with respective national centres.

CBC means overcoming a conflict-ridden (recent) past. This entails the promotion of CBC activities in the cultural field as well as in the institutional, service and administrative domains. Such activities have a strong symbolic value with significant spill-over effects on other macro-areas of cooperation.

Example 2 - Rural culture and social interaction (MOT, 2011).

Implementing a Franco-English network of cultural broadcasts, offering audio-visual programmes based on personal accounts and documentaries on local life and the expression of rural identity. It brings together around ten rural villages in East Sussex and Seine-Maritime. Behind its prime objectives, the project maintains that cultural action and local identity are necessary for supporting local development; it demonstrates the importance of festive gatherings and public places for strengthening social links; it proves that a natural culture (heritage, imagination, know-how, etc.) occurs between English and French rural populations.

1.4.2 Economies of scale

Achieving better economies of scale is possible in many local services. The cost of service delivery is lower if more people benefit from the service or if the size of the service is greater. When a service is provided for more than one local community, the number of service users increases; this allows a reduction in unit costs.

Most European border communities have a relatively small population. A research on twin cities in Europe, carried out in 2009, showed that, out of 60 such cities, only 3 have more than 100,000

inhabitants and 27 have less than 20,000. It concluded that "twin cities on the [European] borders are mostly small or just middle-size" (Schultz, 2009, p. 161).

Developing joint services and re-distributing costs represent a concrete reason to set up CBC arrangements. However, the opportunity to provide public services jointly, in a cross-border fashion, must be weighed against the legal framework within which such arrangements are structured.

Example 3 - Comines-Pureté waste water treatment plant (MOT, 2011).

Built by the Belgians in June 2000, this waste water treatment plant is situated within French territory, close to Comines on the edge of the Lys area. The French were the first to link up to the plant, although its operation is managed by an intercommunal syndicate (IPALLE), which specialises in collecting and treating waste and is based in the western part of the Belgian region of Hainault. Since Autumn 2002, the plant has been treating waste water from the French sectors of Comines France and Wervicq and the Belgian sectors of Comines Belgique and Warneton. It can service an equivalent population of 40 000, spread in equal measure across both countries.

1.4.3 Better services

CBC is a tool enabling local communities and authorities to design and implement innovative and effective policies aiming to improving the quality of life of their populations through cooperation with border counterparts. **CBC might allow them, for example, to:**

- ✓ **Plan bus routes connecting the whole area irrespectively of administrative borders;**
- ✓ **Promote continuous learning by fostering exchanges of civil servants;**
- ✓ **Stimulate business with joint marketing;**
- ✓ **Improve services for sport and leisure by building new infrastructure.**

Example 4 - Footbridge between Weil am Rhein and Huningue (MOT, 2011).

The towns of Weil am Rhein (Germany) and Huningue (France) have decided to build a footbridge over the Rhine for bicycle and pedestrian use, linking the two towns together. The project assumes great symbolic value for the two neighbouring towns since the bridge not only enables cultural, economic and leisure links to be strengthened between the inhabitants of the two towns, but also allows a real junction of bicycle routes to be created on both sides of the Rhine.

Although setting up joint facilities or joint agencies for their management may be difficult where there is a lack of an appropriate legal basis allowing local communities and authorities to act across borders, CBC allows border counterparts to identify resources available and develop the best strategies to exploit them in a cross-border fashion. This, in turn, allows for:

1. Improving the access to services which may otherwise be limited to the citizens residing on just one side of the border.

2. Formalising the use of services by citizens who anyhow would use them, thus sharing (i.e. internalising) costs between all parties concerned.

Example 5 - Cross-border Health Community of Menton-Ventimiglia (MOT, 2011).

In February 2002, the Menton hospital complex and the Local Health Authority of Imperia signed a cross-border cooperation agreement establishing a "communauté de santé transfrontalière" (cross-border health community). This "community" has a large number of objectives and policy areas. One of the first significant projects to have come to fruition was the setting up of a cross-border perinatal centre in Menton, in September 2003.

1.4.4 Catchment area

Local authorities on either side of a border may be responsible for services which are indiscriminately used by people from both areas. Unless the full cost of such services is recovered, the local authority providing the service ends up subsidising it through higher local taxes.

This happens where the natural "catchment area" is wider than the administrative boundaries of the jurisdiction of a single border local authority. Public transport, cultural and recreational facilities (theatres, orchestras, museums, libraries, stadiums) are examples of such situation.

Beside this kind of *'free-riding', t*here is also a problem of accountability. Bordering local authorities and communities cannot influence such services even though their citizens use them. This often leads to poor services, weak service integration and conflicts over finance. A CBC approach to such services might overcome these problems.

1.4.5 Management of infrastructure

Many infrastructure networks, such as river banks, dikes and energy plants develop across borders in the territories of bordering local communities and authorities. This may be because of the physical environment (e.g. river head in one state and its mouth in another) or it may be a shared heritage of a former administrative system (e.g. two countries separated only recently). Their joint management may not just be advisable but simply indispensable.

Even at times when national borders remained closed and formal CBC activities almost inexistent, national authorities signed agreements and established cooperation strategies and/or agencies to manage such resources. For instance, the usage of the Isonzo River waters (i.e. a river running between Yugoslavia and Italy before 25/6/1991 and Slovenia and Italy thereafter) and its management was one of the most recurrent topics in the diplomatic exchanges and undertakings of the 'two' States.

Example 6 - Transboundary River Basin Management of the Körös/Crisuri River, a Tisza/Tisa sub-basin (MOT, 2011).

The project was initiated by the Ministry of Environment and Sustainable Development of Romania, the Ministry of Environment and Waters of Hungary and the International Office for Water of

France, in order to set up mechanisms for the control and management of the transboundary Körös / Crisuri Basin, thus enabling Romanian and Hungarian authorities to implement a sustainable development policy in this transboundary river basin. The focus is on using a balanced management of water resources, meeting the users' needs and preserving ecosystems and aquatic environments.

Example 7 - Regio-S-Bahn (MOT, 2011).

The project aimed to develop the range of cross-border rail transport services in the area termed the "Regio Tri Rhena", around the border between France, Germany and Switzerland. Motivated by the fact that the cross-border region is densely populated and is subject to a high degree of labour mobility, particularly among professional workers, the authorities involved - the Alsace region, the Swiss cantons and the German local authorities of the South Baden area - have joined together to initiate a cross-border policy with the aim of promoting the use of cross-border public transport. This is because they have perceived the need to reinforce the initiatives already adopted to coordinate networks and services by means of developing existing infrastructure. Thanks to the strong commitment made by elected officials and the bringing on board of transport operators, the project´s objectives have been achieved: a regular service, the creation of a cross-region line, modern trains, the development of attractive stations, additional stops, easy border crossings and finally a simplification of the fare structure for cross-border traffic.

1.4.6 Better visibility and marketing

Promoting a border area by CBC actions not only **ensures greater visibility** but is an added value for territories which would otherwise suffer disproportionately from the peripheral positioning implied by the presence of a border. Joint promotion also implies creating economies of scale in the cultural and territorial marketing sectors. Moreover, it fosters a sense of **common belonging** among citizens.

There are many examples of such CBC activities throughout Europe.

Example 8 - Pamina Zone Developers' Club (MOT, 2011).

The "Club des Développeurs de l´espace Pamina" was set up by 50 development agencies, local authorities and consular offices in May 1998 on the border between Germany and France. It works to serve the needs of local businesses to aid the development of a dynamic and robust local economy. It promoted the exchange of information on the development structures serving the area and facilitated joint communication on the benefits of the region.

Example 9 - Le Ticket : a cultural passport for the Saarland-Lorraine-Luxembourg region' (MOT, 2011).

Set up by the "Zukunft SaarMoselle Avenir" (SaarMoselle Future) association, the "Ticket" is a "cultural passport" that has been issued since the year 2000 and that allows the person holding it to visit a large number of museums and exhibitions in a zone including the German state of Saarland and the French Department of the Moselle.

1.4.7 Access to external funds

Most examples given above are projects for which local communities, authorities and relevant stakeholders have gained access to EU funds.

It should be noted, however, that whilst CBC may be a necessary condition for eligibility to such funds, **access to funding must not be the sole or primary reason for initiating CBC**, especially when complex CBC structures are to be set-up.

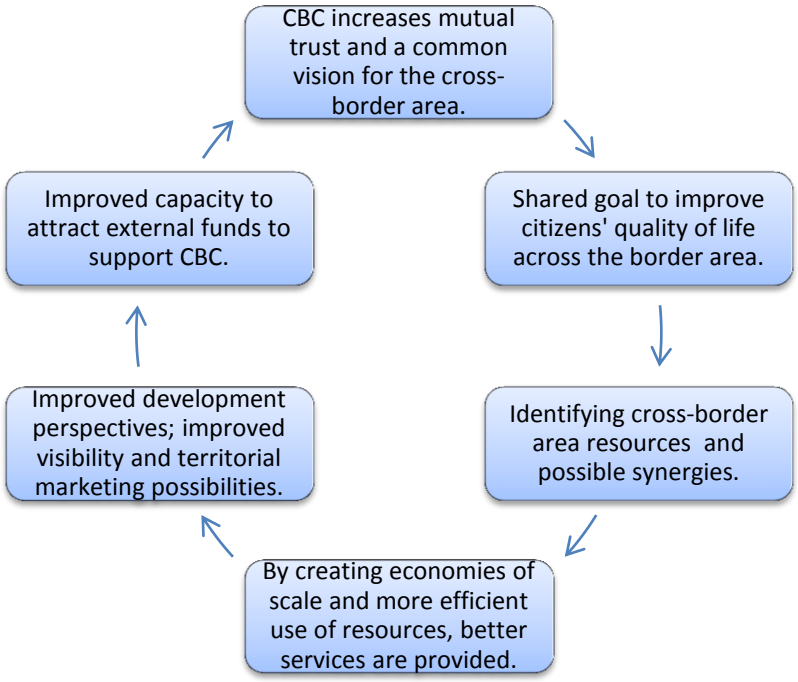


Figure 6 - Reasons for CBC the virtuous circle

1.5 Factors influencing CBC

In a study conducted by ISIG (Institute of International Sociology of Gorizia, Italy) at the request of the Council of Europe in 2005, the state of CBC in the Balkan-Danube area was documented and evaluated. Since then, the "Analysis of Strengths, Weaknesses, Opportunities and Threats" was conducted by ISIG in 55 border areas in Northern, Central and South Eastern Europe (COE, 2011) (Gasparini, 2003; 2010a; 2010b). This study develops a thorough framework for identifying the factors influencing CBC positively or negatively. Moreover, it distinguishes between factors which are internal to a given border area and others which belong to the external context (i.e. national, international, etc) but impact directly on the border area's CBC potential.

Table 5 - Internal factors influencing CBC

INTERNAL FACTORS	
MACRO-AREAS	*SPECIFIC FACTORS*
LOCAL STAKEHOLDERS ✓ Institutional actors. ✓ Socio-cultural actors. ✓ Economic actors.	CAPACITY (-building) – The level of training of local stakeholders in CBC matters is not only essential to establish and maintain sustainable CBC but is indispensable to the understanding of CBC potentialities. The capacity of local institutional actors is foremost as they often develop the CBC framework to stimulate the participation of socio-cultural and

	economic stakeholders.
	PARTICIPATION – The degree of participation in CBC and the propensity to cooperate of local stakeholders is a key factor prompting or hindering CBC. It is based on their adhesion to a vision of the border area as a joint cooperative space where resources can be shared and effective synergies developed.
	COORDINATION – CBC is a process that, starting from specific actions, has *spill-overs* on a variety of sectors that have an impact the daily life of citizens. Although it may be initiated by a limited number of stakeholders, it needs to become coordinated if it is to develop... 1. At the local level among different types of stakeholders; 2. At the cross-border level among counterparts; 3. At the (respective) national levels (i.e. coordination and horizontal information between local institutional bodies and relevant national bodies). As CBC grows more ambitious, it often seeks greater institutionalisation. This, in turn, requires an appropriate legal framework. Coordination between the local stakeholders and their respective national bodies facilitates this.
AREAS of COOPERATION ✓ Environment, agriculture and spatial planning. ✓ Transport and communications. ✓ Economy and employment. ✓ Health and welfare services. ✓ Education and culture. ✓ Institutional relations: cross-border structural and administrative arrangements.	CBC ACTIVITY – The intensity of CBC activities (and its scope) in each cooperation area is a litmus test for the potential development of CBC. It is necessary to know which actors are more actively involved, which are the areas of cooperation where most CBC activities take place, what are the main goals of such activities. This in turns allows for the design of strategies aiming at capitalising on achieved results and induces *spill-overs* on further sectors. See Table 2 - CBC possible objectives per domain (p.16)
SOCIO-CULTURAL CONTEXT	The socio-cultural context within which CBC is developed plays a key role (see 1.4.1 Mutual knowledge and trust – p.21). Crucial factors are: ✓ Representation on recent historical events. ✓ Stereotypes. ✓ Level of mutual trust. ✓ Language. ✓ Role of minorities.
SOCIO-ECONOMIC CONTEXT	The socio-economic context determines – at least in the initial phases of CBC – the scope and magnitude of CBC actions. Crucial factors are: ✓ Custom regulations on movement of people, goods and services. ✓ Infrastructure (transport and border crossing). ✓ Level of integration (present or potential) of bordering economies. ✓ Level of (central) state subsidies to (local) bordering economies. ✓ Capacity to attract/access external funding.

Table 6 – External factors influencing CBC

EXTERNAL FACTORS	
MACRO-AREAS	*SPECIFIC FACTORS*
NATIONAL INSTITUTIONAL CONTEXT	CBC is a process of interest to local communities and authorities and its effects are mostly felt at the local border area level. However, the national institutional context is crucial insofar as it determines the room for manoeuvre of local stakeholders and provides the reference

	framework within which they can act with respect to their prerogatives and powers. Crucial factors are: ✓ Administrative nature of the State (centralised, federal, etc). ✓ Competences of local communities and authorities under domestic law. ✓ Tax regimes. ✓ Import/export policies. ✓ Political agenda. ✓ State ideology. ✓ ....
INTERNATIONAL INSTITUTIONAL CONTEXT	Both the local and national institutional contexts with respect to CBC are determined by the international institutional context within which they operate. The scope of CBC activities depends on the international undertakings which the States have entered into. Crucial factors are: ✓ Signature of bi-lateral agreements on CBC with bordering states. ✓ Membership to European Union. ✓ Membership to Council of Europe. ✓ Signature/Ratification/Entry into force of key treaties: - European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities and its protocols - Framework Convention for the Protection of National Minorities - Implementation of Regulation (EC) No 1082/2006 (EGTC)

1.6 Side effects of CBC

There are potentially both positive and negative side effects to any CBC project. Some of these will be unexpected. But as far as possible they should be anticipated and managed.

1.6.1 Positive side effects

☑ CBC may positively influence management practices in partners' institutions as each partner seeks to emulate the best practice of others or of the CBC body itself (e.g. peer-to-peer and on-the-job learning).

☑ CBC may encourage a more co-operative culture both among different partners and within the same type of partner. Competitive behaviour is turned into cooperation for the common interest.

☑ The process of jointly applying for external funding may help to develop the will and capacity of each partner for partnership-working with other public, private and voluntary organisations both within and beyond the CBC arrangements.

☑ If a CBC body is established and is responsible for a number of issues which would have been otherwise under the direct management of LAs, elected representatives can focus more on their strategic responsibilities, using CBC as an effective tool to achieve them.

☑ Since CBC is not a statutory obligation on local authorities, it is implemented only when its benefits can be felt. This increases accountability and transparency since promoters will act to take credit for it.

☑ Partners may develop a greater sense of solidarity; this contributes to the amelioration of the social environment.

☑ CBC is an integration practice in line with the priorities and values of the European Union. It fosters the sense of belonging to a common Europe.

☑ CBC may create more opportunities for engaging local organisations and citizens in local self government, fostering citizens' sense of ownership of local and European democratic institutions.

☑ CBC may bring opportunities to participate in Inter-Municipal Cooperation (IMC) activities and to develop them at a cross-border level (e.g. Euro-Districts, Euroregions).

☑ CBC encourages public-private partnerships (PPPs).

☑ CBC encourages the harmonious cultural growth of border areas, builds up social capital and promotes the peaceful co-existence of people.

Example 10 - CENTROPE (MOT, 2011).

CENTROPE - the Central European Region, was born in September 2003, when the governors, county presidents and mayors of the border quadrangle agreed upon its joint establishment and support within the framework of an Interreg IIIA project. CENTROPE is the lead project which develops a multilateral, binding and lasting cooperation framework for the collaboration of regions and municipalities, business enterprises and societal institutions in the Central European Region. CENTROPE is concerned with research and training as well as with the economy and the labour market, with regional development, infrastructures, culture, locality marketing and public relations work. It aims to:

1. Assist in coordinating existing cross-border activities and future efforts for multilateral collaboration, and to stimulate new endeavours.
2. Provide for the professional management of interfaces and development processes across borders, in order to generate synergies between as many areas as possible for the benefit of all involved.
3. Mobilise and engage public, commercial and social bodies that wish to contribute to the strengthening of the region as a whole.
4. Partner Regions: Bratislava, Burgenland, Gyõr-Moson-Sopron, Lower Austria, South Moravia, Trnava, Vas, Vienna.

Partner Cities: Bratislava, Brno, Eisenstadt, Gyõr, Sopron, St.Pölten, Szombathely, Trnava, Vienna.

1.6.2 Negative side effects

CBC carries risk. These risks may not necessarily become obstacles if they are avoided or properly managed.

☒ Formal CBC arrangements may prove to be less dynamic than the activities they should be coordinating, promoting or supporting. Both informal CBC arrangements (eg cooperation agreements) and more formalised bodies with legal personality may entail slow decision-making. Negotiations are necessary when decisions are then to be implemented by autonomous partner institutions; CBC agreements may need to be revised and upgraded; CBC bodies with legal personality under private law may not have sufficient powers to make the necessary decisions, etc.

All these factors may create frustration and disillusionment with respect to CBC potentialities. Although a lot depends on the legal framework available, **political will** is the key factor in ensuring a swift and creative approach to the problems which will unavoidably arise as CBC develops.

☒ CBC bodies (independent of the legal basis on which they are established) may prove to be over-elaborated and unnecessary with respect to the CBC processes they were set up to coordinate, promote or support. They may be the result of over-ambitious initiatives of partners who, after the initial enthusiasm, lose their interest or focus on CBC itself. This may lead to increased costs of managing such arrangements.

The analysis of (a) the cross-border context, (b) the state-of-the-art of CBC and (c) the goals that CBC should achieve is an indispensable first step to building sound and concrete CBC prospects.

☒ CBC could suffer from a democratic deficit. Whilst local communities and authorities all have well-known democratic control mechanisms, CBC bodies may be less transparent. Representatives may not be held properly accountable for the decisions taken. CBC bodies acting as project manager to two or more border LAs may not have clear internal control systems.

The legal and statutory setting of such bodies should take these factors into consideration, elaborating clear-cut internal control systems and adopting clear policies on accountability and transparency. This, in turn, will foster the sense of ownership among citizens.

☒ Whilst the hampering negative effects of national borders may strengthen the determination to overcome the consequent divisions at the local level, CBC could exasperate the cooperation between local communities / authorities and their national counterparts. The prestige deriving from engaging in international relations and in acquiring external funds (or the mere possibility of it) may turn previous cooperative relations with national partners into envy. This might lead to a deterioration in intra-state relations. CBC could paradoxically harden internal administrative borders.

☒ The CBC activity of local communities and authorities could raise fears within national institutions of losing sovereignty over the national territory. This may be exacerbated in centralised national administrations and where the history of cooperation between bordering states has been problematic. The coordination between LAs and national institutions is fundamental. Local partners should always ensure information-sharing within their relevant national networks.

☒ CBC may entail political costs directly linked to cooperation. CBC requires political leadership to share power and prestige. Sometimes they are reluctant to join a CBC arrangement because they are not ready to do that, or because of distorted power-relations between neighbouring States in the past. But even after they join, the issues still remain (also because part of their electorate may not enjoy a conflict-free relationship with the bordering

community). The ambitions of local leadership – their pride and their limited ability to compromise – may lead to conflict and hamper cooperation.

Further, CBC arrangements may be subject to a change-of-guard at the local authority level. Even when a new elected governing party share the same political colour as their predecessors, they may not sustain CBC as they regard it as a specific trait of the previous administration.

1.7 Summary

- ✓ CBC is foremost a tool to overcome the problems which a border imposes on the populations inhabiting border areas. Such problems are mainly due to the peripheral positioning of a border area in geographical, social, economic, institutional and infrastructural terms. They can be manifested in different forms and may impact different populations differently, but their effective solution entails enacting cooperative processes which go beyond borders.
- ✓ Successful CBC has concrete objectives. It requires political willingness and commitment to cooperate. It starts from a sound analysis of the cross-border context with respect to its socio-economic structure and a shared vision for its development.
- ✓ CBC does not provide local communities and authorities with new competencies or powers but with tools to exercise their existing ones more effectively and to impact the whole cross-border area.
- ✓ CBC does not weaken national sovereignty; neither does it question the integrity of Nation States. It is a tool to enhance the harmonious development of their border areas within a common European framework based on shared values; it promotes the active participation of citizens in the democratic life of their countries.
- ✓ Besides its initial momentum – whether stimulated by civil society and by a more project-oriented or structured agreement between local authorities – CBC needs to be fostered and strengthened within its various contexts through an appropriate legal (national and international) framework.
- ✓ There are risks and shortcomings associated with CBC, especially when it is regarded as a short-term solution to long-established problems. It is a tool to design procedures that enact virtuous processes in order to achieve long-term objectives.
- ✓ From this perspective, risks can be actively managed and benefits gained. Promoting mutual knowledge and trust of border populations; providing them with better services due to the more efficient use of resources enabled by economies of scale at management and operational levels; enhancing the visibility of border areas and its attractiveness with respect to external investments and funds from international donors - these are but a few examples of what can be achieved through CBC.

CHAPTER 2 – THE INTERNATIONAL ENVIRONMENT

2.1 Institutional obstacles to CBC and measures reducing them

COUNCIL OF EUROPE COMMITTEE OF MINISTERS - ***Recommendation Rec(2005)2 of the Committee of Ministers to member states on good practices in and reducing obstacles to transfrontier and interterritorial cooperation between territorial communities or authorities (Adopted by the Committee of Ministers on 19 January 2005 at the 912th meeting of the Ministers' Deputies)***

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Having regard to the European Framework Convention on Transfrontier Cooperation between Territorial Communities or Authorities, signed in Madrid on 21 May 1980 ("the Madrid Convention"), its Additional Protocol of 9 November 1995 and its Protocol No. 2 of 5 May 1998 concerning interterritorial cooperation;

Bearing in mind the Declaration of the Committee of Ministers on Transfrontier Cooperation in Europe, adopted on 6 October 1989 on the occasion of the 40th anniversary of the Council of Europe, which encouraged gradual action to remove administrative, legal, political and psychological barriers that might curb the development of transfrontier projects;

Bearing in mind the Vilnius Declaration on regional cooperation and the consolidation of democratic stability in Greater Europe, adopted by the Committee of Ministers on 3 May 2002;

Bearing in mind the Chişinău Political Declaration on transfrontier and interterritorial cooperation between states in South-Eastern Europe, adopted by the Committee of Ministers on 6 November 2003;

Recalling that cooperation between the local and regional authorities of Europe, particularly as developed under the Madrid Convention, is an essential component of good neighbourliness between member states and can help to strengthen democracy and democratic stability in Europe;

Having learnt, particularly from the annual reports of the Committee of Advisers for the Development of Transfrontier Cooperation in Central and Eastern Europe, of numerous examples of good practices in transfrontier cooperation between member states and their territorial communities or authorities;

In the light of the efforts of the Committee of Experts on Transfrontier Cooperation to identify a number of obstacles of a legal, administrative, economic or practical nature affecting transfrontier cooperation between territorial communities or authorities;

Convinced that the generalisation of good practices and the removal of obstacles could facilitate ratification of the Madrid Convention and its protocols by states that have not yet done so and enable existing parties to give full effect to their provisions;

Believing that the removal of obstacles to transfrontier and interterritorial cooperation could also eventually facilitate the preparation of new legal instruments or inter-state agreements to take account of developments in such cooperation,

Recommends that the governments of member states:

1. establish an appropriate legal framework for transfrontier and/or interterritorial cooperation activities of territorial communities or authorities, complying with the principles of the Madrid Convention and its Protocols;
2. consider the possibility of becoming party to the Convention and its Protocols;
3. take the measures proposed in the appendix to this recommendation, adapting them where necessary to particular situations, in order to improve transfrontier and interterritorial cooperation and reduce the obstacles encountered by their territorial communities or authorities in their transfrontier and/or interterritorial cooperation activities;
4. involve territorial communities or authorities with the relevant powers under domestic law in preparing and implementing the measures proposed in the Appendix to this Recommendation;
5. continue the process of dialogue and cooperation within the Steering Committee on Local and Regional Democracy (CDLR) and the Committee of Experts on Transfrontier Cooperation (LR-CT) aimed at strengthening the legal framework and practical arrangements for transfrontier and/or interterritorial cooperation.

Appendix to Recommendation Rec(2005)2

These measures or "good practices" are addressed to central authorities, where the latter are responsible for defining the legal framework for and supervising the activities of territorial communities or authorities. In some federal states these prerogatives lie with the federated entities, in which case the measures are addressed to them. The central authorities are invited to bring the measures to their attention.

A. Measures concerning the legal framework for transfrontier and interterritorial co-operation

Establish an appropriate legal framework for transfrontier and interterritorial cooperation activities of territorial communities or authorities, through:

- legislation compatible with the Madrid Convention granting territorial communities or authorities the necessary powers, inter alia to enter into transfrontier cooperation arrangements within limits clearly defined by law, as well as adequate resources, particularly financial, to engage in transfrontier cooperation activities;
- bilateral and/or multilateral inter-state agreements establishing general powers to engage in transfrontier and interterritorial activities or sectoral powers, for example with regard to health or civil protection.

Establish the necessary legal foundation for ratification and full implementation of the Madrid Convention and its Protocols.

Consult territorial communities or authorities and inform them of progress towards ratification of the Madrid Convention and its Protocols.

Publish, preferably with the ratification law or decree, the full text of the Madrid Convention, including its appendices.

Negotiate and conclude without delay bilateral and/or multilateral agreements if the Madrid Convention's implementation is subject to such agreements.

Periodically review the reservations and declarations made when ratifying the Madrid Convention to determine whether the underlying grounds still apply, inter alia through regular exchanges of views within the Council of Europe, and then adopt legislative and other measures so that the reservations and declarations may be withdrawn.

Provide for legal scrutiny, preferably retrospectively, of transfrontier cooperation arrangements entered into by territorial communities or authorities.

In so far as it is permitted by the national constitution, recognise decisions taken under a transfrontier cooperation arrangement as having the same legal value and the same effects as the acts of territorial communities or authorities under domestic legislation.
Make it possible or, where applicable, easier for institutionalised forms of transfrontier and interterritorial cooperation to acquire legal personality so that they may take binding decisions and receive and manage financing.
Examine whether the legislation has an impact on frontier regions and initiate, where necessary, the appropriate consultations.

B. Measures concerning information, training and institutional dialogue

1. Organise regular and/or institutionalised consultations with the competent authorities of neighbouring states on matters of common interest, to jointly determine solutions, identify legal and practical obstacles to transfrontier and interterritorial cooperation and take appropriate remedial action.
2. Ensure or improve, as appropriate, the supply of information for territorial communities or authorities on the state's actions and policies of interest to them, and on opportunities that may arise for them.
3. Without prejudice to existing procedures and fora for institutionalised dialogue and consultation with frontier territorial communities or authorities, establish or maintain regular consultation between the different levels of administration, in order to identify matters of common interest and their respective responsibilities for and means of dealing with them, in the interests of the local community.
4. Create a structure for coordination between the central authorities and those involved locally in transfrontier cooperation, in order to determine their needs and inform them of new developments at national and European or international level, in the sphere of transfrontier cooperation.
5. Encourage, and if necessary, offer support for, the establishment of transfrontier and interterritorial cooperation structures at the level of territorial communities or authorities for exchanging information, planning and implementing joint measures and ensuring that issues raised by one side are not left unanswered by the other.
6. Develop all kinds of training, including language training, for those involved locally in transfrontier and interterritorial cooperation, particularly the staff of territorial communities or authorities, in cooperation, where appropriate, with territorial authorities' associations.

C. Measures concerning transfrontier development

1. Establish procedures and bodies for assisting territorial communities or authorities to plan, draw up and implement projects, and also to submit them to relevant national and international sources of finance.
2. Within their budgetary policies and in the light of the relevant provisions of the European Charter of Local Self-government, adapt the financial capacity of territorial communities or authorities to their needs in order to optimise their transfrontier activities.
3. Provide central financial support to transfrontier and interterritorial cooperation programmes and projects.
4. Establish and adopt a frontier crossing policy that does not hinder transfrontier and interterritorial cooperation, for example by setting up special border posts for frontier workers or supplying them with free or very low-cost multiple-entry visas, in accordance with relevant national and international provisions.

Recommendation Rec(2005)2 on good practices in and reducing obstacles to transfrontier and interterritorial cooperation between territorial communities or authorities. - https://wcd.coe.int/ViewDoc.jsp?id=812155&Site=COE

Council of Europe Conference of Ministers responsible for Local and Regional Government "Good local and regional governance in turbulent times: the challenge of change" 16th Session, Utrecht, 16 - 17 November 2009 Utrecht Declaration - I. (B) Declaration on government action to overcome obstacles to transfrontier co-operation, including the protocol no 3 to the Madrid outline convention. - https://wcd.coe.int/ViewDoc.jsp?Ref=MCL(2009)12&Language=lanEnglish&Ver=original&Site=DG1-CDLR&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679

2.2 International Environment

2.2.1 International legal framework

Local communities and authorities engage in CBC activities within the powers available to them internally and within the limitations that this poses to their action. These principles are incorporated both in the domestic law (constitutional and secondary) and in the international law currently in force.

Although CBC effectiveness is not a direct function of the opportunities set into play by a (domestic or international) legal provision, its development cannot ignore the legal framework

within which local communities and authorities act internationally. International law, moreover, provides key outlines for domestic legal systems.

The main institutional actors contributing to the definition of the international legal framework for CBC are the Council of Europe and the European Union.

Before listing the main landmarks of the international legal framework, it is useful to recall the different definitions and categories developed by the two European institutions to define and operationalise cooperative activities which develop across borders.

Table 7 - Terminology for CBC (CoE and EU)

TERMINOLOGY		CONCEPT
CoE Terminology	**EU Terminology**	
Transfrontier	Cross-border	Cooperation between neighboring regions along a border (bi-lateral or trilateral only).
Trans-European	Transnational	Cooperation in broader and coherent areas between several states (eg Baltic States, Mediterranean).
International	Interregional	Exchanging of experiences and best practice (bilateral cooperation between regions over longer distances or networking between several regions).

The main landmarks of the available international legal framework (Zardi, 2010) are provided by:

A. The Council of Europe:

1. European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (1980).
2. Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (1995).
3. Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation (1998).
4. Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) (2009).

B. The European Union:

5. Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) (2006).

2.2.1.1 European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities

Table 8 – European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities – Summary table

	European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities **CETS No.: 106** ***Treaty open for signature by the member States and for accession by European States which are not member States***
Opening for signature:	Place: Madrid Date : 21/5/1980
Entry into force:	Conditions: 4 Ratifications. Date : 22/12/1981
Full text:	http://conventions.coe.int/Treaty/en/Treaties/Word/106.doc
Status of signature, ratification, entry to force (and notes)	Updated database: http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=106&CM=7&DF=29/10/2011&CL=ENG
Total number of signatures not followed by ratifications:	3 (status at October 2011)
Total number of ratifications/accessions:	37 (status at October 2011)
Useful info:	http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=106&CM=7&DF=29/10/2011&CL=ENG

(Source: CoE Treaty Office on http://conventions.coe.int)

The European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities introduces, for the first time at international level, the possibility for geographically contiguous local authorities from different countries to cooperate with each other and to accomplish agreements.

The Convention does not establish a "right" of local authorities in such cooperation, but rather an obligation for the states (as contractors) to "facilitate and promote" cross-border cooperation of local authorities.

CBC (i.e. transfrontier cooperation) is defined as any concerted action designed to strengthen and promote neighbourly relations between local communities and authorities belonging to two contracting states.

CBC may take place within the jurisdiction (i.e. competences and powers) which local authorities have under applicable domestic law (Art. 2, § 1). The Contracting States may (Art. 2, § 2) indicate to which local authorities the Convention is (or is not) applicable and in which fields local authorities can engage in CBC. Thus, the scope of CBC may be limited when compared to the competences and powers that local authorities have under constitutional or national law.

States are able to list those local authorities to which the Convention applies or does not apply. States may subordinate local communities and authorities' right to cooperate across borders to the signature of bilateral agreements (treaties) between States (Art. 3, § 2), identifying the entities concerned as well as the subjects and the modalities of such cooperation.

Even in the vacuum of such agreements, local authorities must, in the implementation of cross-border cooperation, respect the domestic provisions relating to international relations and the State's political orientation. In any case, they remain subject to the provisions of law relating to administrative controls on their actions (Art. 3, § 4).

The so-called Madrid Outline Convention focuses more on the obligations on contracting States rather than on the power it gives to local authorities. In fact, States are required to "promote and facilitate" CBC by local authorities (Art. 1), consider the possibility of concluding agreements for this purpose (Art. 1) and endeavour to resolve any difficulties of a legal, administrative or technical nature which might hinder the smooth development and implementation of cross-border cooperation.

On January 29, 2005, the Committee of Ministers of The Council of Europe adopted the "Recommendation Rec(2005)2 on good practices in and reducing obstacles to transfrontier and interterritorial cooperation between territorial communities or authorities". This recommendation, which is open to all member States and not just those that have ratified the Convention of Madrid, lists a long series of legal, administrative and practical measures that can be devised to reduce many obstacles to cross-border cooperation.

In November 2009, on the occasion of their 16th session of the European Conference of Ministers responsible for Local and Regional Authorities of the Council of Europe, member States have committed themselves to removing the obstacles to cooperation across borders and to monitor the implementation of Recommendation Rec (2005)2 .

Recommendation Rec(2005)2 on good practices in and reducing obstacles to transfrontier and interterritorial cooperation between territorial communities or authorities. - https://wcd.coe.int/ViewDoc.jsp?id=812155&Site=COE

The Madrid Outline Convention has stimulated a number of member states to negotiate and sign international agreements in line with its provisions (Art. 3 § 2).

Example 11 - Karlsruhe Treaty (multilateral).

Signed by France, Germany, Luxembourg and Switzerland on January 23, 1996, in Karlsruhe, the Treaty entered into force September 1, 1997. The agreement allows local authorities to create groups of cross-border cooperation, with legal personality on public law, with the aim to implement activities and services within their mutual interest.

Example 12 - Anholt Treaty (bilateral)

Signed by the (then) Federal Republic of Germany and the Kingdom of the Netherlands on May 23, 1991, at Anholt, the agreement provides that regional and local authorities can undertake

cross-border cooperation on the basis of public law. The Treaty also allows the CBC (public) body to participate in private organisations. The Treaty does not allow for members to exercise sovereign rights; with respect to this, amendments are foreseen to ensure greater powers for the CBC body.

Example 13 - Brussels Treaty (bilateral)

Signed between France, Belgium, the French Community of Belgium, the Walloon Region, the Flemish community of Belgium and the Flemish Region on September 16, 2002, the Treaty provides for the establishment of a legal framework that recognises local authorities the possibility of concluding international agreements and provides for the establishment of CBC bodies.

Example 14 - Valencia Treaty (bilateral)

Signed between Spain and Portugal on October 3, 2002, in Valencia, the Treaty entered into force January 30, 2004, and focuses on cross-border cooperation between communities and local authorities in Spain and Portugal. The agreement provides for the possibility of establishing (a) CBC bodies based on public law and (b) CBC agencies that do not enjoy legal personality under the conditions that (i) their establishment is in full accordance with the provisions of the Treaty, and (ii) they sign a cross-border cooperation agreement to be approved by the central states.

Example 15 - Bayonne Treaty (bilateral)

Signed between Spain and France on March 10, 1995, in Bayonne and entered into force on February 24, 2007, the treaty allows local territorial authorities to conclude agreements on cross-border cooperation issues and jointly create and manage public services, and to carry out their functions in coordination. As in the case of the Treaty of Valencia, agreements between local authorities need prior authorisation by central governments.

For more examples of bi- and multi-lateral international Treaties and Agreement on CBC laid down in accordance to the provision of the Madrid Outline Convention, see (MOT / COE, 2006).

2.2.2.2 Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities

Table 9 – Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities – Summary table

	Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities **CETS No.: 159** ***Treaty open for signature by the States signatory to the Outline-Convention***
Opening for signature:	Place: Strasbourg

	Date : 9/11/1995
Entry into force:	Conditions: 4 Ratifications. Date : 1/12/1998
Full text:	http://conventions.coe.int/Treaty/en/Treaties/Word/159.doc
Status of signature, ratification, entry to force (and notes)	Updated database: http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=159&CM=7&DF=29/10/2011&CL=ENG
Total number of signatures not followed by ratifications:	6 (status at October 2011)
Total number of ratifications/accessions:	2 (status at October 2011)
Useful info:	http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=159&CM=7&DF=29/10/2011&CL=ENGCM=7&DF=29/10/2011&CL=ENG

(Source: CoE Treaty Office on http://conventions.coe.int)

The Additional Protocol aims to complete the Madrid Outline Convention with provisions on the possibility for local communities and authorities involved in CBC to sign agreements with their counterparts across borders (Art.s 1 and 2, § 3, § 1 of the Convention). Such agreements may include the purpose, content and arrangements of CBC, yet within the above-mentioned restrictions (i.e. compliance with domestic law).

These agreements, however, may also be designed to create structures, organisations, institutions in which the institutions concerned pursue and implement their cooperation. These structures can be more or less complex, temporary or permanent, or may not have an institutional, legal personality, etc.

The Additional Protocol to the Madrid Outline Convention responds to concrete CBC developments. Local communities and authorities engaging in CBC activities across borders tend to develop CBC arrangements to coordinate, promote and support CBC itself. Such structures serve as contact structures; they can promote ongoing dialogue between CBC partners, support information exchange, and establish common offices to carry out specific activities. Finally, such structures play a symbolic role strengthening the CBC framework and enhancing its visibility.

The Protocol, responding to the grass-roots developments of CBC, lays out the following principles:

1. Local authorities have the right (recognised for the first time) to conclude agreements operationalising their willingness to cooperate (Art. 1).
2. The decisions taken pursuant to such agreements must be implemented by each contracting party and will have the same validity of decisions made independently by virtue of national law (Art. 2).
3. An agreement of this kind can lead to the creation of a CBC body (i.e. “transfrontier co-operation body”)(Art. 3).
4. The agreement may indicate whether the body in question has a legal personality or not, and if so, whether the legal personality is under public law (agency) or private (association) (Art.s 4 and 5).
5. The legal personality will be governed by the law of the Contracting State in which the body has its registered office. The legal personality of such a body is recognised not only

by the State in which it has its registered office but in all the States to which members (i.e. local communities and authorities that are part of it) belong to (Art. 4, § 1).

The Additional Protocol seeks to make possible and legally recognise the existence of CBC bodies anchoring them in the legislation of a Contracting State. The protocol does not establish positively what are the competences or the purpose of such bodies but it excludes the possibility that they may take measures of general application (regulatory authority) or limit the rights and freedoms of individuals. It also excludes the possibility of levying taxes. This prevents the establishment of institutions endowed with the essential powers of local government (i.e. legislative or regulatory powers, fiscal autonomy, the ability to affect individual rights and freedoms). In this way, the Protocol prevents the establishment of "new" local authorities in addition to - or in excess of - those existing by virtue of the domestic law of each state.

2.2.2.3 Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation

Table 10 – Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation – Summary table

	Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation **CETS No.: 169** ***Treaty open for signature by the States signatory to the Outline-Convention***
Opening for signature:	Place: Strasbourg Date : 5/5/1998
Entry into force:	Conditions: 4 Ratifications. Date : 1/2/2001
Full text:	http://conventions.coe.int/Treaty/en/Treaties/Word/169.doc
Status of signature, ratification, entry to force (and notes)	Updated database: http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=169&CM=7&DF=29/10/2011&CL=ENG
Total number of signatures not followed by ratifications:	5 (status at October 2011)
Total number of ratifications/accessions:	22 (status at October 2011)
Useful info:	http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=169&CM=7&DF=29/10/2011&CL=ENG

(Source: CoE Treaty Office on http://conventions.coe.int)

Protocol No. 2 defines interterritorial cooperation as any concerted action designed to establish relations between territorial communities or authorities of two or more Contracting Parties, other than relations of transfrontier co-operation of neighbouring authorities, including the conclusion of co-operation agreements with territorial communities or authorities of other States.

The Madrid Outline Convention refers to transfrontier co-operation (i.e. CBC), that is, those forms of "concerted action" that can be put in place between neighbouring local authorities (i.e.

"neighbourly relations"). It does not explicitly state that cooperation must take place between local authorities separated by the same border, but this can be deduced from the text and is also explained by the explanatory report to the Convention itself.

Experience has shown, however, that CBC activities may develop even among non-contiguous local authorities. This raised the issue of applicability of the Madrid Outline Convention to local authorities geographically distant from the border and located far from each other. Protocol No. 2 responds to this issue.

Interterritorial co-operation is made equivalent to transfrontier cooperation (Art. 3). In addition, local authorities that could not previously engage in such activities under the Madrid Outline Convention see that their right to promote discussions and agreements (in matters of common competence) is now recognised (Art. 2). Contracting States shall, on their part, undertake to recognise and respect this right.

2.2.2.4 Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs)

Table 11 – Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) – Summary table

	Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) **CETS No.: 206** ***Treaty open for signature by the States signatory to Treaty ETS 106 and for accession by the States having acceded to Treaty ETS 106***
Opening for signature:	Place: Utrecht Date : 16/11/2009
Entry into force:	Conditions: 4 Ratifications. Date : //
Full text:	http://conventions.coe.int/Treaty/EN/Treaties/Word/206.doc
Status of signature, ratification, entry to force (and notes)	Updated database: http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=206&CM=7&DF=29/10/2011&CL=ENG
Total number of signatures not followed by ratifications:	9 (status at October 2011)
Total number of ratifications/accessions:	2 (status at October 2011)
Useful info:	http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=206&CM=7&DF=29/10/2011&CL=ENG

(Source: CoE Treaty Office on http://conventions.coe.int)

Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities provides the legal status and operational form of the constituent Euroregional Co-operation Groupings (ECGs). ECGs may be composed of local authorities and other public agencies of member countries with the aim of putting into practice cross-border and inter-territorial cooperation in the areas covered by their role and

responsibilities. States, from the moment of ratification of the Protocol, can indicate all those communities, local authorities, public law and private entities that they wish to exclude from the scope and applicability of the Protocol (Art. 16).

The Protocol stems from the fact that, although the Madrid Outline Convention and its previous protocols are operational tools for effective cooperation between territorial communities or local authorities through two or more borders, CBC in several country members of the Council of Europe is still limited by the lack of a legal instrument allowing for the establishment of CBC bodies.

Protocol No. 3 allows for the establishment of CBC bodies with or without legal personality (in this case the protocol connects the legal personality to the law applicable in the state where the ECG has its headquarters). In addition, the Protocol provides the basic rules for the establishment, membership conditions, tasks and responsibilities of the ECG.

Parallel to the Madrid Outline Convention, the Protocol provides for the formulation of legislative models that signatory countries can adopt or adapt in their national legislative tradition.

ECGs may be composed of territorial communities or authorities in Member States if one or more of their own communities or local authorities are already members. Other agencies with different legal personality may be part of the ECG provided that they do not have industrial or commercial purposes, and that their activity is financed mostly by the State, by a territorial community or authority or similar entity, or are subject to the direct management and/or control of these entities, or that half the members of their administrative, managerial or supervisory functions are appointed by the state or other local governments.

ECGs are also open to territorial community and authorities belonging to States that have not signed Protocol No. 3 provided that they belong to a State adjacent to the State where the ECG headquarters are established (i.e. adjacent to a State that has signed the protocol).

2.2.2.5 Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC).

Table 12 – Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) – Summary table

Title:	**Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC).**
Date of regulation establishment:	5 July 2006
Entry into force:	1 August 2006.
Full text:	http://portal.cor.europa.eu/egtc/en-US/QuickLinks/Documents/Regulation%20(EC)%20n%C2%B0%2010822006/EN.pdf
Useful info:	INTERACT WEBSITE http://www.interact-eu.net/egtc/egtc/30/16 EGTC PORTAL @ Committee of the Regions website

http://portal.cor.europa.eu/egtc/en-US/Pages/welcome.aspx

Regulation 1082/2006 lays down the conditions and modalities for the setting-up, at the EU level, of an EGTC instrument that has the objective to "facilitate and promote cross-border, transnational and / or interregional, hereinafter referred to as territorial cooperation between its members referred to in Article 3, §1, with the exclusive aim of strengthening economic and social cohesion".

The EGTC is a cooperation structure with legal personality defined by European Law. This is the first case in which an EU Regulation assigns specific and substantive rights to local public authorities, nations and regions to set up a joint structure to facilitate cooperation processes. It is governed by (Art. 2): (a) Regulation (EC) 1082/2006; (b) the provisions of the Convention and the Statutes adopted by the EGTC's members; (c) the Law of the Member State where the EGTC has its registered office.

An EGTC may be composed by (Art. 3) Member States of the EU, EU Regional or local authorities or any other body governed by public Law. An EGTC shall be made up of members located on the territory of at least two EU Member States.

The EGTC's members must conclude a convention unanimously and adopt statutes on the basis of this Convention. The Convention specifies: (a) the name of the EGTC and its registered office (located in a Member State); (b) the territory of the EGTC; (c) the objective and tasks of the EGTC.

The statutes contain:

a) The operating provision of the EGTC's organs and their competences.
b) The decision-making procedure of the EGTC.
c) The working language(s).
d) The arrangements for its functioning (personnel management, recruitment procedures, etc.).
e) The members' financial contributions.

An EGTC has at least (a) an assembly made up by representatives of the EGTC members, and (b) a director representing the EGTC and acting on its behalf. The EGTC members may decide through the statutes to set up any additional organs. One member may be empowered to execute the EGTC's tasks. The assembly establishes an annual budget.

An EGTC may carry out actions of territorial cooperation, with or without a financial contribution from the EU (Art. 7).

For a further analysis of other available legal instruments for CBC, see (INTERACT, 2008, pp. 112-117).

CHAPTER 3 CREATING A CBC-FRIENDLY ENVIRONMENT

Whereas at the civil society level CBC is more a natural process, CBC among local authorities rarely happens spontaneously, except perhaps where the leadership in nearby local authorities already have close relationships; in such cases, the outcome is usually informal. In practice, there are not many concrete CBC examples in Europe. There may be several reasons: a lack of a cooperation culture, no understanding of the legal mechanisms, fear of the political costs, no strong driver.

CBC will only flourish if the national and local environments are CBC-friendly.

There is, therefore, an important role for:

1. *The Government in establishing the right legal, financial and administrative frameworks.*

2. *The Local Government Association (LGA) in providing support through capacity-building, expertise, promotion, information and exchange of best practice.*

Consultation and cooperation between the Government and the LGA is critical. Support from international institutions can be valuable.

But local authorities also have a role in establishing a CBC-friendly environment at local level. The leadership has to be willing - and have the courage - to drive CBC because it sees its public benefit. Transparency and good communications in individual local authorities will support the foundation of the mutual trust that CBC requires. Citizens have to be persuaded of the value of CBC.

3.1 Obstacles to CBC

CBC is not an easy option. Numerous difficulties may stand in the way. The most significant ones tend to lie within local authorities themselves and result from ignorance and fear. The personal position of the leadership may be vulnerable; political parties may be hostile to the idea; financial constraints may prevent the search for alternative approaches.

Overcoming such difficulties will require information-sharing, research studies, seminars, promotion campaigns and confidence-building measures.

3.1.1 Local authorities

Where decentralisation is recent, local authorities want to be as autonomous as possible. The leadership, councillors and staff may not want to cooperate with others in a way that allows an external authority (ie the CBC body) – one outside their immediate control – to decide on matters that may be important for their own communities.

Political differences between local authorities may play a role. But where local authorities are governed by different political parties, multi-party CBC projects can operate quite well because it requires a search for consensus and an acceptance of compromise.

There may be no tradition of giving priority to the needs of the population; rather, local authority staff may have become used to waiting for government instructions rather than use their own initiative to find appropriate solutions. They may resist because they do not like change.

3.1.2 Citizens

Citizens are not familiar with CBC. Experience suggests that most citizens are initially not in favour of new local bodies. Their motivation may be varied: innate conservatism; a fear that taxes or fees will rise and that they will have less control over the CBC entity than over the local authority council; objections to seeing their local taxes spent in other local authorities.

Experience shows that, in the long run, citizens are quite happy with CBC activities.

Hence the importance of giving citizens full information on the real advantages a CBC initiative might bring them as soon as possible.

3.1.3 Central government and Parliament

Some Ministers, senior officials and Parliamentarians want to encourage CBC; others may not dare to create problems by going against Mayors who are not interested in CBC. Ministries responsible for local government would no doubt like to see local authorities getting involved in CBC.

3.1.4 Local Government Association

LGAs will have other priorities ahead of CBC. However, they are usually interested in international experience – hence the growth of twinning arrangements. They may therefore be ready to offer support for CBC. **They can inform local authorities about the benefits of CBC and perhaps provide technical assistance such as legal advice and project preparation.** But LGAs can only be as active in supporting CBC as the majority of Mayors will allow.

3.1.5 International organisations, NGOs and foreign donors

Some organisations will take a favourable view of CBC to the extent that it encourages international relationships and offers new opportunities for economic, cultural, environmental and social development.

But CBC projects will be competing with other local authority projects for their support. Donor organisations will want to be sure that there will be tangible benefits arising from any CBC initiative that they are asked to support.

The push for CBC must come from somewhere and from somebody. It can come from any of these stakeholders but it has to bring all partners along if a CBC-friendly environment is to be established.

3.2 Need for a national CBC policy

CBC may help to deliver local development in new ways. For this reason, Governments and Parliaments should care about co-operation.

Hence the importance of encouraging local authorities to initiate CBC. It is significant that, where CBC is working (eg Austria, Italy), there are clear national or regional policies to stimulate such arrangements. Local authorities enter co-operation voluntarily, but sensible national policies can provide them with strong incentives to do so, including a proper legal framework and financial support.

Table 13 - Initiating CBC

HOW TO OVERCOME NATIONAL INERTIA?
• *Gather and share information on the benefits of CBC.* • *Identify national politicians who understand the stakes in CBC and are ready to push the idea.* • *Encourage a series of meetings between the Government, the LGA and key Mayors to seek consensus and agree a way forward.* • *Encourage Ministerial meetings between the Ministry responsible for local government and technical Ministries to consider opportunities for development in the relevant domain and how CBC could contribute.*

National policy is not limited to the design of a legal framework; there are situations where there is a legal framework but no active national strategy. Enacting a law is not the end of the Government's obligation; there should be an on-going interest in detecting situations or territories where CBC could exploit obvious opportunities in order to encourage local authorities to prepare CBC proposals.

Any national policy should not be aimed at creating CBC as the prime objective, but as a tool for exploiting opportunities. The Government should present CBC as a mechanism for promoting local development and peaceful co-existence. It will need to be sufficiently informed about CBC to provide a solid basis for discussions with local government and other stakeholders.

A major task of the Government is to provide legal and technical assistance to local authorities for implementing CBC. This can be done by the appropriate Ministry or regional State office.

3.3 An appropriate legal framework

A decisive pre-condition for helping CBC to flourish is a legal framework that facilitates CBC arrangements. A law facilitating CBC may not be exclusive in the sense that cooperation between local authorities may also be possible (i) on basis of other rules (contract, private law institutions) or (ii) without rules (handshake agreement).

Table 14 - Formulating the legal framework

GUIDELINES FOR FORMULATING THE LEGAL FRAMEWORK
• It has to be flexible enough to allow different forms of CBC institutions: contract or separate entity; single-purpose and multi-purpose; public or private law. • It should allow the creation of special legal CBC entities with their own budget and debt policy and with the ability to own property and contract with private companies. • It may contain provisions that adapt commercial law to allow the establishment of a company owned by a group of local authorities. • It should set clear rules for the oversight of CBC institutions, including supervision of their finances and debt level. • It must be complemented with bylaws and administrative regulations that clearly set out the procedure for creating a CBC project; these act as guidelines for officials for solving legal questions; they provide security and transparency. • It should not be too complicated or over-regulatory in order to leave local authorities enough space to choose solutions which best suit local conditions.

Specific CBC legislation has several effects; it:

- ✓ **Demonstrates the support of the Government and Parliament for CBC.**
- ✓ **Gives models of legal procedures and forms.**
- ✓ **Enhances the confidence of partners in the solidity of the CBC institution to be created.**
- ✓ **Reduces the risk of litigation.**
- ✓ **Makes the resolution of disputes easier.**

The legal framework can establish rules to avoid the most frequent problems that sometimes affect CBC (eg lack of a feasibility study, limited transparency, weak control). The legal framework in any country responds to the particular circumstances of local authorities in that country and results from political negotiations between the Government, Parliament and local government leadership.

CBC law can contain precise incentives. For example, it can allow the Government to act as legal adviser for local authorities or take the initiative to propose CBC.

The regulations that are adopted by Parliament are a political choice. The Government should seek a wide consensus on them through cross-party agreement following thorough negotiations with the LGA. These regulations will probably need to be periodically modified to take account of the evolution of CBC or to correct faults that become apparent during implementation.

The Government wants CBC models that are attractive for local authorities and that encourage them to initiate CBC. The way the local authority leadership and citizens see CBC is important. There may be a wide range of optional forms, more or less integrated, so that each CBC can adjust to local conditions. In other countries, different political conditions may allow more forceful rules.

Table 15 - Checklist for legislators

CHECK LIST FOR LEGISLATORS

- ➔ There cannot be a model CBC law that would fit all countries. But it is possible to list the key questions that need to be answered by legislators.
- ➔ The law on CBC will mainly relate to public law entities. But it can also have provisions for contracts or contain specific rules for when local authorities cooperate with private law institutions.
- ➔ A comparative study shows everywhere a mix of compulsory and optional provisions, in proportions that vary considerably. The following are basic elements that should be included in any law on CBC:
  - ✓ The principle that CBC is authorised by law and is a desirable solution for strengthening local government.
  - ✓ The domains in which CBC can operate.
  - ✓ The procedure for deciding which local authorities will be consulted in preparing a CBC proposal, including rules on a preliminary feasibility study.
  - ✓ The procedure for formally creating a CBC project / entity - whether or not local authority unanimity is required; the option of a referendum.
  - ✓ The definition of the nature of the legal body (eg public or private law) and its general regime.
  - ✓ The definition of the organs of the CBC entity; the method of election or nomination; general rules for operating the CBC entity.
  - ✓ Rules on budget, accountancy and resources; decisions on debt, property and other financial aspects; incentives and special grants.
  - ✓ The status of CBC employees.
  - ✓ Rules of control (legality of acts, finances, audit) by the State; periodic reports to local authority councils; rights of citizens and service users to obtain certain data or have access to documents.

3.4 Incentives

There is a need to stimulate CBC. Without it, it is unlikely that many CBC projects will develop; too much will depend on the initiative of individuals. Governments have the main role to play, but the EC and other international institutions can also provide support. The LGA and NGOs can help with advocacy and with technical and legal advice.

3.4.1 Financial support

Local authorities can use their own budgets to support a CBC initiative. But in practice, financial support will come mainly from the Government, but also from regions or international donors. Such support can be quite decisive. Local authorities with few resources - whatever their size - may not have sufficient capacity to implement serious CBC. **This may only be possible with financial support; such support should be seen as a very sound objective of public expenditure.**

One efficient incentive aimed specifically at CBC is to provide support for the initial Feasibility Study. Another incentive is access to conditional grants. A grant for a local economic development project through CBC can be fully justified from an economic point of view.

3.4.2 Targeted support

Another specific incentive may be support for a "big event" that would require the co-operation of several municipalities in the cross-border region. The event might be a music festival or an agricultural show. Where the culture of cooperation is minimal, using CBC to host such an event can be a good way of introducing CBC into local government culture.

Legal assistance and technical support by Government experts in specific domains may be important when the core challenge is not creating the CBC but exploiting a clear development opportunity.

3.5 Local Government Association

The role of the LGA in supporting CBC can be very important but their experience is generally limited. The LGA is more trusted by local authorities as it represents their interests and can draw on best practice. It has its own communications channels with the Government and Parliament; it also has networks of supporters. LGA support would normally be less expensive that using private consultants.

There are three conditions if the LGA is to play its proper role:

1. *A clear vision of the CBC benefits for local authorities.*
2. *Political support within the LGA Board for a CBC policy.*
3. *Sufficient financial resources and staff with appropriate expertise.*

If CBC is not a priority for Mayors, it is unlikely to be a priority for the LGA. Information campaigns may need to be organised first. LGAs are generally aware of CBC through their international partners. Yet their support for CBC is quite diverse.

European experience suggests the following role for LGAs in promoting CBC:

A. **LGAs should be active partners** with the Government and Parliament in preparing CBC policy, legislation and financial framework. They could develop a CBC advocacy strategy.

B. **LGAs themselves should**:
   1. *Gather CBC information.*
   2. *Develop a CBC website and data base (i.e. a register of CBC initiatives, case studies, legal and financial documents).*
   3. *Disseminate useful information on CBC to local authorities (i.e. examples of benefits, best practices, information on foreign models, pilot experiences).*

C. **LGAs should support local authorities by**:
   1. *Running CBC training sessions.*
   2. *Organising networking between CBC practitioners.*
   3. *Encouraging the more progressive local authorities to become leading examples and promote the idea of CBC with other local authorities.*

4. *Advocating for CBC through seminars and conferences.*
5. *Accrediting CBC experts able to assist local authorities, especially in providing guidance for carrying out the feasibility study and establishing the right legal framework.*
6. *Providing advice on legal, financial, administrative, technical questions.*
7. *Influencing the media and attracting their attention to the importance of CBC and to successful CBC experiences.*

3.6 Creating a CBC culture

There are successful cases of CBC in regions where there is a well-developed "culture of co-operation". This culture is ready to look for new opportunities as a constructive way of extending local public affairs; it requires an attitude of trust among the players. This culture does not just happen; it requires skills and attitudes like the ability to listen and a sense of purpose.

Interest for CBC will develop in parallel with greater decentralisation. Pressure for local development will continue to grow; citizens will be more likely to ask their local authority leadership to look for new ways to deliver public value.

Leadership
CBC is about horizontal, non-hierarchical relationships among local authorities. A key stimulus to CBC is competent local authority leadership that can see the opportunities that CBC provides and will use influence, conviction and commitment to bring on-side other local authorities from both sides of the border.

Such leadership will take the time to:

- *Explain the benefits of CBC.*
- *Acknowledge the different interests of potential partners.*
- *Seek a 'win-win' solution to challenges faced or opportunities to be exploited.*
- *Prepare staff and elected representatives to welcome and sustain cooperation.*
- *Mobilise all efforts in a common purpose.*

In such circumstances, the use of hierarchical authority will be counter-productive; such power will be distrusted. Modern leadership is a 'sine qua non' condition.

CHAPTER 4 – INITIATING CBC

4.1 Preliminary stage

There are many ways in which CBC is triggered; each case is different. *De facto* CBC may well forego institutional cooperation between local authorities across borders (MOT / COE, 2006, p. 27). It depends on the legal framework, the availability of incentives, the possibility of Government involvement, the relationships between local communities and their leadership, the political culture, available staff and resources.

More often than not, CBC arrangements are the result of a specific project, of an activity elaborated to find a joint solution to a given problem or to take advantage of an opportunity. They develop in terms of partnership (i.e. type of partners involved), objectives (i.e. priority action areas) and scope (both in scale and timespan) as the partners and beneficiaries gain a deeper understanding of the area, of the border effects (i.e. legislative, economic, social differences), and begin to identify joint issues and elaborate joint solutions.

Sometimes, an external stimulus – by the Government or international organisation – may start the process (e.g. States entering international agreements allowing LAs to set up CBC arrangements; the availability of international funding to promote CBC projects).

Sometimes local leaders (i.e. mayors or councillors) engage in a lobbying campaign to convince other politicians and citizens that CBC should be established (e.g. a mayor designs a plan to exploit economies of scale when providing a new service).

Sometimes, strong local concerns from border area citizens about inefficient services may create the impetus for specific action (e.g. on waste collection or fresh water management).

Sometimes, local firms establish a profit-making activity across borders (e.g. cross-border taxi service linking different transport infrastructure located on either side of the border).

It is important to understand the implications of triggering CBC. There are 15 steps (set out below) that, in general, it would make sense to follow in setting up a CBC project (Figure 7 - The CBC Stepladder p.52).

The actual practice of setting up a CBC project may well vary the order of some steps, and give particular emphasis to some of them rather than others; however, it is essential that they are based on the following three pillars (MOT / COE, 2006, p. 28):

1. **Strong political commitment** (of local elected representatives in all participating communities).

2. **Establishment of a joint technical team** (i.e. task-force to substantiate political objectives with practical projects and sound management practices).

3. **Long-term perspective** (i.e. CBC should be planned as a long-term process based on concrete results and spanning a variety of practical actions).

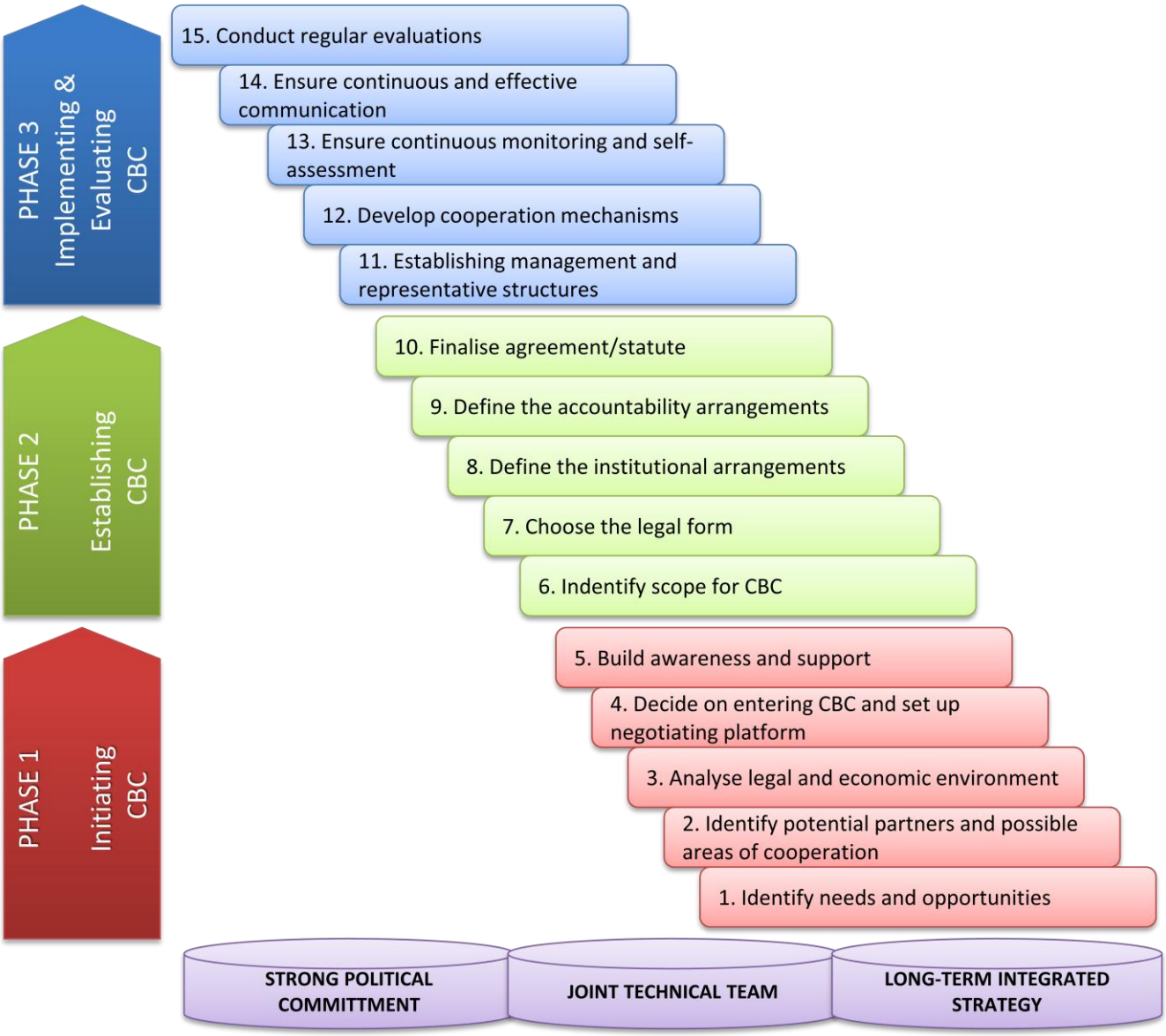


Figure 7 - The CBC Stepladder

Progress up the stepladder towards a mature CBC depends on many factors. The implementation of CBC activities and the establishment of any CBC setting are driven by the specific territorial organisation of the respective States within which cooperating LAs are located. Systems of organisation of territorial communities and authorities vary greatly across CoE Member States. However, it is important to bear in mind that, before embarking on any CBC project, both horizontal and vertical information flows must be ensured throughout (MOT / COE, 2006, p. 30).

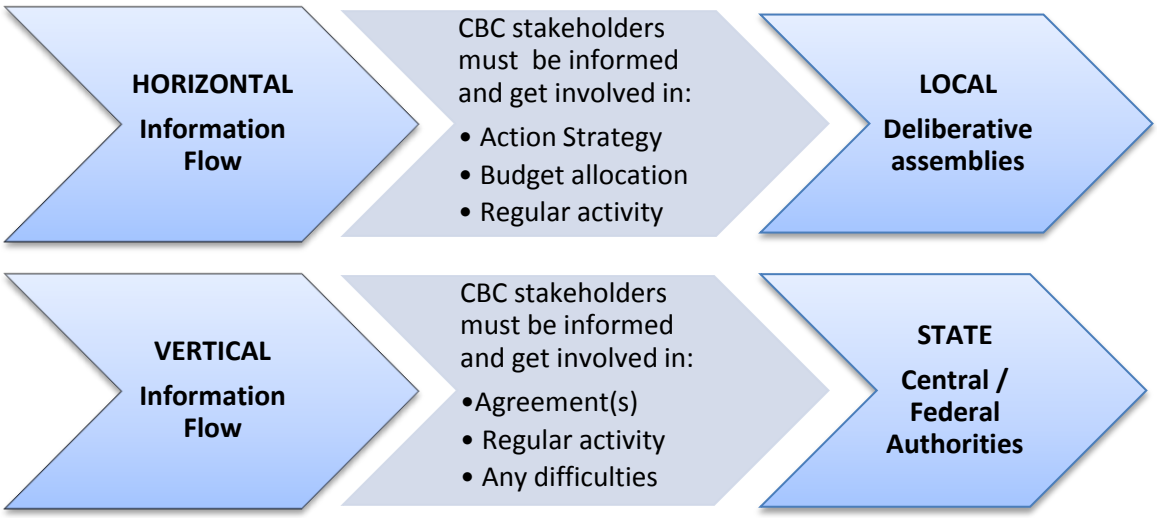


Figure 8 - Ensuring information flows at outset and throughout the CBC Stepladder

Table 16 – Triggering CBC: overview of the steps

PHASE	STEPS	KEY QUESTIONS TO BE DEALT WITH	ACTIONS
I. INITIATING CBC • Explore possibilities for cooperation with partners; • Examine risks / advantages of CBC; • Launch formal negotiations.	**1. Identify needs and opportunities**	➔ Is there a clear border effect? Do people see a need for improvement? ➔ What are the most evident shortcomings implied by the border effect? E.G. - negative stereotypes; - limited mobility; - tax issues with border work-force; - no contacts; - smuggling and black market; - services not achieving quality standards compared to respective state centres; - lack of infrastructure; - security issues. ➔ Would CBC be a logical solution for solving them? ➔ Is there an untapped potential or opportunity which CBC could exploit? ➔ What are the driving forces within the local communities that could support a CBC process? What are the obstacles to be overcome?	☑ Carry out opinion polls and customer satisfaction surveys to understand citizens' perception. ☑ Carry out **baseline research** (NB: Although the situation is often self-evident, it is a good practice to collect a few **relevant indicators** for key actions and services)
	2. Identify potential partners and possible areas of cooperation	➔ Is there, in neighbouring LAs across the border, a feeling of dissatisfaction over performance of some services or over specific opportunities that are not being fully exploited? ➔ Do the stakeholders in these communities agree that joining forces in a CBC setting would be a reasonable way forward dealing with (at least some of) the identified shortcomings? ➔ Are there any non-public actors already involved in/have	☑ Start **informal negotiation** (meetings and bilateral tasks). ☑ Exchange **technical information** in order to: - decide on the perimeter of the area; - indentify key elected representatives and respective roles; - identify technical specialists; - identify final beneficiaries. ☑ Hold a **formal meeting** (to decide to go

		expertise on CBC? ➔ Would respective regional/State authorities be in favour of a CBC project (and ready to assist)? ➔ Are there any best practices examples that could be studied? ➔ Are there any CBC setting already in place along the same border?	further).
	3. Analyse the legal and economic environment	➔ What is the legal framework (legislation and regulations) applicable to the possible areas of cooperation? ➔ What are the legal options (advantages and disadvantages of each one) and constraints in these areas? ➔ Do regional/State authorities operate CBC backing schemes that would be relevant in the present case? ➔ Did the respective State enter any International agreement (bi-/multi-lateral) which would be relevant to the present case? ➔ What is the appropriate geographical size of the CBC are to achieve effectively the set objectives? ➔ What are the financial aspects and what would be the economic impact (both in terms of costs and benefits) of CBC in the various areas considered? ➔ All in all, what would be both convenient and affordable for the concerned LAs (both in legal and economic terms)?	☑ Prepare a legal analysis. ☑ Prepare a feasibility study (including a detailed legal and economic impact assessment of suggested options.
	4. Decide on entering into CBC and set up the negotiating platform	➔ Which LAs / representatives could be brought together? ➔ Which region/state/international institution representatives could be involved? ➔ What is the expertise required within the Joint Task Force? ➔ Who may lead the process?	☑ Adopt a formal decision (in all partners Las). ☑ Establish a Joint Task force and negotiation procedure. ☑ Decide on the CBC setting appellation.
	5. Build	➔ What information and messages should be	☑ Organise an information campaign in the

	awareness and support	communicated to citizens (e.g. rationale for CBC and follow up processes)? ➔ How should the messages be presented in a clear and convincing way?	concerned municipalities and launch public discussions.
II. ESTABLISHING CBC • Build foundations of CBC; • Reach agreement with partners on CBC structures and operations	**6. Identify CBC scope**	➔ Based on the legal and economic analysis, and on partners' interests and availability, what are the functions that could be covered by CBC?	☑ Decide on a concrete list of policy areas / functions / projects to be covered by CBC.
	7. Choose the legal form	➔ What is the proper legal form, given the scope and nature of functions to be covered by CBC?	☑ Decide on a legal form of the CBC setting.
	8. Determine the financial arrangements	➔ What should be the key financial resources of the CBC (both revenues and costs)? ➔ How to share costs between the constituent municipalities? ➔ What are the budget rules for the CBC?	☑ Decide on a CBC resources and budget plan.
	9. Define institutional arrangements	➔ In case of private entities: what are the decision-making bodies (and their powers) according to private law? How will representation of partner municipalities be ensured? ➔ In case of public entities: how representation of constituent municipalities will be ensured within the CBC council? Is the deliberative body constituted (only) by elected representatives or (also) by appointed members? How is the executive body appointed? ➔ Are there any procedures necessary to acquire clearance from central authorities? Were they respected?	☑ Decide on the CBC bodies and administrative structure.
	10. Finalise agreement / Statute	➔ What are the additional clauses that are needed (required by law or necessary to ensure smooth operation)?	☑ Decide on other contractual clauses. ☑ Complete and formally adopt the draft CBC Agreement / Statute.

III. IMPLEMENTING AND EVALUATING CBC • Mechanisms to ensure effective CBC operation	**11. Establish management and representative structures**	➔ Are all partners LAs satisfied with their representation? Does the CBC council have sufficient authority to ensure efficient and informed decision-making? ➔ Is the chosen legal setting efficient? Are decisions jointly implemented? ➔ Is there a smooth communication and partnership culture with competent central authorities? ➔ Are the procedures clear for resolving conflicts? Are the links between the CBC council and the partner municipalities clear? ➔ Do the staff have the necessary experience, expertise and commitment to manage the CBC to high standards? Do they have sufficient authority to avoid bureaucratic delays? Are the links between the management and partner municipalities clear?	☑ Set up representative CBC council with clear procedures. ☑ Establish a clear organisation chart, working procedures, codes of conduct, job description etc; ensures facilities are 'fit for purpose'.
	12. Develop cooperation mechanisms	➔ Is cooperation across partner administrations encouraged? ➔ Are there appropriate CBC Council and management meetings to ensure coordination and cooperation between administrations concerned?	☑ Establish clear **timetable** for meetings. ☑ Develop a **culture of cooperation**.
	13. Ensure continuous monitoring and self-assessment	➔ Are there clear procedures for monthly and annual reporting between the CBC management and Council, and between the CBC Council and partners? ➔ Do stakeholders (staff, businesses, service users...) have a chance to give their views on CBC performance? ➔ Is there at least an annual meeting in which the CBC can present its report and plans to the public? ➔ Are the objectives, targets and performance indicators clear and straightforward? ➔ Can an internal audit process be established?	☑ Establish **reporting procedure** for the CBC Council and for the CBC management; ☑ Establish a **performance management** system.

	14. Ensure continuous effective communications	➔ Is responsibility for communications clear? ➔ Are the CBC Council and staff clear about the targeted audiences, messages, and communication vehicles? Is sufficient money invested in communications? ➔ Does the communications strategy ensure stakeholders are well informed? ➔ Do people have confidence in the CBC leadership?	☑ Develop a CBC **Communication Strategy**
	15. Conduct regular evaluation	➔ Are citizens (both beneficiaries and potential beneficiaries) happy with the service/performance of the CBC?	☑ Set up mechanisms for regular **feedback** from beneficiaries; conduct a **staff survey** and a **citizen survey** every 2 years.

4.2 Steps 1 & 2: Identification of needs, opportunities, potential partners and possible areas of cooperation

The key reason to establish CBC is to improve the governance capacity of local communities and authorities to carry out their tasks effectively for the improvement and development of frontier regions. **Therefore, the first step should be to analyse the shortcomings caused by the presence of a border.**

CBC usually begins in response to a challenge imposed by a border, to questions that are being asked.

To trigger off any CBC venture, the following elements must be there:

1. Usually, CBC is needed to develop a certain project, perform a certain service or to build some infrastructure jointly, if at all, that brings LAs leadership to a CBC solution. **There must be a generally perceived feeling that the existing situation needs to be improved and that its improvement cannot fail to take into account a cross-border dimension**. If local territorial authorities or communities are not concerned, they will not want to embark on a complex venture like CBC.

   It might therefore be a good idea to carry out opinion polls among citizens on both sides of the border, to gain insights interviewing local experts (i.e. citizens association, teachers / researchers, cultural operators, senior/former local leaders, minority groups' representatives) and to carry out customer satisfaction survey to determine if there is sufficient demand for change. These activities could be accompanied, where possible, by a baseline research project on the way LAs currently perform their tasks on both sides of the border, on the most relevant sectors of activity of local cultural operators on both sides of the border, and on existing, if any, CBC projects initiated within civil society; this will enable both the assessment of any CBC progress and to capitalise on existing CBC activities.

   Acknowledging problems will remain unproductive without someone who can transform dissatisfaction (e.g. lack of border-crossing infrastructure, lack of information on health care services provided on both sides of the border, lack of joint management of fresh water, etc) into a vision and propose CBC as the way forward. It is about seeing opportunities. The **CBC champions** should seek to identify untapped potential that cooperation with border counterparts could help to exploit.

2. The CBC partners should start a process of **getting a range of people on side** - elected representatives, managers and staff, local business, NGOs, and citizens in general from both sides of the border - by discussing the possibility of developing CBC as a tool to

address drawbacks directly stemming from the presence of the border (e.g. local public services provision, infrastructure development, territorial marketing, etc).

3. The CBC champions must at the same time consider whether similar problems exist in bordering communities and if dissatisfaction is spread there too, and whether there are opportunities (e.g. tourism development, joint vocational training programmes) that might benefit several communities across the border if exploited.

4. If there is a **shared perception of a common challenge**, there should be an informal phase where the potential partners should be brought together. This is necessary, on the one hand, to ascertain which LAs and other organisations would be interested in joining forces and to start identifying areas where cooperation is feasible and, on the other hand, for local elected representatives to get to know each other well and to develop mutual trust and a shared long-term vision of the border area.

These four elements, even though they are logically separate from one another, often overlap.

Figure 9 - Key elements triggering CBC

Usually, CBC arrangements stem firstly from the initial informal contacts of elected representatives and, secondly, from the coordinated efforts of the respective administrative staff who are assigned to a specific CBC proposal. However, given that CBC is often a sensitive matter touching upon issues of competencies and national sovereignty and often requiring State approval, it is advisable that preliminary discussions are held on both sides of the border with the competent regional and central authorities. Moreover, as a result of entering a specific international agreement or, for EU Member States, as a result of an EC Regulation (i.e. the EGCT, see Chapter 2 - 2.2.2.5 p. 33), regional or central authorities may advocate for the establishment of CBC arrangement.

In these preliminary discussions, the following stakeholders should be involved:

a) Senior officials of the partner LAs who are often best placed to assess whether it might be possible to exploit opportunities or solve the problems through CBC.
b) Elected representatives who will have to make the 'stop-go' decision.
c) Citizens and beneficiaries of potential CBC projects who may fear the establishment of a new institutional level (i.e. 'it's a waste of money'), a loss of national sovereignty over certain issues, etc.
d) Relevant regional and central authorities officials - and in some cases officials of international organisations, especially those in charge of "technical" services, who may have a good idea of the technical requirements and be able to access grants to cover the costs of the initial Feasibility Study or fund part of the CBC operations in the early years.

All stakeholders must be involved in discussion from the beginning.

It is important for LAs and other potential CBC partners not to be drawn into CBC just because money is available. They key driver must be to improve the quality of life in the border area, while external financial support should be considered only as an early **catalyst**.

The discussions should be held in a way that fosters mutual trust and minimizes mutual fear. The CBC proposal should be discussed as a win-win opportunity; all potential partners should be able to see clearly what they will gain. If the people concerned are afraid that their perspectives and interests are not taken into consideration or that one partner might gain an unfair advantage, the negotiations will not advance. **The 'win-win' approach must be clearly and frequently demonstrated**.

The following order of meetings usually proves to be successful:

1. A preliminary phase of informal meetings among senior official and elected representatives to explore the general attitude toward the idea is essential. In many cases, there is already a tradition of informal cooperation and partners are already identified in advance. **Bi-/multi-lateral meetings** among elected representative should focus on which partners share the identified challenge, correspond to the needed skills and competences and identify new skills and competences that should be acquired. Other **events** should be organised where the attitudes of colleagues can be explored. During this phase, the following issues should be covered:

a) Is there in bordering LAs a feeling of dissatisfaction over the performance of some local services, the quality of infrastructure or opportunities that are not being fully exploited?
b) Do the stakeholders agree that joining forces under a CBC arrangement appears to be a reasonable way forward?

c) Would competent regional/central authorities be in favour of a CBC project?

2. If this preliminary phase proves positive, elected representatives should involve immediately their respective specialists departments to allow for **exchange of technical information**, legal and financial data and forecasts. At this stage, various difficulties may arise, for instance, from lack of homogeneous data, ignorance of partner administrative rules and procedures, different languages / ignorance of partners' language, etc. Solutions to these issues should be elaborated creatively and in the most cost-effective way. Technical staff assigned to the job should be selected based on their commitment to contribute to the establishment of the CBC project.

3. Next comes a **formal meeting** of senior elected representatives and officials. Regional and central authorities should be invited. Officials of international organisations might be invited, if appropriate.

Table 17 – First official meeting: template agenda

Official Meeting **CBC: A MEANS OF IMPROVING LOCAL GOVERNANCE IN THE CROSS-BORDER AREA**	
Participants:	*Mayors and their deputies; Heads of administration; Finance directors (as appropriate); Regional / Central authorities (as appropriate); LGA officials (if appropriate); officials of international organisations (if appropriate); a lawyer or consultant*
Agenda:	1. Identify border effects clearly perceived in each border community 2. Identify any development opportunity 3. Identify the concrete sectors in which the border effects produce clear shortcomings, such as: - lack of infrastructure - lack of mobility - lack of cooperation with border counterparts - poor service provision with a clear border dimension (e.g. fresh water management, public transport, environmental protection, civil protection/fire fighters, etc) - hostility 4. Decide which opportunities or functions might be approached by CBC 5. Decide which practical project could meet the needs and expectations of the inhabitants of the border area 6. Final decision: a. Stop here, or b. Go further and agree the next step

Across some European borders, CBC - at least on an informal level - is rather common, but in several border areas there is **no cooperation culture**. The sense of LA autonomy is very high, negative stereotypes about the neighbouring community are still present and language barriers are a serious issue. The lack of mutual trust and confidence between border counterparts should not be overlooked, even if it is latent rather than explicit. **Basic cooperation projects on cultural**

or sports activities, especially when targeting pupils and young people living in the border area, may be a good starting point.

CBC is a process; it may exist as de facto border practices and it may gain visibility with an informal 'handshake' of elected representative from both sides of the border. Then, little by little, partner LAs could develop more complex forms of CBC as their confidence, mutual trust, experience and expertise develop over the years.

4.3 Step 3: Analysis

This step is unfortunately too often missed out. Yet it is essential. Once it is clear that there is a shared view on common problems or opportunities, and a common will to approach them jointly, there is a tendency to move directly into a later phase and establish the CBC structures. Such haste may result in a lot of problems later.

Before taking further action, it is always a good idea to gather data, study alternative solution and elaborate some plans.

Without proper preliminary analysis, a CBC initiative is likely to fail. As outlined above (see Figure 7 - The CBC Stepladder p. 52), any CBC arrangement should have a compelling long-term perspective. Therefore, it requires a strong basis centred on:

1. **mutual understanding** of participants;
2. shared recognition of the **impact of the border area**;
3. shared vision of **common issues** to be tackled and (first) **relevant actions** to be implemented;
4. **a legal framework** within which cooperation is established.

An analysis of the legal framework will take stock of legislation and regulations applicable to the proposed CBC initiative, and identify the main legal options and constraints. The legal options depend on the nature of the planned activities:

1. Managing a CBC project jointly, financed, for instance, by the EU or even organising joint events could be done without establishing a CBC structure but by using just a partnership agreement, convention or memorandum of understanding.
2. The creation of a separate CBC legal entity might be required for more complex CBC project management, continuous political consultation, and contracting out the responsibility for administrative, technical and financial aspects of the project.
3. Using CBC to manage strategic policy functions (eg land use planning policy) would require the establishment of a more complex legal entity.

For a fuller discussion on the available legal option to set up a CBC initiative, see CHAPTER 5 – ESTABLISHING CBC.

The choice of the legal form of CBC is in general not straight-forward for a number of reasons arising from:

1. the provisions of the national legal frameworks;
2. the interoperability of the respective legal frameworks;
3. the degree of support of respective central authorities;
4. the availability of the international legal framework.

However, it should be stressed that the ultimate goal of any CBC setting is not to create an additional tier of authority but to establish a joint management structure for the efficient implementation of CBC projects based on the thorough assessment of local needs.

The legal analysis must be complemented by an economic / financial analysis; this should examine key issues such as:

- the investment required and its sources,
- the costs and revenues of any services that could be provided jointly,
- the appropriate balance to pay for the CBC between using the partners' budget and secondment practices, CBC-generated revenues and the availability of grants.

This requires an assessment of the sharing (if any) of financial obligations between tax-payers and fee-payers to cover the costs of any CBC service. For these reasons, a Feasibility Study needs to be carried out that will build on the legal and economic / financial analysis. It does not have to be very sophisticated or costly, but it has to set out the requirements for implementing CBC.

4.3.1 Who will carry out the Feasibility Study?

a) External experts (e.g. from universities, research institutes or international organisations) tend to have a high level of competence and a low level of engagement; they look 'impartial' but are unlikely to be aware of local conditions. The cost is usually quite high. Any such expert must be under direct supervision of a CBC committee (i.e. joint technical task force) established to take the CBC proposal further.

b) Officials of the partners probably have a good understanding of local conditions and may have sufficient expertise to carry out the Feasibility Study. They will certainly be engaged. However, they may lack the experience and professional expertise required to deal with the more complex issues of CBC.

c) A mixed solution is when such officials and with the support of an external expert. This approach combines professionalism and engagement with sustainability and awareness of the local environment. Moreover, several (public and private) international agencies (e.g. Council of Europe, Committee of the Regions, Interact, MoT, ISIG, etc) have made available several handbooks and analyses on specific CBC aspects. Official should take advantage of these resources both in selecting consultants and in acquiring viable knowledge.

4.3.2 Who will pay for the Feasibility Study?

The costs of the experts should be shared by the partner municipalities according to an agreed formula. Partner LAs tend to pay in proportion to the size of their population. A regional or central

authority may contribute to the costs of the Feasibility Study. However, funds for such an activity as well as for all other activities preliminary to the establishment of a CBC sproject should be sought in the support made available by international donors. This not only challenges the political commitment of partners (i.e. engaging in project-making activities may be new and time-consuming for the partners' technical staff) but represents a good cooperation practice (i.e. it is necessary to organise meetings, to agree on objectives and methodology, etc).

4.3.3 The content of the Feasibility Study

The Feasibility Study should be very much a matter of fact rather than opinion; it should provide hard data. It should contain a comprehensive description of the partners' communities and of the priority areas subject to the potential CBC. The most recent and exhaustive data on the demography, economy, cross-border mobility and transport infrastructure should be supplied along with data on service budgets and performance. Particular attention should be paid to providing information on methodologies used to gather and elaborate data. Different countries apply different statistical standards when collecting and elaborating data. Whenever possible, partners' technical staff should agree on how to homogenise data. Finally, an assessment of the existing CBC activities should be carried out.

In summary, the Feasibility Study should provide answers to:

1. Which LAs should be involved, which skills they could/should provide.
2. Which non-public partners should be involved in specific CBC activities.
3. The different options for the legal form, with the advantages and disadvantages of each one.
4. The financial aspects of the CBC proposal including proportional financing from each partner, secondment of staff, and identification possible external resources.
5. The need for CBC staff.
6. Technical requirements and opportunities for sharing technology.

The Feasibility Study should deliver and **Action Plan** to create a CBC solution and a provisional strategy for the targeted objectives and developments.

Table 18 - Contents of a Feasibility Study

CONTENTS OF A FEASIBILITY STUDY	
1. Level of propensity towards CBC of:	- local institutional actors
	- local economic actors
	- local socio-cultural actors
	- national institutional actors
2. Level of CBC potential in:	- institutional relations
	- environment and spatial planning
	- transport and telecommunications
	- economy and labour
	- tourism
	- education and culture
	- everyday services
3. For each sector in point 2:	Describe how the service / activity is carried out (e.g. modus

	operandi, competencies, quality of service provision) on both sides of the border
	Identify the current level of service / activity on both sides of the border in quantifiable measures and its strengths and weaknesses
	Gather any strategy and plan at the partner level to improve/develop the above service / activity
	Estimate the costs currently born by partners to perform/carry out the above service/activity
	Identify the level and quality of service/activity that is required over the next two to five years.
4. Identify priority areas which are currently untouched given their cross-border nature (e.g. border crossing infrastructure, environment protection, etc).	
5. Assess the possibility of improving the level/quality and/or reducing the costs of delivering/carrying out the above service/activity over the next two to five years by:	- Sharing common existing equipment/infrastructure
	- Sharing staff
	- Investing jointly in equipment/infrastructure
	- Hiring more and better qualified staff
	- Better coordinating bordering services
	- Other
6. Assess the cost of achieving the above objective - an annual cost calculation based on planned service level for each partner will need to be developed.	
7. Review relevant CBC examples along the same border (if any).	
8. Provide a thorough SWOT analysis of the border area in terms of: (a GIS representation of the border area may be useful to collect and display gathered data)	- Socio-demography
	- Transport infrastructure
	- Local cultural operators
	- Local economic operators
	- Economic sectors and flows
	- Border-crossing facilities
	- Environmental endowment and its quality/risk
9. Provide a summary of the finding of the legal impact assessment and of the legal provisions pertaining to the domain.	
10. Provide a final evaluation on the following questions:	- What financial resources will be saved?
	- What service level/quality improvements will be required and how they will be achieved?
	- What other potential benefits will be gained?
	- Who will be positively affected, who negatively affected?
	- What equipment, facilities, staff and financial resources will be required from each partner?
	- Which external resources can be mobilised?
	- Which legal provisions have to be observed?
	- Which legal forms may be most appropriate, at which stage of development?
	- What are the risks?

- What is the long-term perspective?
11. Provide recommendations on the Action Plan to create a CBC project and a provisional strategy for the first actions to be undertaken.

4.4 Step 4: Decision on CBC and its institutionalisation

The key decisions will be political. The institutionalisation of CBC implies the establishment of a separate CBC organisation. This may be built in a number of possible ways. The decision depends on the type and number of partners involved, and on the nature and scale of the CBC objectives.

Irrespective of the form the CBC arrangement will take, it should always act as a coordinating body where consensus is reached on priority areas and intervention strategies. It is not a new tier of administrative authority. The reasons are:

1. No CBC body can act directly on a vast array of policy areas (e.g. planning, management, implementation, etc).
2. Each partner to the CBC body retains exclusive competence for operational decisions.
3. It should be able to respond dynamicallyto the border area needs and the kind of institution should reflect the scope of cooperation.

The consolidation of CBC relies on both (a) political support and (b) technical support. Elected representatives from each partner along with relevant technical staff/officials and experts should constitute a **Joint Task Force**.

The partners will want to agree clear Terms of Reference for the Task Force, including the negotiating procedures. Its job is to advise the municipalities on how to take the CBC forward. It must respect the varied interests and capacities of the partners. Representatives must stay in close touch with their municipalities so that everyone is clear about what they are considering and issues that need to be resolved.

The responsibility of the Task Force will be to:

- ☑ Identify the scope of CBC, defining precisely a concrete list of policy areas / functions / projects to be covered by CBC (step 6).
- ☑ Identify the most suitable legal form (step 7).
- ☑ Determine the financial arrangements (step 8).
- ☑ Define institutional arrangements (step 9).
- ☑ Draft the Agreement / Statute (step 10).

Preparing the Agreement or Statute is very much a technical task; it must be done with care. It will be the precise legal form of CBC. It must give clear and robust answers to all questions that might arise during the life of the CBC, even after future elections when there may be new leadership and staff in the partner LAs. All stakeholders must find in the text the correct and complete content of the founding agreement.

The draft of the contract or statute can be carried out by staff of the partners in a special committee. It may be useful to:

- Consult the models laid out in Appendices 2.1 to 2.16 to the Madrid Outline Convention ((CoE), 1980).
- Seek advice from Council of Europe officials.
- Seek advice from regional/central authorities and from a specialised lawyer.
- Carry out a benchmarking exercise with the Statutes or Agreements of other CBC arrangements that can be used as models.
- Examine decisions of the Courts in this domain to identify and avoid any major difficulties in implementing similar CBC arrangements.
- Establish links with the technical units of existing CBC bodies.

For a fuller discussion drafting the Statute, see CHAPTER 5 – ESTABLISHING CBC Table 20 - Items to be taken into consideration when drafting a Statute p.79.

4.5 Step 5: Building self-awareness and support

Engaging all stakeholders will be important; their support will be based particularly on an understanding of the benefits accruing from CBC and on the trust between the partner LAs and their communities.

Good communication is essential (see Figure 8 - Ensuring information flows at outset and throughout the CBC Stepladder p.4853). Partners should use the media and the internet as much as possible; they should launch an information campaign. This is a CBC activity per se to be strongly pursued in the early phases of cooperation as any CBC activity will involve a cross-border media partner. This, however, is not a one-off task; good communications and public relations will need to be on-going and should be put on a firm institutional foundation.

Table 19 - Analysis chart for establishing CBC

KEY QUESTIONS	POSSIBLE STRATEGIC AIMS	LEGAL AND INSTITUTIONAL FORMS	ISSUES TO BE CONSIDERED
REASONS FOR CBC: Objectives & Political Demand	Overcome a history of conflict and cultural segregation. Decrease area marginalisation. Enhance effectiveness, efficiency, economy.	A range of single-purpose and multi-purpose arrangements are available. There is a wide choice of legal solutions spanning from informal agreement to highly institutionalised CBC bodies.	CBC entails a number of negative side effects. It complicates local governance and it may entail political costs.
SIZE OF CBC: • Optimal size? • How many partners (public and non-public) will cooperate?	Ensure consistency between CBC objectives and partners' functions and skills. Bring together all the partners for which CBC entails an improvement of the existing situation in targeted areas of cooperation. LAs, through their agreement, establish the framework for cooperation; other partners ensure the consensus and smooth implementation of CBC decisions.	Most legal forms can be adjusted to any number of partners. Not all legal forms foresee the participation of non-LA bodies.	Priority areas are not identical for all partners. The determination of the most suitable size also depends on the resources available. The localisation of key transport infrastructures and border crossing facilities should be taken into account. The Feasibility Study may be used to consider functional, demographic and geographic factors relevant to the determination of the CBC boundaries. The number of partners should reflect all those who are genuinely supporting the CBC process and that share a long-term vision. CBC (and the partners involved) may be differentiated according to the issues rising from time to time.
COMPETENCES TO BE TRANSFERRED TO CBC	Partners decide on competences (i.e. project management, political consultation, lobbying, etc) in the light of their needs and after an analysis of the benefits CBC	Different legal forms are possible, depending on a range of factors.	The scope of competences and the size of the CBC are inter-related. It is essential to distinguish: 1. Functions/Tasks entrusted to the CBC. 2. Powers specifically given to perform certain functions or established certain services.

KEY QUESTIONS	POSSIBLE STRATEGIC AIMS	LEGAL AND INSTITUTIONAL FORMS	ISSUES TO BE CONSIDERED
	can bring.		
NATURE AND LEGAL STATUS OF CBC	1. Engage in cooperation in the absence of a legal framework. 2. Establishing an entity with or without a legal personality. 3. Legal entities and natural person can be members; easy to set up. 4. CBC body acts on behalf of members, provide CBC services, manages own budget.	1. Informal co-operation 2. CBC agreement 3. CBC body governed by private law 4. CBC body governed by public law	1 - 3. There might be legal restrictions; decisions often non-binding; often the most successful CBC arrangements. 4. This is a kind of consolidation in the domain of transferred competencies; it may entail a loss of power for the LAs involved.
TYPE OF POWERS ENJOYED	1. Exchange of information 2. Project management 3. Lobbying, territorial marketing 4. Making public investments, setting up CBC public services	1. Informal co-operation 2. CBC agreement 3. CBC body governed by private law 4. CBC body governed by public law	
CBC INSTITUTIONS (Depends on the status - at the very least)	1. Management body 2. An assembly representing partners 3. Technical teams / working groups	Usually, indirect election by partners' assemblies.	Status and number of members and working procedures. Deliberation and operational procedures. Rules for the dissolution of the CBC institution.
FINANCIAL RESOURCES	Find the balance between the level of financial independence and the level of partner transfer. Increase the capacity to act on a project-basis seeking external funds.	Solutions vary, depending on projects, services, and competences: - project based - fees and prices - special grants - in-kind from partners	Budget and accounting private law or fully public rules - these are options presenting different pros and cons. Importance of financial incentives and facilities.

KEY QUESTIONS	POSSIBLE STRATEGIC AIMS	LEGAL AND INSTITUTIONAL FORMS	ISSUES TO BE CONSIDERED
STAFF and INFRASTRUCTURE	Make a sufficient number of trained / qualified staff available for CBC. Avoid excessive administrative costs.	Different options concerning their status (i.e. seconded staff or employed by CBC structure)	If CBC structures do not have qualified professional staff from the outset, failure is certain. A key decision is about transferring staff from partner administrations or recruiting new staff; relocating staff, where possible, should be preferred.
TIME REQUIRED AND COSTS	Benefit from strong motivation (and citizen support) to set up CBC quickly. Estimate correctly new expenditure entailed by the establishment of CBC and seek to reduce costs.		Setting up new structures costs time and money. CBC is presented as a solution to problems of local governance; but it may lead to a problem with CBC governance. Promised improvements may take time; if expectations are not met, the CBC effort may be severely criticised.

CHAPTER 5 – ESTABLISHING CBC

The management of CBC in itself does not require the establishment of specific organisations or management structures. CBC develops through stages that involve reflection, consultation, coordination of the respective positions of the various partners, without necessarily reaching the stage of implementation of actual instances of joint management.

The cooperation process will vary as it will need to respond to the peculiarities of each territory. The legal instruments to be used should therefore be chosen according to the specific characteristics of the area and of the identified common objectives. **Often the signing of a partnership agreement or memorandum can be not only sufficient but also more effective then complex CBC arrangements.**

5.1 Why do we need a legal framework for CBC?

LA competences are defined and limited by law. LAs can exercise their competences only where there is a legal basis. CBC is not about conveying additional powers to border communities or authorities. Rather, CBC is a more efficient tool to exercise their powers.

There are four possible legal situations:

1. The law prohibits CBC (this is not the case in any Member State of the Council of Europe)
2. The law says nothing precise on CBC, but there is still a legal basis (e.g. private law) for LAs to establish a certain form of cooperation.
3. Special provisions in national or international law allow the creation of CBC; they generally describe the forms and status that CBC should or must adopt.
4. There are legal provisions for CBC both at the national and international levels, but there are also general rules that allow other legal forms (e.g. private law) that can coexist with the specific CBC provisions.

CBC needs a legal basis at two different stages:

a. When making the decision to join a CBC venture with bordering LAs. This can be done only if no provision in law prohibits it or if the law specifically allow it.
b. When the CBC body is operational. There must be a legal framework regulating what is usually set out in the statute of a CBC body:
    1. The constituent LAs and other bodies.
    2. The purpose, tasks and relations of the CBC body and the relations with its members (i.e. joint decision-making, autonomous decision-making by CBC body).
    3. Its name, the location of its headquarters, the geographical area concerned.
    4. The powers and responsibilities of its organs.
    5. Deliberative and operational procedures.
    6. Financial contributions, budgetary and accounting procedures.
    7. Changes of statutes, admission/withdrawal of members.
    8. Dissolution of CBC body and its liquidation.

The law on CBC should establish a framework of support for CBC and set out possible legal models that facilitate political negotiations. This would give confidence in setting up a CBC activity and provide greater legal security. Such a legal framework is in favour of municipal autonomy and in line with both the European Charter of Local Self Government and the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities and its Protocols of the Council of Europe.

In both stages, the legal framework is important as it ensures the validity of any CBC activity (e.g. decision-making procedures, project-making autonomy, representation).

Legal frameworks in different countries are very diverse. They reflect different system of administrative organisation (i.e. State centralisation/decentralisation) and different levels of political interest in CBC. Policy and law on CBC are influenced by the institutional and political environment in each country and by the international context. LAs' structure, size and competencies, the respective States' relationship to the EU and the Schengen Treaty – these are all key determinants for the possible legal framework.

Usually, CBC arrangements reflect the developments in time of the CBC process itself, the ambitions arising among partners working jointly on several issues and, therefore, facing continuous challenges and setting new goals. They are a direct function of the level of cooperation reached among partners within the CBC process and of the current objectives pursued by the partners. From this perspective, any CBC arrangement is defined not "by the legal structure adopted but by the objectives of the participant communities choosing the type of entity" (MOT / COE, 2006, p. 45).

In establishing CBC, therefore, the critical element in the 'stop-go' decision is to identify a legal form in which CBC can be established in a way that fully responds to the agreed objectives. The responsible persons will have to know the pertinent legislation; they will need to be aware of the many options; they will need to anticipate the legal questions that will arise, whether or not the law refers to them.

5.2 Key legal questions

As a general rule, in order to answer to the following questions, one should consider the following parameters:

1. If there are specific provisions on CBC issued by competent regional or central authorities - whether or not they relate to bi-/multi-lateral agreements, they should be closely analysed as they will rule over most aspects determining the structuring, establishment and scope of the CBC.

2. The legal structure chosen will directly affect the room for manoeuvre of members. Informal cooperation or even a more formal cooperation agreement will leave more freedom to CBC partners to decide on the CBC structure, organisation and operational procedures. CBC bodies with legal personality - and especially CBC bodies based on public law – are limited to some extent as to how the CBC body itself may be organised (i.e. its organs and functions), membership rules, budget procedures, etc.

3. The objectives set for CBC represent themselves a milestone in determining the level of legal complexity in setting up a CBC body. As a general rule, a CBC body should be set up in such a way

that it can operate directly for the achievement of its objectives whilst its members supervise its work and (partially) fund its activities. Issues arise in the balance of tasks carried out by the CBC body and those maintained by its members. The more complex the tasks assigned to the CBC body (i.e. project management vs. provision of public services) compared to those carried out directly by its members are, the more complex the legal basis of the CBC body will be in terms of both its status and any necessary clearance from competent regional and central authorities.

5.2.1 Does law allow CBC?

QUESTIONS	ISSUES TO BE CONSIDERED
What are the powers and competencies of LAs under national law?	CBC is not about conveying additional powers to border communities or authorities. Rather, CBC is a more efficient tool to exercise their powers.
Has the State entered any bi-/multi-lateral agreement setting provisions for LAs involvement in CBC?	Specific legal provisions for CBC may provide the necessary framework and will probably also provide guidelines for the drafting the CBC statute.
If there are neither specific provisions for, nor prohibitions against, CBC, is there any other legal provision which could provide suitable tools for CBC establishment?	De facto tools for cooperation, established under private law, such as a private association acting as a foundation or as a political consultation body may turn out to be suitable tools for CBC cooperation. Experience shows that strong political commitment is a key factor ensuring the success of any CBC arrangement. Even informal agreements or cooperation agreements between LAs establishing an association (e.g. Euroregion) without legal personality may reveal themselves to be sufficient.

5.2.2 Which actors can be involved in CBC?

QUESTIONS	ISSUES TO BE CONSIDERED
If there are specific provisions on CBC, whether national or international, is it specified which type of actors can be involved?	Usually, bi-/multi-lateral treaties (e.g. the Madrid Outline Convention and any bi-lateral agreement signed within its framework) specify the type and (at least) the geographical location (i.e. distance from the border) of LAs. Other "international" tools, such as the EGTC, have clear cut membership rules. Attention should be paid to the legal provision of the selected tool allowing or prohibiting the mixed participation of public and private partners within a CBC agreement.

If there are neither specific provisions on CBC nor clear-cut membership rules for the selected tool, is there on optimal size for cooperation?	First, the history of cooperation among partners should be considered. Second, the objectives of CBC and its domains should be carefully reviewed. Third, CBC settings should include a core group of partners and provide for the possibility to activate a roster of relevant partners whenever deemed necessary to reach certain goals (e.g. local school authorities may not be members of a Euroregion but must be involved if a student-exchange project is planned).

5.2.3 Procedure for deciding the creation of CBC

QUESTIONS	ISSUES TO BE CONSIDERED
If there are specific provisions on CBC, whether national or international, is it specified which procedures LAs should follow to decide on the creation of CBC?	Consultation with regional/central authorities and with international organisation experts is indispensable at this stage.
If there are no specific provisions on CBC...?	The most general rule is a vote in each LA and the clearance/informal approval (i.e. depending on the legal form of CBC) from regional/central authorities.

5.2.4 Object of CBC

QUESTIONS	ISSUES TO BE CONSIDERED
If there are specific provisions on CBC, whether national or international, is it specified which type of objectives CBC may have?	Usually, bi-/multi-lateral treaties (e.g. the Madrid Outline Convention and any bi-lateral agreement signed within its framework) specify the object of CBC, identifying the scope of action and the prerogatives of the CBC arrangement.
If there are no specific provisions on CBC...?	As a general rule, it should be recalled that CBC is a form of international relations. Unless otherwise specified, the State is the sole actor which can undertake such relations. Therefore, **it is an absolute requirement to have clear and legally correct definitions of the CBC object and of the CBC body's competences in order to avoid disputes and legal challenges which could jeopardise the whole CBC process.**

	CBC bodies do not increase their members' powers or competences; CBC is a tool for LAs to exercise existing powers and competences better within a cross-border perspective.

5.2.5 Legal status and organisation

If the CBC takes the form of an organisation, the law must provide sufficient elements for its legal Statute. The following aspects should be considered when drafting a Statute:

1. Careful compliance with members' domestic law and international agreements (if relevant) -
   - so as to avoid any legal or political backlashes on the operational capacity of the new organisation.
2. Careful design of the CBC body's methodology, organs and tasks -
   - so as to make them consistent with CBC needs, objectives and efficient performance.
3. Ensuring equal representation of all members -
   - by establishing procedures for election/nomination of members' representatives to the CBC body.
4. **Careful decision on where to set up the organisation headquarters -**
   - **this usually determines the legal reference framework for the CBC body.**

The substance of the Statute varies greatly according to (a) the chosen legal form and (b) the objectives the CBC body wants to achieve. The following list identifies a number of aspects that may be included in a Statute consistent with its legal form and objectives.

Table 20 - Items to be taken into consideration when drafting a Statute

ITEM	ISSUES TO BE CONSIDERED
1. Official denomination	It should ensure visibility at the local, national and international level.
2. Registered office	The location of the CBC body headquarters determines the legal framework available.
3. Areas of intervention	Attention should be paid to the competences and powers of members
4. Objectives and tasks	Attention should be paid to the responsibility taken by the CBC bodies on behalf of its members.
5. Members	Integration of new members. Resignation / exclusion of members.
6. Applicable law	National and international legal frameworks should be carefully analysed (i.e. focus on legal personality).
7. Organs	Usually an assembly and its chair, a director of a management structure, operational teams.
8. Organs methodology	Rotating chairmanship. Working languages.

	Decision-making (i.e. voting quorums). Operational procedures. Procedure for convening meetings (i.e. frequency of meetings, invitations, etc).
9. Functioning and responsibilities of each organ	Staff administration. Recruitment procedures. Working contracts.
10. Financing, budgetary and accounting procedures	Attention should be paid in determining both: - Accounting procedures. - Sources of revenue.
11. Liability	Obligations will depend on the legislation of the country where the CBC is registered
12. Responsible authorities	External auditors.
13. Procedure for amending the Statute	To be set out clearly in the Statute.
14. Procedure for dissolution of CBC body	To be set out clearly in the Statute.

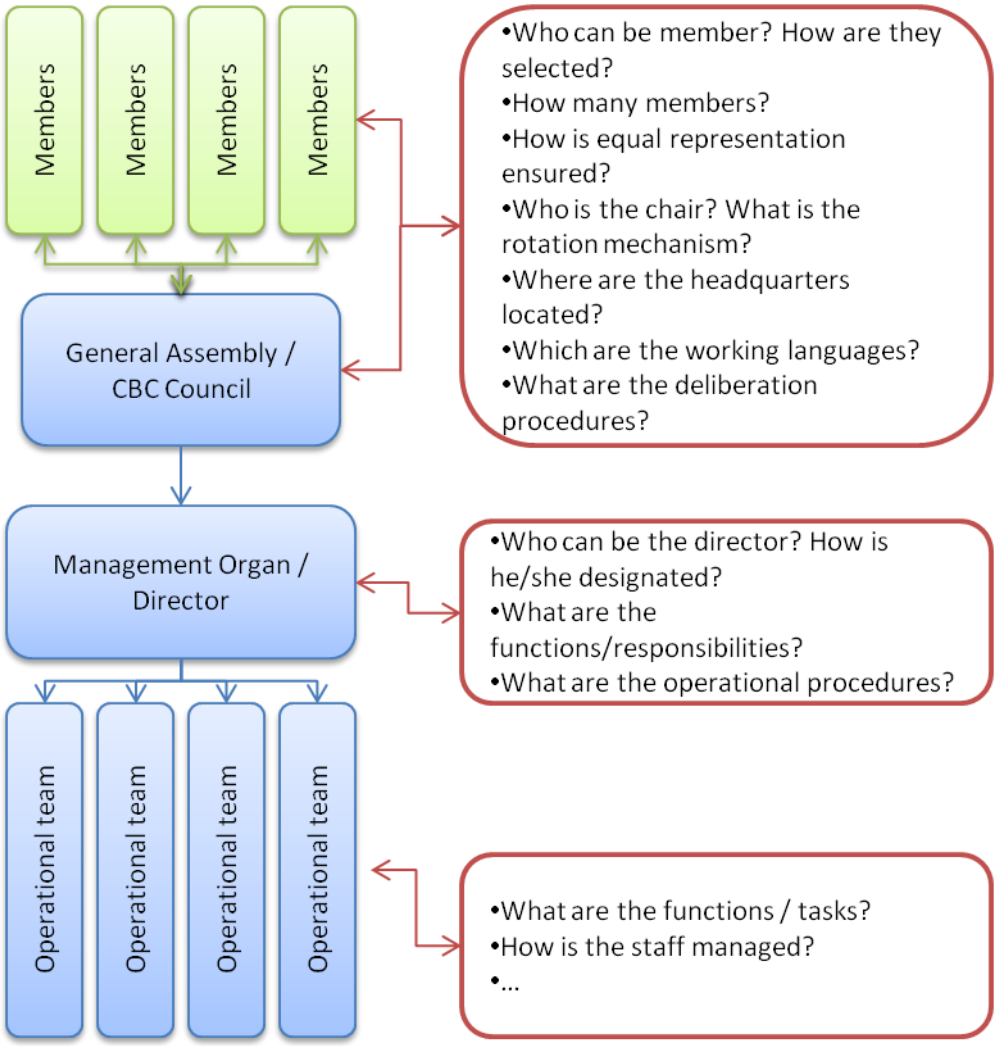


Figure 10 - General organisation chart and key questions for a CBC body

5.3 Different legal forms

Where there is a virtual absence of relations among border counterparts, **CBC starts as an exchange of information, and develops into consultation and policy co-ordination. LAs can resort to cooperation tools such as memoranda of understanding** (e.g. Annexes to the Madrid Outline Convention). These tools are sufficient to:

(a) Establish CBC relations targeted at the development of mutual knowledge and the fostering of mutual understanding and trust.

(b) Carry out activities to overcome the border area's challenges and exploit its opportunities.

As CBC develops into a phase of cooperation with the formulation of operational cross-border strategies and implementation of specific projects, then it is necessary that the **existing platforms of consultation and technical/political steering bodies (that are based on specific agreements) are consolidated in more robust and defined cross-border structures**.

These instances, however, vary in shape and their modus operandi may be extremely diverse. They span from simple joint meetings of existing structures in each partner organisation or entity to the establishment of "joint committees" composed of an equal number of representatives of the partners. It is also possible to establish actual management entities, separated from the participating institutions (e.g. a joint secretariat, a research department, etc.). Ultimately, it is possible to create a real entity, with or without legal personality, acting in his own name or on behalf of institutions that promote CBC in order to, for instance:

(a) Carry out a specific project (public work, the organization of an event).

(b) Establish long-term cooperation in planning and development programmes.

(c) Achieve a political objective (the strengthening of links between institutions operating in the cross-border area.

These bodies, whether informal or with a legal personality under public or private law, can be created under the provisions of national or international law.

In the first case, the applicable law may be the one relating to local authorities and their consortia or associations, or special legislation restricting CBC to, for example, the specific cross-border cooperation groupings or to Euro-districts under French law. Sometimes, these special rules find their origin in bilateral treaties which explicitly provide that, for purposes of the implementation of the cooperation between the two countries, local authorities will be able to create a specific body (for example, the "Consorcio" under the Treaty of Bayonne between France and Spain).

At European level, it is felt that the need to adopt rules that make possible the establishment of these cross-border bodies still hinges on the national law of a specific State (generally, the State where the CBC institution is registered). This is the purpose of the Additional Protocol and Protocol 3 to the Madrid Outline Convention, concluded in the framework of the Council of Europe.

It is possible, therefore, to identify four broad categories of CBC arrangements, as summarised in Figure 11 - Different kinds of CBC (below):

1. Informal CBC arrangements
2. CBC cooperation agreements
3. CBC bodies governed by private law
4. CBC bodies governed by public law

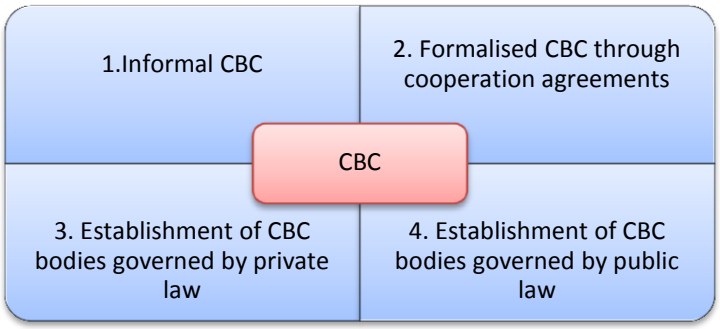


Figure 11 - Different kinds of CBC

5.3.1 Informal CBC arrangements

Many cross-border cooperation relations between local communities and authorities are informal; they do not need a precise legal basis because they do not entail any binding legal decision. Meetings of Mayors, senior officials or technical committees can solve a lot of problems and improve the coordination of policies between neighbouring communities. This can have a direct impact on important questions of, for example, economic development, town planning and environment protection.

5.3.2 CBC agreement

Cross-border cooperation relations may develop into cross-border cooperation agreements. They represent the simplest and less formalised instrument for cross-border cooperation. They may evolve as a result of a specific issue or they may be framework agreements where the willingness to cooperate with bordering counterparts is stated. They may be drawn up under national law (i.e. based on both private and public law) or international inter-State agreements but the provisions of the agreement are implemented under the sole responsibility of each signatory.

As CBC activities develop, extending to a growing number of issues and demonstrating CBC potential in the development of the cross-border area, local authorities seek to formalise further CBC arrangements. This often implies establishing joint CBC bodies.

5.3.3 CBC bodies governed by private law

In the vacuum of an appropriate international legal framework, (i.e. there are no bi-/multi-lateral agreements signed by respective states which can be applied to the context at hand), local

communities and authorities may seek to establish joint CBC bodies under the legal structures foreseen by domestic law. These settings are often not-for-profit structures governed by the (private) law of the country where headquarters are located. There are two main types of such CBC bodies (MOT / COE, 2006, p. 17):

1. Associations (or foundations) acting as “operators” or “project managers” on behalf of local communities and authorities in cross-border projects.
2. Co-operation bodies for political consultation made up of local communities or authorities, or other local or regional partners.

Members can be legal entities or individuals depending on the chosen legal basis. **They are easy to set up but the tasks they can perform are limited to promotion, lobbying and studies or (in the case of association) the management of cross-border projects.** These CBC bodies maintain a legal independence from their members but cannot act as deputies for member institutions in the exercise of the members’ own competences.

5.3.4 CBC bodies governed by public law

Local communities or authorities may establish CBC bodies governed by public law when bi- or multi-lateral agreements between the States they belong to allow for it,. According to their Statutes, such bodies may perform all tasks of interest to their members including cross-border governance, the cross-border provision of public services, the cross-border management of public facilities, etc. They are governed by the law of the country where their headquarters are officially registered.

Moreover, the Regulation n.1082/2006 of the European Parliament and Council (5/07/2006) on the establishment of a **European Grouping of Territorial Cooperation (EGTC)** (European Parliament and of the Council, 2006), offers to EU local communities and authorities a Community legal instrument representing the legal basis for the creation of CBC entities with a legal personality.

Legal bases / Instrument type	Examples of instruments derived from national law	Inter-state cross-border cooperation agreements	European Community law	Advantages	Drawbacks	Example
Cooperation agreement	Agreement governed by private law (IT) Agreement governed by public law (FR)	Cross-border cooperation agreement (BE, DE, LU, FR, CH, IT, ES, etc.)		Simplest cooperation instrument Enables establishment of a structure without legal personality	The provisions of the agreement are implemented under the responsibility of each signatory	Pro europa Viadrina Euroregion (DE/PL)
Non-profit structure governed by private law	Association (BE, LU, DE, FR, IT, etc.) Foundation (NL, CH, etc.)		*European association** European Economic Interest Grouping	Members can be legal entities or individuals depending on the chosen legal basis Legal autonomy with respect to its members Easy to establish	Tasks limited to promotion, lobbying and studies Cannot substitute for member institutions in the exercise of their competences	Meuse-Rhine Euregio Foundation (BE/NL/DE)
Institutionalised public-private partnership	SEML** (local PPP) (FR)			Enables cross-border implementation of existing PPP mechanisms	Purpose limited to industrial or commercial activities Initial financial contribution necessary	SEML Initialité (FR/BE)
Structure governed by public law	Consorcio (ES) European District (FR)	Local Grouping for Cross-border Cooperation (BE, DE, LU, FR, CH)		Legal entity governed by public law Able to carry out all tasks of interest to its members: governance, public services, public facilities, etc.	Governed by law of country where registered office is located Scope of application limited to certain borders	REGIO PAMINA LGCC (FR/DE)
European Grouping of Territorial Cooperation			EGTC governed by public or private law	Open to any "contracting authority" in the EC meaning On all EC borders Able to carry out all tasks within the competences of its members	Governed by law of country where registered office is located Prior authorisation by the states for convention drafting and amendment	Lille-Kortrijk-Tournai Eurometropolis EGTC (FR/BE)

*EC regulation under discussion since 1992
** Société d'économie mixte locale

Figure 12 - Legal toolbox for CBC in Europe

For a more detailed review of the legal framework for CBC, including EGTC, go to 2.2.1 International legal framework (p. 32)

For more info on EGTC visit http://www.interact-eu.net/egtc/egtc/30/16 (INTERACT, 2011) or consult the EGTC Handbook (INTERACT, 2008).

Figure 13 - Main kinds of CBC and types of CBC bodies (p. 88) offers a broad overview of the main kinds of CBC arrangements and distinguishes between the necessary steps to undertake when choosing the appropriate form of CBC.

First, it is necessary to start from the analysis of the state of CBC (i.e. past and present projects, stakeholders involved, etc) [STEP 1]. Second, it is necessary to know what the legal tools are offered by the available legal framework [STEP 2]. It is thus necessary to select the legal dimension most commensurate to the scope and objectives of CBC. Weakly formalised forms of CBC are usually preferable in the early stages of the development of CBC [PHASE 1] whilst, as CBC develops further [PHASE 2], it may require more formalised structures for its coordination and implementation.

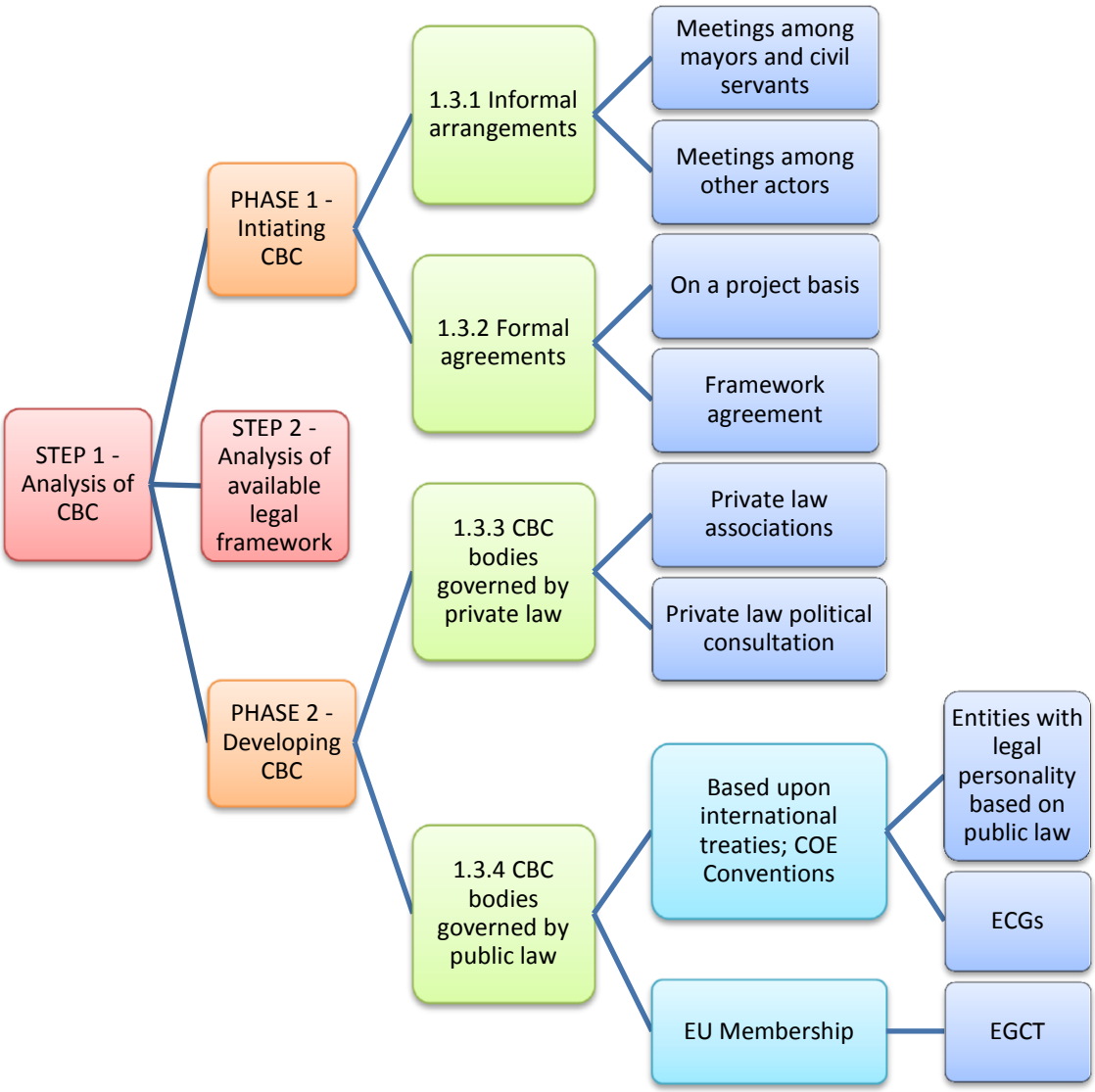


Figure 13 - Main kinds of CBC and types of CBC bodies[2]

5.4 Choosing an appropriate legal form for CBC body

The choice of the legal form of CBC is a strategic decision, given the range of consequences it will have. It expresses not only the political compromise that allowed LAs to develop the CBC process but also the lines of development of the CBC itself. The legal form for running CBC is the institutionalisation of CBC and determines its efficiency and performance.

The occasion when CBC acquires its 'legal personality' is a decisive moment. It is therefore essential for partners to take sufficient time to study exhaustively all the legal aspects before deciding on the creation of a CBC body. Moreover, an in-depth legal impact assessment should be made taking into account the state of the art of the CBC process in the area. This will be an important part of the Feasibility Study.

[2] ECGs – Euroregional Co-operation Groupings (Council of Europe (COE), 2009)

Experience shows that many different ways are used to initiate, conceive and implement CBC. Unless the law leaves no choice, it is important not to decide too early the exact legal form of CBC; rather the decision should be the logical consequence of many other elements.

The following diagram represents a logical step-by-step process to follow when choosing an appropriate legal form for a CBC body.

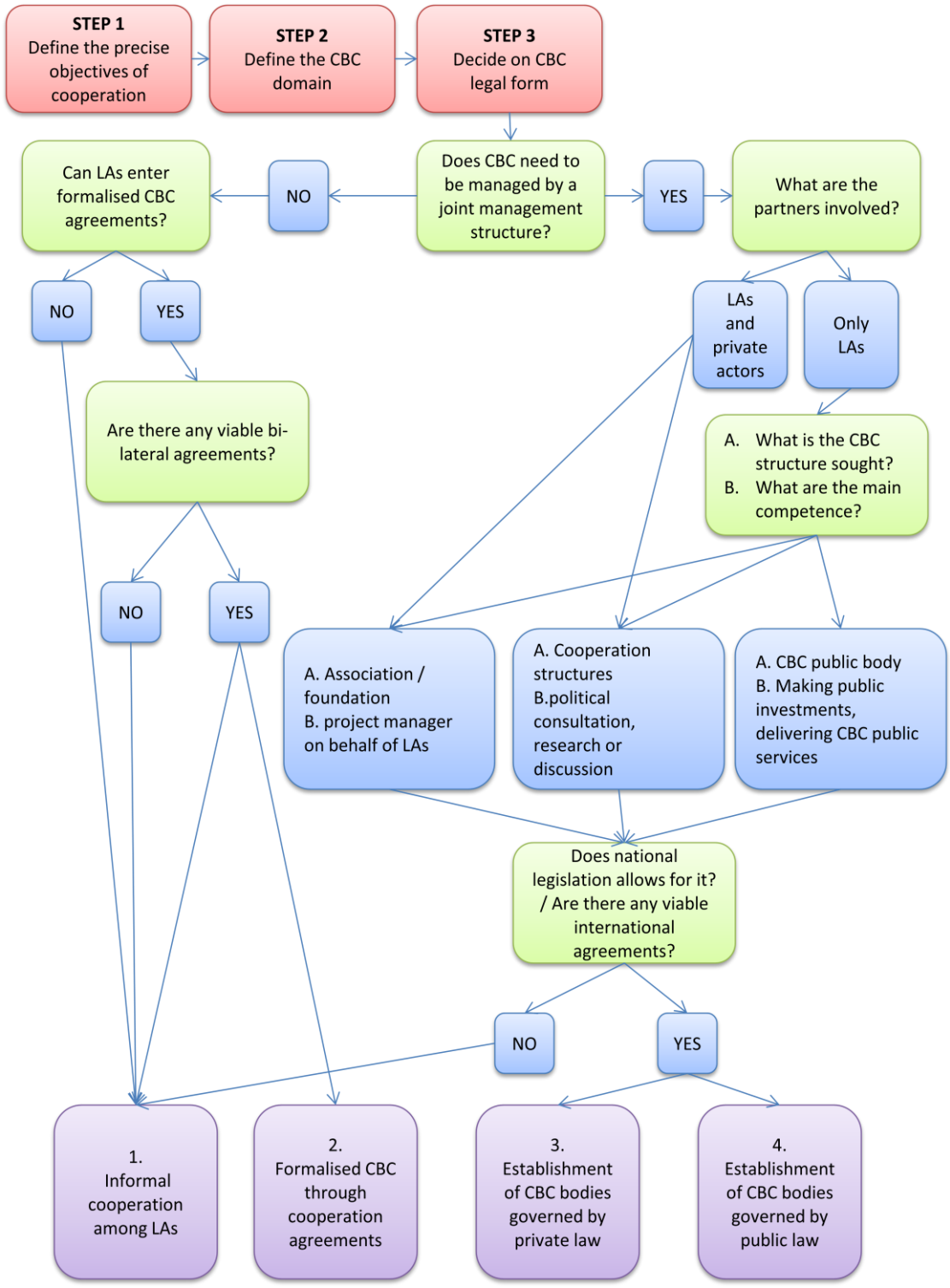


Figure 14 - A logical step by step process

CHAPTER 6 – FINANCING CBC

Although finance may not be the prime reason for creating a CBC set up, issues of financing CBC constitute a major concern for partners in CBC arrangements. Co-financing from local authorities and communities involved is often the starting point for many CBC activities.

Bringing together several local authorities and communities across the border that will share their resources and manage a bigger service or infrastructure, or organise a cross-border event is in theory a 'win-win decision'. However, cooperation in sharing tax income is not a spontaneous political attitude and the technical, political and psychological requirements for its efficiency should not be underestimated.

Furthermore, it is not very easy to organise joint activities that actually save money. There may be fear that the CBC will be asymmetric and that a certain partner will gain more - even in non-monetary aspects (i.e. fame) - than others.

It is therefore most important for anyone who wants to push CBC policy - whether at the local or national level - to demonstrate that **it is in the common interest to take the CBC route** because:

- ✓ All partners can save money on certain services and use it to improve other services or invest in infrastructure.
- ✓ All partners can organise activities or design policies which would have been otherwise (i.e. from a non-cross-border perspective) too expensive (or even impossible) to implement.
- ✓ It opens up the possibility of securing more money from the Government and especially from other international donors (eg. European Commission, European Investment Bank, World Bank, European Bank for Reconstruction and Development, etc).
- ✓ It can create the conditions necessary to attract investors in public services or enterprises that will generate new tax income.

6.1 CBC's financial strengths

CBC is not in itself a money-saving process. It should be regarded as a process to use resources more efficiently with the synergy of partners working toward a common goal. CBC arrangements, however, may lead to several financial advantages:

- ✓ Share administrative overheads (e.g. experts, consultants, equipment, secretariat, etc).
- ✓ Reduce unit costs and improve service quality through economies of scale in the use of infrastructure, equipment and skilled personnel.

- ✓ Attract investment funds reserved for a project of a specified minimum size, partnership compositions, etc.
- ✓ In some countries, attract additional grant aid offered as an incentive to cooperation.
- ✓ Enhance economic performance through co-ordinated planning and environmental protection.

Although CBC arrangements may have the legal capacity to set up a CBC activity or to make a CBC investment, the partner local authorities and communities may not have the financial strength and capacity to implement them. Therefore to achieve these objectives, a supportive financial framework will need to be selected.

6.2 Choices of financial framework

Choosing the appropriate financial framework for CBC depends on a sequence of decisions about the CBC activity that partner local authorities and communities decide to undertake.

Limited financial strength and a strong sense of autonomy of local authorities and communities often relegate CBC activities to project-funded arrangements. However, as CBC arrangements become integrated within municipal service provision in the border areas, LAs should begin to consider sources of sustainable funding.

In such cases, in deciding on the appropriate revenue sources for CBC services, **the initial option concerns the balance of funding between consumers and taxpayers** (See Figure 15 - Choosing the appropriate financial framework p. 94).

Consumers pay for a service through charges or fees, normally varying in scale according to the amount they consume. Taxpayers pay through national or local levies which have tax bases - income, property value, purchase of goods and services, etc - which do not relate directly to their personal consumption of a specific service.

For a fuller discussion on the technical aspects involved in the financing of CBC activities targeted to utility services, capital costs, social services, administrative services and physical and economic development, please refer to Toolkit Manual on Inter-Municipal Cooperation ((COE), 2010, p. 79-85).

Table 21 - Financial issues of CBC contractual agreements vs. CBC entity

Contractual Arrangements	CBC entity
Possible compensation arrangements	*Possible funding arrangements*
➲ Direct charges to consumers	➲ Charges and fees paid by consumers
	➲ Taxes levied on the population served
➲ Contribution from the budgets of CBC partners	➲ Contribution from the budgets of CBC partners

Outside a project-based financial framework, the main issue is to distinguish between CBC cooperation through contractual arrangements and through a CBC entity.

CBC activities concerning capital investment, networks and the provision of CBC services often involve financial costs that CBC partners cannot bare alone. Such CBC projects need to be **co-funded** by a number of players throughout all levels of government. That such CBC projects are in line with national and regional policies is essential in order to build a larger support base to mobilise the required funding.

Although a project is a temporary endeavour with a clear time-frame, budget lines and reporting constraints, it is initiated to achieve distinctive goal and objectives; this is often the starting point for a CBC activity that may gain financial sustainability and autonomy once co-financing is over. Ensuring the **sustainability** of project results is a key element to move from snap-shot, project-based activities to CBC arrangements entailing contractual agreements or the autonomous working of a CBC entity.

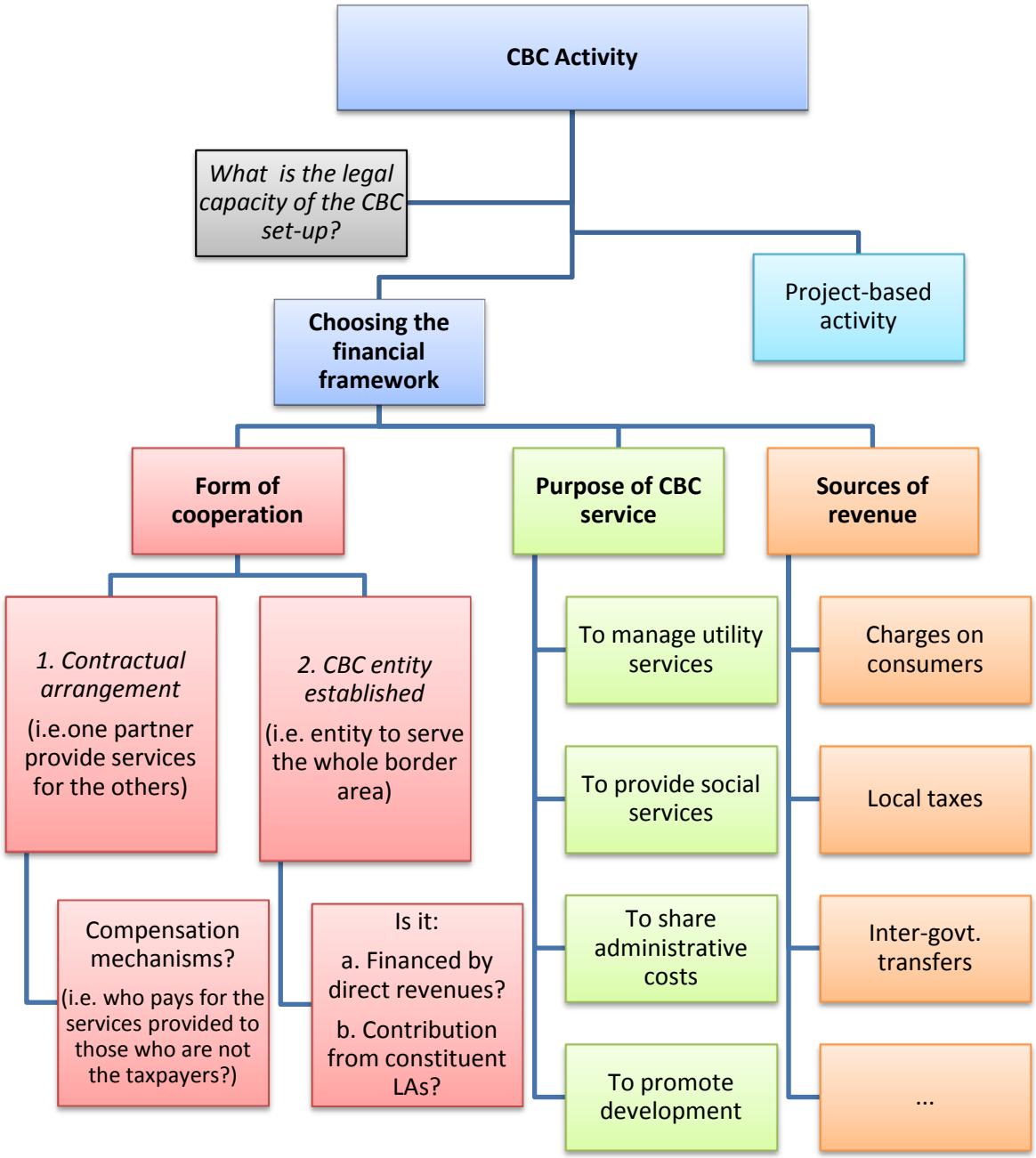


Figure 15 - Choosing the appropriate financial framework

Depending on the states, there are regional and national funds available for CBC activities; moreover, CBC activities are carried out by applying for funding from the programmes and funds made available by organisations such as the EU. The programming period 2014-2020 is to introduce some fundamental changes in the funding opportunities from the EU.

Successful project-making is by no means an easy process. Each funding opportunity varies in terms of eligibility requirements, allocation procedures, application deadline and co-financing provisions.

Any cross-border partnership, regardless to on-going calls for project submission, should ensure it is equipped with the following (MOT / COE, 2006, p. 56):

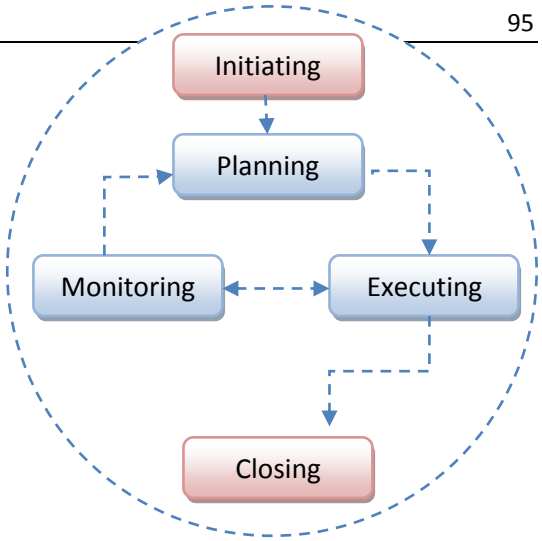


Figure 16 - Project phases

- Detailed report of the CBC partnership (including a brief history of cooperation, shared visions, objectives, etc).
- A partner designated lead-applicant to be responsible for the various partners during the co-financing application process.
- Confirmation from partners on both sides of the border, including undertakings from deliberative assemblies regarding the share of project funding to be borne by local communities and authorities.
- Having a team of experts ready to prepare a project proposal that meets all requirements of each financing programme.

Ensuring the availability of the above will save a lot of time when preparing a project proposal.

The following figure depicts the main (non-exhaustive) steps of a project process.

Figure 17 - Project processes

CHAPTER 7 – ACCOUNTABILITY

7.1. Lines of accountability

CBC activities run by local authorities are still public services, whatever their legal form might be. They must be run with the same consideration for democracy:

- ✓ *Care of citizens' interests.*
- ✓ *Efficiency and effectiveness.*
- ✓ *The need to minimise public costs.*
- ✓ *The importance of respecting the ethics of public administration.*
- ✓ *Local accountability.*

For CBC arrangements, this will present more of a challenge than ordinary municipal services; it will require more attention for several reasons.

Direct political accountability
The municipal leadership does not bear the same direct political accountability towards the population for CBC initiatives as for local public services. The Mayor and elected representatives on the municipal Assembly are well known to their community and are directly accountable to citizens through elections.

Mayors are not elected to deliver CBC; rarely would CBC feature in their political mandate. When they come up for re-election, CBC is unlikely to make or break the balance of votes.

Their reason for becoming engaged in CBC is less direct. It is not to fulfill a political mandate; it is rather to create new opportunities for local people and organizations and to resolve shared challenges. This are still valid purposes for the political leadership of the municipality, and the use of public resources – time, expertise, finance, equipment – still needs to be accounted for.

Wider range of stakeholders
A CBC entity is also subject to a wider spread of accountability – to the partner municipalities in both countries, both individually and collectively, and their citizens, to supervisory Government authorities of both countries (eg regional governor, auditors), and to the beneficiaries of the CBC activities in each country.

If any of these stakeholders has a claim - legal or administrative - against a CBC project that cannot be settled amicably, they may still turn to a court. To which court or other supervisory authority would they turn?

These lines of accountability must be considered in the early stages of establishing CBC arrangements and incorporated in the CBC contract or statute as well as in the management arrangements.

There are several different aspects of accountability:

- ➢ *Citizens and beneficiaries want to know how the CBC entity is performing; but they must first understand the CBC and its operations.*

- *CBC entities are expected to be efficient and effective. Poor performance will undermine the value of the CBC; people will begin to see it as a waste of time and money.*

- *Partner municipalities and their citizens want to be sure that one partner is not benefitting at the expense of the others; this requires good communications and a culture of trust and cooperation.*

- *Decision-making processes have to be transparent so that people have confidence in the integrity of the CBC entity. Any self-interest in contract arrangements, for example, must be not only avoided but seen to be avoided. Corruption must be tackled firmly.* ***Public interest must be seen to come before personal interest.***

- *The delegated CBC council members represent the interests of their own municipality at the same time as they represent the interests of the citizens of all the partner municipalities. This requires of them a higher degree of maturity and an ability to secure political compromise. They will need training and support.*

There must be clear reporting lines to the Assemblies of partner municipalities if clear democratic control over the CBC entity is to be retained.

Accountability drives managers to deliver better performance. **The municipal leadership should welcome accountability as a driver of good performance.**

Good leadership clearly defines the parameters of a CBC arrangement, puts trust in the CBC partners and staff, gives them the tools to do the job and holds them accountable for their performance.

7.2 Technical accountability

Technical accountability is achieved through good **performance management**. Performance management starts with clear objectives for the CBC and a balanced range or pyramid of performance indicators. Such indicators will be the basis for standards, targets and performance data.

The **key performance indicators** – ie those at the top of the pyramid - must be simple enough for citizens to understand, so they can make judgements about the CBC achievements. The municipal leadership can report progress against these indicators back to local people and organisations to keep them informed – for example, in an annual performance report.

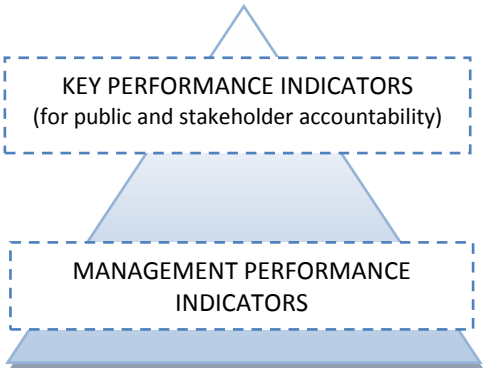


Figure 18 - Technical accountability pyramid

Managers will want to use more detailed data in their everyday work that feed into these key performance indicators.

Table 22 - Questions underlying accountability for CBC

QUESTIONS UNDERLYING ACCOUNTABILITY FOR CBC
Conceptual evaluation to assess how the CBC has been working for the municipality. 1. Were the set objectives realistic, relevant, and have they been met to each partner's satisfaction? 2. Are there aspects that did not meet each partner's expectations? 3. What could have been done differently to improve the overall effectiveness of the CBC? 4. What might be done at this point to improve efficiency and effectiveness? 5. What might be some lessons learned for the next CBC? 6. Did the CBC experience enhance the activities, programmes, services or products of each partner?
Financial evaluation to assess costs and benefits and the risk analysis. 1. Were there surprises that could have been more effectively and efficiently dealt with? 2. Did the CBC meet financial expectations? 3. Did the CBC provide the expected benefits within the budget? 4. If there were budget overruns, why did they occur? How could they have been avoided? 5. Will each partner realize the expected return on their investment?
Administrative evaluation to review the project administration to ensure that it has been effectively managed. 1. Was the work plan accurate in view of the estimated timetable, budget, implementation etc? 2. Did each partner meet their obligations? 3. Were the control measures appropriate and sufficient? 4. Was the communication plan effective and were all participants satisfied with the information provided? 5. Have steps been taken to communicate and convey the know-how and practices that proved successful?

Performance data can also be used to identify problems in performance that need resolution. Mechanisms and responsibilities for collecting and reporting the data must be clear and straightforward. There needs to be a link between the job descriptions of staff and the key performance indicators, so that staff can see how their work contributes to the wider objectives of the CBC. This helps the managers and operational staff to feel more accountable.

Techniques of **performance management** need not be more sophisticated than the ones used by the municipalities for local public services. But in many municipalities, performance management is weak. The leadership will want to ensure that performance management works well for CBC, especially given the wider range of stakeholders.

This kind of management, based on objective information and clear mechanisms and responsibilities, is a condition for:

- ✓ *Creating confidence among partner municipalities that CBC is delivering a 'good return' and is not just a tourism exercise for elected representatives.*

- ✓ *Generating a sense of solidarity and lowering any political antagonism between municipalities.*

- ✓ *Avoiding accusations of unfair advantage or not taking CBC responsibilities seriously.*

Performance management is also very important because such techniques create interest and confidence in the CBC entity with the Government, banks and international donors; this facilitates access to grants and loans.

7.3 Democratic accountability

Many municipal staff, elected representatives and citizens start by fearing that the resources they share through CBC - whether employees, investment finance, vehicles or equipment – will be used more to the advantage of their CBC partners, especially the larger ones. **This is the risk.**

CBC implies that, by sharing decision-making, the municipal leadership gives up a bit of control. Mayors tend to find this difficult; they are not elected to cooperate with other municipalities; it takes courage to take the extra step that CBC requires in the conviction of its feasibility and benefits.

This is more than a technical challenge; it is also a matter of culture. Trust and mutual benefit are the essential ingredients.

Appropriate measures need to be taken from the outset to **manage the risk**. If CBC is to be successful, all municipal partners need to feel that they are kept up to date with what the CBC entity is doing in general and for the benefit of each of them.

In particular, local businesses can benefit considerably from CBC. The municipalities will need to:

- *Develop a good relationship with interested businesses.*
- *Identify sources of support for cross-border business development (eg communications, training, finance, premises).*
- *Create a business-friendly CBC environment to make best use of business opportunities.*

Municipalities will need to understand the need for businesses to show **profitability** as a result of CBC. Businesses will hold their municipality accountable for the kind of CBC business environment that is created.

Other bodies like contractor associations, consumer associations, public sector trade unions, voluntary agencies, business associations and banks continue to be active in working with municipalities and monitoring their performance, and may be ready to be active with CBC entities.

a) Ad hoc contract

The municipality that acts as the lead partner will have to keep the other partners informed about the:

- *Quantity and quality of the services or developments delivered with reference to agreed standards and targets.*
- *Inputs (materials, staff, investment, running costs etc) into the services or developments with reference to agreed plans.*
- *Variations between achievement and plans, and the reason for any variance.*
- *Achievements that deserve celebration and problems that need resolution.*

Even more important, however, is that the responsible persons in the partner municipalities should meet together on a regular basis, perhaps quarterly, to share what information is available, evaluate progress and resolve issues as they arise. Municipal staff should be in close contact with their CBC counterparts.

b) CBC entity

The main control over a CBC entity is exercised by the elected representatives of each partner municipality who are delegated to the CBC council, whether its legal status is public or private. The addition of external delegates, appointed on the basis of their non-partisan expertise, increases the quality of that control.

In this way, the municipal representatives will:

- ✓ *Be given access to all documents.*
- ✓ *Receive all important information.*
- ✓ *Participate in decision-making processes.*

It is the responsibility of those representatives to pay attention to what is happening in the CBC entity, seek advice as necessary and keep their own municipality fully informed.

Standards, targets and plans should have been clearly defined in the CBC arrangements as well as the mechanisms for monitoring progress. Performance information should be set out formally every year in a public **CBC Performance Report**. A draft could be discussed at public meetings to give an opportunity to anyone to contribute their views. The Report should be presented and discussed in the municipal Assemblies of each CBC partner.

The law may require CBC entities to send a copy of their budget and the annual audit results to the partner municipalities, and even to ask their agreement to certain important decisions.

In these ways, municipalities can exercise sufficient control over a CBC entity.

If there is a financial Court or Audit institution that has general control on local government, it will also have the power to supervise CBC entities. The legal control over the decisions taken by CBC entities may be exactly the same as for municipalities.

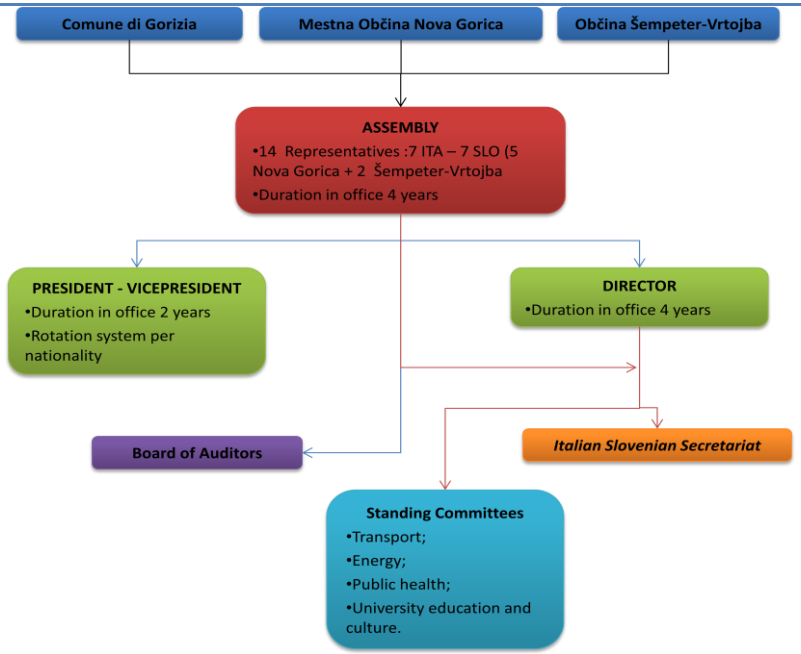
CHAPTER 8 – CBC CASE-STUDIES

8.1 The EGTC "Territorio dei comuni/Območje Občin: Comune di Gorizia (I), Mestna občina Nova Gorica (SLO), Občina Šempeter-Vrtojba (SLO)"

A. SUMMARY OF CBC		
A1 Reference	Title: "Territorio dei comuni/Območje Občin: Comune di Gorizia (I), Mestna občina Nova Gorica (SLO), Občina Šempeter-Vrtojba (SLO)" *[Territory of the Municipalities: Comune di Gorizia (I), Mestna občina Nova Gorica (SLO) e Občina Šempeter-Vrtojba (SLO)]*	Web reference: http://www3.comune.gorizia.it/en/node/751
A2 Type of CBC activity	EGTC focused specifically on the strategic coordination of the policies of the metropolitan area concerning, at a municipal level, the following competences: ➲ management, implementation and modernisation of the infrastructures, systems and transport services, mobility and logistics; ➲ coordination of urban transport policies also through a joint/coordinated management of transport services; ➲ management of the intermodal logistic knots of the metropolitan area;	

	➲ exploitation and management of local energy and environmental resources; ➲ drawing up of a metropolitan energy plan; ➲ drawing up of joint intervention plans aiming at strengthening economic and social cohesion in other sectors too.	
A3 Actors involved	COUNTRY A: Italy	COUNTRY B: Slovenia
A3.1 Local Authorities	1. Comune di Gorizia (NUTS3)	2. Mestna občina Nova Gorica (NUTS3) 3. Občina Šempeter-Vrtojba (NUTS3)
A3.2 Other stakeholders (public and private)	1. NONE N.B. - Art.5 of the EGTC Statute: *"Participation in the activities of the EGTC is open to other public bodies or public law bodies which may join as "associated members" for the purposes of Article 2 of this Statute and in accordance with the conditions established by the Assembly".*	1. NONE
A4 Geographical area covered (Km2)	41.11	324
A5 Total population covered	35,996	37,754
B. STRUCTURE OF THE CBC BODY		
B1 Legal framework:	The EGTC Statute specifically refers to the followings as landmarks constituting its relevant legal framework: ➲ Treaty establishing the European Community and Regulation (EC) n. 1082/2006 of the European Parliament and Council of 5 July 2006 establishing a European Grouping of Territorial Cooperation (EGTC), and Commission Regulations (EC) n. 1080/2006 of the European Parliament and the Council of 5 July 2006, n. 1081/2006 of the European Parliament and Council dated July 5, 2006 and n. 1083/2006 of 11 July 2006; ➲ Law of the Italian Republic on 7 July 2009 n. 88 laying down provisions for the implementation of EC Regulation n. 1082/2006 on the establishment of a European Grouping of Territorial Cooperation (EGTC); ➲ Regulation of the Republic of Slovenia on the establishment of a European Grouping of Territorial Cooperation (Official Gazette of the Republic of Slovenia no. 31/2008 of 28 March 2008, p. 2920); ➲ European Outline Convention of 21 May 1980 on Transfrontier Cooperation between Territorial Communities or Authorities.	
B2 Legal form of cbc body:	Art 4. "*The EGTC is a recognized non-profit public law association with legal personality (...). The EGTC shall have legal*	

	personality and may therefore enter into obligations, exercise rights, acquire, sell or dispose of movable and immovable property and be sued. It is managed independently by its members. The provisions relating to immovable property are the responsibility of the Assembly". The EGTC is legally registered with the Register of EGTC established at the Presidency of the Council of Ministers of the Italian Government. The statutes of the EGTC and acts relating thereto shall be governed by Italian law. The administrative, financial and accounting procedures of the EGTC will be subject to the regulations of the Italian Republic (in the vacuum of specific EU law). The Italian law on EGTC does not yet provide indication on the type of accounting system and EGTC shall adopt. It is now subject of discussion.
B3 CBC objectives and activities:	➲ Promote the welfare and increase the quality of life of citizens of the area; ➲ Carry out specific actions, programs, projects, with or without EU financial contribution; ➲ Raise awareness of the competitive advantage of local and regional territorial cooperation aimed at strengthening economic and social cohesion in the area and the EGTC strategic; ➲ To ensure the human and financial resources necessary to carry out activities and achieve the goals, ensuring adequate flow of information and data, and to inform citizens of the results and activities; ➲ To support and defend the interests and demands of the territories in which it operates within the European decision making with respect to regional and sector policies, institutional framework in the EU and its procedures; ➲ Ensure and promote consultation, dialogue and political debate, the sharing of strategies for managing the cross-border area, as well as their consistency facilitating the realisation of joint projects on issues under the mandate of the EGTC and promoting cooperation in all areas relevant to the harmonious development of the territory; ➲ Ensure dialogue and comparison with respect to urban planning and environmental protection in the area; ➲ Encourage the development of tourism through a joint promotion of the territory and its natural and cultural resources; ➲ Support the dissemination of culture as an indispensable tool for understanding and mutual respect.
B4 Founding members:	Comune di Gorizia (I), Mestna občina Nova Gorica (SLO) e Občina Šempeter-Vrtojba (SLO).

B5 Organigram:	 Standing committees on Public Health and University Education and Culture were established on the 24/3/2012 during one of the first operative meetings of the EGTC. They are not listed in the Statute but they were added as key working groups to answer the needs of the cross-border territory.
B6 Staffing:	Article. 8 of the Statute states that the EGTC intends to invoke the staff of the founding institutions, using tools available under the current legislation (Presidential Decree no. 3 dd. 10.01.1957 Articles. 56 and 57 and later. Mod. and int.). Moreover, the EGTC intends to finance its staffing through targeted participation in European operative programmes, activating from time to time, within the projects presented, specific collaborations where the costs are eligible and, therefore, covered by the implemented activities. Moreover, the EGTC statute specifically foresees the operative support of Informest in the workings of the EGTC. Informest as an agency promoting economic development and internationalisation processes, offers expert staffing and support to the EGTC.
B7 Financial resources:	To ensure the operational functioning of the EGTC, the Founding Members established a fund amounting to 40,000 euros, formed 50% from the Italian municipality and 50% from the two Slovenian municipalities. The share of Slovenian

	municipalities is determined in proportion to population of each municipality. Project based.
B8 Accountability to citizens:	No-specific measures set in place by the Statute. However, in the statutory objectives it is stated that the EGTC aims "to disclose and to inform citizens of [its] results and activities" During the EGTC meeting (March 2012) it was decided to establish an on-line forum serving as a permanent citizens consultation platform. Linked to the most common social networks (e.g. facebook, twitter, etc) the e-forum is seen both as a gateway to all relevant information about the EGTC acts, experiences and projects and as an e-front-office permanently open to discussion with the local stakeholders. The EGTC, at this stage, is particularly interested in the interaction with three key stakeholder groups: entrepreneurs/economic actors; citizens; local communities.
B9 Monitoring and evaluation:	There are no specific measures in place. However, elected representatives to the EGTC Assembly must submit yearly (and whenever asked to by the respective Mayors or Municipal assemblies) a report on the EGTC activities and results. As far as financing is concerned, the EGTC is equipped with a board of auditors. Moreover, according to L 88/2009 Art 23/2, the Minister of Economy and Finance, in consultation with the Minister of Economic Development, after consultation with the Permanent Conference for relations between the state, regions and autonomous provinces of Trento and Bolzano, shall, by means of an inter-ministerial decree, set the standards for economic management, financial and capital, in accordance with international public sector accounting principles. Such a decree has not been defined yet.

C. EFFECTIVENESS OF THE CBC		
	STRENGTHS	**WEAKNESSES**
C1 Contribution of partners:	↑ Homogeneous competencies among partners; ↑ Well-established experience in CBC projects; ↑ Non-ideological/pragmatic interpretation of CBC by local institutional actors; ↑ High degree of political engagement; ↑ High capacity in terms of project making and lobbying at the EU level.	↓ Poor financial resources – only project based
C2 Coordination among partners:	↑ Long history of coordination in a CBC perspective (since 1964); ↑ Specialized staff and experts on CBC within each partner administration; ↑ Highly participative local stakeholders in terms of research and	↓ Lack of permanent EGTC staff.

	analysis of the CBC area.	
C3 Degree of participation in specific areas of cooperation:	↑ Good management of services; ↑ High willingness to cooperate in the energy and transport sectors; ↑ Good tradition of cooperation in the two sectors above; ↑ High participation of cultural and local institutional actors in CBC initiatives.	↓ Certain matters of cooperation (e.g. the management of the Isonzo river waters) do not pertain to the competencies of partners.
C4 Local socio-cultural context - challenges and opportunities for CBC:	↑ The cross-border area is characterised by a common history of unity in which the establishment of the border-line is a relatively recent event. Capitalising on it, the border area finds a collective memory prompting integration not only at the cultural level but also when marketing the territory to third parties. ↑ At the environmental level the cross-border area presents high level of nature preservation and renewable energy production and environmental friendly waste management policies are well spread across the territory.	↓ From an historical perspective, the tragic events which took place during second world war and in its aftermaths represent on cultural and mutual trust levels (especially for the older generations inhabiting the cross-border area) a factor hindering co-operation; ↓ Decline of bilingualism especially with young people; ↓ Lack of awareness and visibility of the EGTC among the population. ↓
C5 Local economic context - challenges and opportunities for the CBC:	↑ The homogenous distribution of the population on both sides of the border is a key strength of the EGTC. With a similar number of inhabitants on both sides of the border, the EGTC territory is also homogenous in terms of sex and age distribution. Whilst offering the correct socio-demographic basis to capitalize on potential economies of scale, for instance, in services production and distribution, this hinders potential free-riding issues from on municipality to the other. (Att. 1 Age Pyramids) ↑ The cross-border area represents in geo-economic terms a strategic territory which could attract FDI and financial flows aiming at relations of trade and economic development between Western Europe and South Eastern Europe, especially in the Adriatic context. ↑ The cross-border area scores unemployment rates which are consistently lower than the national averages even when female	↓ The population density index varies greatly in the three municipalities. Whilst the municipalities of Gorizia (Ita) and a Šempeter-Vrtojba (Slo) are predominantly urban municipalities, the municipality of Nova Gorica is characterised by a vast rural hinterland. Issues such as forestry and fire prevention and other environmental management issues are not shared equally across the EGTC territory. The rural-urban divide is juxtaposed to the cross-border axis and this may be an obstacle to the consensus building process within the EGTC assembly when policy objectives and road maps for action are designed. ↓

	unemployment is considered. ↑ The economy of the area is relatively well developed: the entrepreneurial fabric of the Italian areas (especially in the Veneto region) is most developed and Italy is the second commercial partner of Slovenia. Moreover, the cross-border area finds in its natural resources and in its improved infrastructure a most favourable context to develop the tourism sector. ↑ To some extents, moreover, the Italian and Slovenian entrepreneurial systems appear to be complementary, at least, in so far as investments on R&D are considered. In fact, although the industrial clusters remain more developed (although the gap is rapidly closing), Slovenia is much closer than Italy to the Lisbon target on GDP expenditure of research and development. ↑ Although not dramatic, the wage differential between Italy and Slovenia opens up for good business and investment opportunities. ↑ The cross-border area (and notably the Slovenian area) scores good overall levels of schooling, it is equipped with many and well-established Universities and international training and research institutes.	↓ In economic terms, the region is still lacking an integrated approach to the new global challenges. On the Italian side, SMEs suffer from their limited economies of scale and managerial capital whilst in Slovenia industrial clusters and entrepreneurship are not yet stably established. ↓ At the infrastructural level, the railroad system is underdeveloped and, thus, commercial transports are road-oriented often provoking traffic congestion of the regional highways. Public cross-border transportation and IT is still underdeveloped in some parts of the area.
C6 Achievements of the CBC:	The three municipalities witness today a good level of CBC. Although far from being a fully integrated metropolitan area, the cross-border area is characterised by a high degree of participation in the CBC process of all main stakeholders and can count on a number of key results achieved by the CBC process itself (i.e. a cross-border bus route; the study about a common system of integrated management of cross-border waters in urban areas of Gorizia and Nova Gorica, etc). All considered, the three municipalities held the EGTC to be the most efficient tool to further develop their mutual cooperation. The CBC process started back in 1964 when the first meeting between the municipal administrations of Gorizia and Nova Gorica was held. This collaboration has developed into the so called “Patto transfrontaliero” (*the Cross-border Pact*) in 1998	

(re-named "Protocollo di Cooperazione Transfrontaliera" (*Cross-border Cooperation Protocol*) after its recognition by the Italian and the Slovene Governments). In March 1999 the protocol was extended to the newly constituted Municipality of Šempeter-Vrtojba.

Since then, the harmonisation of the efforts aiming at the development of the three municipalities has been rather difficult both because of the differences in the two juridical and administrative systems, and of different political perspectives. However, cooperation has focused particularly on the problems that characterise the border area.

In 2002, the Mayors of the three municipalities of Gorizia, Nova Gorica and Šempeter-Vrtojba set up the 'Tre Giunte' (The Three Municipal Governments), a more direct cooperation channel among the three Administrations, based on periodic meetings targeted to jointly tackle common problems and coordinate decisions on the most relevant issues of common interest.

This cooperation intensified in recent years thanks to the 2008 review of the original Agreement on the functioning of the "Three Municipal governments' instrument", elaborated by the three Local Bodies back in 2005. The review was targeted to further rationalize its operative scope.

The entering of Slovenia in the EU (2004) and in the Schengen Area (2007) opened up new opportunities for CBC (e.g. no customs control; border becomes virtual, etc) in the area whilst setting new challenges ahead (i.e. economic competition due to price differences for commodities and primary goods).

The new European instrument, the EGTC, is considered an advisable, logical and urgent means of continuity: it creates a single city where infrastructural, economic and social services can gain in terms of efficient use of resources and economies of scale.

D INSTITUTIONAL CONTEXT		
	OPPORTUNITIES	**THREATS**
D1 National institutional	↑ Support / no-opposition of national authorities for the establishment of the EGTC;	↓ Compared to Slovenian law, the approval procedure for EGTC in Italy is highly

context:	↑ EGTC of Italian public law: the Italian legislation on "intermediate" public agencies with management functions on public resources offer a very detailed framework within which the EGTC activities can be managed; ↑ Wide range of activities which can fall under the EGTC interests. ↑ The Region Friuli Venezia Giulia (Italy), the Region of Veneto (Italy), the Laender Carithia (Austria) have signed an agreement paving the way to the establishment of an EGTC in the Italian-Autstrian border area. The territory of the EGTC will cover part of the EGTC "territorio dei comuni (…) / Območje Občin (…)", since the Municipality of Gorizia is part of the Friuli Venezia Giulia Region. The juxtaposition of the two EGTCs represents an unprecedented opportunity to develop a fully integrated cross-border governance over a vast territory. However, it also represents a serious challenge since it might imply an increased competition for EU funding and the over-bureaucratisation of the cross-border cooperation in a relatively small area. (Cfr. Att. 2 – Territorial cooperation in the Upper Adriatic Area)	bureaucratic as it requires the opinion of several Ministries; ↓ The EGTC, being a public body, is subject to the control of the Italian Court of Auditors; ↓ Different administrative and political cultures between Italy and Slovenia regarding the place of the national level in an EGTC. ↓ Juridical conflict concerning the staff recruitment. ↓
D2 International institutional context:	↑ Common membership to the EU/Euro Zone/Schengen area; ↑ Best-practices and learning material on EGTC available and promoted though the relevant EU websites; ↑ Interest of CoR for the EGTC development.	↓ No Italy-Slovenia bi-lateral Treaty following Madrid Outline convention.
E. EVALUATION OF THE CBC		
E1 Main challenges that had to be overcome:	➲ Gaining political support from central governments; ➲ Drafting a statute taking into account of different legal and cultural framework; ➲ Maintaining high political interest at times of bureaucratic backlashes; ➲ Achieving the envisaged goals at times of financial shortages.	
E2 Critical success	➲ Non-ideological interpretation of CBC;	

Factors:	➲ Joint interpretation of EGTC as a pragmatic joint-governance tool; ➲ High confidence between political representatives and administrative level; ➲ Support from local experts; ➲ Project based cooperation not creating financial stress on municipal budgets.

F. LESSONS LEARNT

The establishment of the EGTC did not occur in a vacuum. It was the result of a long established tradition of cooperation among partners. Recent joint management of EU financed project was essential to: 1. Value the efficiency of a joint management tool; 2. Understand the feasibility of joint project making, implementation and result exploitation; 3. Develop a common pragmatic outlook of CBC.

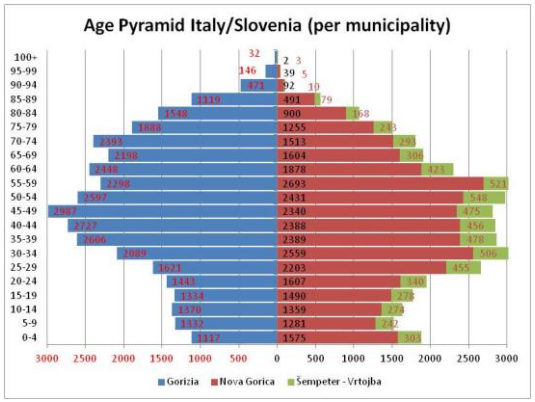
The EGTC was established through a well-balanced and participatory institutional process so to achieve fully legitimate cooperation.

The EGTC is not regarded as the ultimate goal of the CBC process but as a tool to fully integrate it in the decision-making process of the partners operating in the cross-border area. Partners are fully aware of its limits and competences but regarded it as an essential tool to foster CBC and take an active role in the promotion of CBC planning at all levels of municipal competencies.

G. FUTURE PLANS

- ➲ Turn the cross-border area governance from a coordinated practice to a single-governance model;
- ➲ Improve at a fast rate the project-making activity of the partners by making best use of EU funds;
- ➲ Improve the visibility of the EGTC and turn it into a stable partner for all the stakeholders operating in CBC projects in the area.

Att. 1 – Age Pyramids



(Source: Gorizia Municipality Own Data Feb 2012 / Slovenian Statistical office – Rapid Report 16/6/2010)

Att. 2 – CBC governance in the Upper Adriatic

Macro-Region: European Strategy for the Danube Region

"Without border" EGTC (*in fieri*)

"territorio dei comuni (…) / Območje Občin (…)" EGTC

Adriatic Euroregion

8.2 CBC EGTC EURODISTRICT STRASBOURG-ORTENAU (France/Germany)

A. SUMMARY OF CBC		
A1 Reference	Title: EGTC EURODISTRICT STRASBOURG-ORTENAU (France/Germany)	Web reference: http://www.eurodistrict.eu
A2 Type of CBC activity	EGTC between France and Germany	
A3 Actors involved	COUNTRY A (France)	COUNTRY B (Germany)
A3.1 Local Authorities	1. Urban Community of Strasbourg all NUTS 3 level	1. District of Ortenau 2. City of Kehl 3. City of Offenburg 4. City of Achern 5. City of Lahr 6. City of Oberkirch all NUTS 3 level
A3.2 Other stakeholders (public and private)	X	X
A4 Geographical area covered (Km2)	304 km²	1.851 km²
A5 Total population covered	450.000	408.000
B. STRUCTURE OF THE CBC BODY		
B1 Legal framework:	European Grouping of Territorial Cooperation (created on 1.02.2010) registered under French law. Registered seat: Urban Community of Strasbourg.	
B2 Legal form of CBC arrangements:	Based on a conventional agreement between French and German local public partners of 2005 arising from a joint declaration of French and German Heads of State in 2003 encouraging the creation of an Eurodistrict between Strasbourg and Kehl. The EGTC has its headquarters in the German city of Kehl.	

B3 CBC objectives and activities:	➲ develop and strengthen cross-border cooperation between both French and German territories ; ➲ support innovative projects and initiatives with a strategic relevance for the balanced development of the territory (transportation policy, health issues, education and bilingualism, sustainable urban development, cultural events, social cohesion..) ➲ set a peculiar emphasis on citizenship participation and local democracy at crossborder scale ; ➲ set the roots for a real "crossborder intercommunality" based on experimentation in strategic fields of cooperation ; ➲ strengthen the position of Strasbourg as the European capital.
B4 Founding members:	➲ see A3.1. ➲ In addition to them, the French State is to join the EGCT as full member. The revision of the Statutes is currently examined by the French Ministry of Home Affairs after the decision of the Council of the Eurodistrict to admit the French State as full member.
B5 Organigram:	➲ President and Vice-President of the Eurodistrict (2 years) ➲ Council of the Eurodistrict (48 members – 24 F / 24 D) ➲ Board of the Eurodistrict (14 members – 7 F / 7 D)
B6 Staffing:	EGTC General Office in Kehl (Germany) with a 5-people-staff : ➲ Secretary General ➲ Projects Officer ➲ Communication and Events Officer ➲ People to People Project Officer ➲ Secretary / Accountant
B7 Financial resources:	Budget 2012 : 850.000 € ➲ 425.000 € (Urban community of Strasbourg) ➲ 425.000 € (German partners)
B8 Accountability to citizens:	The Eurodistrict aims to support projects in line with the preoccupations of the population living on the territory and facilitating the participation of citizens in a genuine governance model. This was the objective of an on-line consultative platform carried out in late 2010; many citizens contributed to the debate and raised their own project ideas likely to be

	supported later on by the EGCT.	
B9 Monitoring and evaluation:	The EGCT sets up every year a road map in accordance to the strategic lines of the Eurodistrict adopted in July 2011 by the Council. The yearly road map will permit an ongoing monitoring frame for the evaluation of its actions.	
C. EFFECTIVENESS OF THE CBC		
	STRENGTHS	**WEAKNESSES**
C1 Contribution of partners:	↑ long experience of CBC ↑ high political engagement ↑ important financial resources ↑ bottom-up strategy	↓ spatial and demographic heterogeneity of the territory ↓ different competences and scales between French and German NUTS 3 members
C2 Coordination among partners:	↑ long tradition of dialogue between partners since 2005; ↑ dedicated specialized staff and experts within each partner administration ; ↑ added value of the EGTC and its own administration	
C3 Degree of participation in specific areas of cooperation:	↑ high expertise of partners on specific areas of cooperation and fields of experience (example of public transportation for the French side and sustainable tourism for the German side); ↑ mobilisation of European partners and institutions present in Strasbourg (example of the Council of Europe for the Forum of the Eurodistrict)	↓ disproportion of the southern territory of the Eurodistrict where German side has no counterpart in the French side.
C4 Local socio-cultural context - challenges and opportunities for CBC:	↑ presence and dynamism of cultural actors eager to bring up cooperation projects ; ↑ success of yearly popular mass events carried out on the symbolic Two Banks Garden between Strasbourg/Kehl ; ↑ expectations of the population to take part in the development and governance of the Eurodistrict ; ↑ variety of flows between both sides of the Rhine (commuters, residents, consumers); ↑ Issue of the management and the integration of migrant populations mostly coming from Eastern Europe.	↓ lack of awareness and visibility of the Eurodistrict among the population ; ↓ decline of bilingualism especially with young people;
C5 Local economic	↑ major input of the Eurodistrict throughout the central axis	↓ heterogeneity of the territory (high urbanized

context - challenges and opportunities for the CBC:	Strasbourg-Kehl-Offenburg ; ↑ important urban development of the West-East line between Strasbourg and Kehl ; ↑ first steps of a crossborder territorial marketing (participation of economic stakeholders to worldwide fair events such as MIPIM) ; ↑ creation of an integrated jobs market taking advantage of the high employability of the German market and the quality of the workforce on the French side.	on the French side and mostly rural on the German side)
C6 Achievements of the CBC:	↑ Popular events with high participation: Bicycle Day, European Picnic, Hiking Day. ↑ Common platform for epilepsy treatments (INTERREG IV). ↑ Delegation of national competences for the establishment of ID cards for French residents in the German part of the Eurodistrict. ↑ Convention on apprenticeship to facilitate the access to both job markets for trainees. ↑ Consultative internet platform “My Eurodistrict” pursued by an INTERREG people-to-people project.	
D INSTITUTIONAL CONTEXT		
	OPPORTUNITIES	**THREATS**
D1 National institutional context:	↑ Full support of national authorities for the creation of the EGTC Strasbourg-Ortenau; ↑ Positive input of lobbying activities and exchange of experiences accomplished by the Mission Opérationnelle Transfrontalière (MOT)	↓ Different administrative and political cultures between France and Germany regarding the place of the national level in an EGTC. ↓ Juridical conflict concerning staff recruitment under German law denied by the French authorities since the EGTC is registered only under French law.
D2 International institutional context:	↑ Major support and interest of the Committee of the Regions for the development of EGCT within the European multi-level governance; ↑ Draft revision of the EGTC regulation responds to questions raised by the EGTC	
E. EVALUATION OF THE CBC		

E1 Main challenges that had to be overcome	➲ Moving from a "twin-governance" to a single governance model (one president instead of French and German national spokesmen) ➲ Transferring responsibilities to a dedicated staff working for all members ➲ Make the EURODISTRICT more visible and engaged on the whole covered territory ➲ Constitute a representative political assembly of the Eurodistrict
E2 Critical success factors:	➲ High confidence between political representatives and administrative level ➲ CBC is a long ongoing process that needs time and understanding from all sides ➲ CBC must be approached as a specific topic and not the extension of a local action or policy Human resources are a key factor for the success of CBC

F. LESSONS LEARNT

- ➲ not to underestimate the institutional phase following the creation of an own dedicated structure of CBC: success is a matter of time;
- ➲ try to anticipate intercultural differences between partners as much as possible, especially regarding the juridical aspects of the CBC;
- ➲ consider the EGTC as an appropriate tool for the coordination of crossborder public actions and keep aware of its limits (absence of competences);
- ➲ provide a good visibility of the action of the EGTC (projects, meetings, decisions…)

G. FUTURE PLANS

- ➲ initiate the territorial enlargement of the French side of the Eurodistrict ;
- ➲ set an emphasis on the communication and public relations of the Eurodistrict ;
- ➲ ensure more autonomy of the EGTC by supporting its staff and facilitating the management;
- ➲ achieve the modification of the Statutes so as to admit the French State as full member;
- ➲ successful realisation of the INTERREG people-to-people project.

8.3 CBC Euroregion Dniester (Ukraine/Moldova)

A. SUMMARY OF CBC		
A1. Reference	Title: Euroregion Dniester	Web reference: http://dniester.eu/ e-mail: mvm@vin.gov.ua euroregiondniester@gmail.com 21050, Ukraine, Vinnytsia, Soborna street, 70. tel/fax +380432-53-09-59; tel. 35-13-65
A2. Type of CBC activity	Economy, infrastructure and labour resources: ➲ establishment and strengthening of cooperation in areas of industry, agricultural production, processing of agricultural products, transport and trade in industrial, agricultural and food products; ➲ facilitating the conclusion of agreements between economic agents, establishment of joint industrial and commercial enterprises, increasing the number of export-import transactions; ➲ participation in various European economic programmes; ➲ assistance the development of road and river infrastructure, reestablishment of navigation of the river Dniester; ➲ facilitating the modernisation and technical re-equipment of existing checkpoints at the state borders. Environment and water management: ➲ coordination of programmes for protecting the ecosystem of the river Dniester basin; ➲ development of joint programmes for the preservation and use of fish resources of the river Dniester; ➲ development and implementation of joint measures to create new and expand existing nature landscape reserves; ➲ coordination of joint efforts to provide citizens with quality water; ➲ coordination of joint actions in cases of fire, flood and other natural disasters. Science, education, culture, health, tourism and sport: ➲ establishment of relations between educational and research institutions; ➲ development of cooperative programmes between local cultural institutions to preserve ethnic peculiarities and cultural diversity of communities in areas of compact residence;	

	➲ establishment and development of relations in areas of health care, sanatorium-and-spa treatment and recreation; ➲ cooperation in tourism and leisure time organisation; ➲ organising sport events. Protection of human rights: ➲ co-ordination of law enforcement agencies in combating organised international crime in the border regions , contraband, drug traffic, firearms, illegal migration of citizens; ➲ co-ordination of public order in areas adjacent to Ukraine-Moldova border.	
A3| Actors involved	COUNTRY A: Ukraine	COUNTRY B: Republic of Moldova
A3.1 Local Authorities	1. Vinnytsia Regional (Oblast) Council 2. Vinnytsia Regional (Oblast) State Administration	1. Ocnita Raion Council 2. Donduseni Raion Council 3. Soroca Raion Council 4. Floresti Raion Council 5. Soldanesti Raion Council 6. Rezina Raion Council
A3.2 Other stakeholders (public and private)	➲ Local authorities of other territorial-administrative units ➲ Active NGOs ➲ Economic agents ➲ Others	➲ Local authorities of other territorial-administrative units ➲ Active NGOs ➲ Economic agents ➲ Others
A4 Geographical area covered (Km2)	Total area - 26513 km^2 Vinnytsia region (oblast) - 26513 km2	Total area - 4613 km^2 1. Ocnita district (raion) – 597.5 km2 2. Donduseni district (raion) – 644.1 km2 3. Soroca district (raion) -1043 km2 4. Floresti district (raion) – 1108.2 km2 5. Soldanesti district (raion) – 598.4 km2 6. Rezina district (raion) – 621.8 km2
A5 Total population covered	1.6 million	378.000
B. STRUCTURE OF THE CBC BODY		

B1 Legal framework:	Euroregion “Dniester” was established according to European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities adopted in Madrid 21.05.1980 and additional protocols № 1 and № 2.
B2 Legal form of CBC arrangements:	Euroregion “Dniester” is association of local authorities from the border administrative-territorial units of Ukraine and Republic of Moldova. The Coordination Center (The regional Center for cross-border cooperation Euroregion Dniester) is an executive body of the Euroregion “Dniester”. It is registered as International NGO
B3 CBC objectives and activities:	The main purpose of the founding and activity of the Euroregion "Dniester" is implementation programmes of harmonised and integrated development of the territories adjacent to the river Dniester Main objectives of the Euroregion “Dniester”: ➲ organisation, co-ordination and strengthening the relations in economy, science, education, culture, tourism, sport; ➲ implementation of joint projects on environmental protection and ecological recreation of the river Dniester basin; ➲ participation in development of international transport corridors and reconstruction of existing highways; ➲ implementation of regional programmes (projects) on reducing unemployment among the populations of border regions; ➲ cooperation in construction of checkpoints at Ukraine-Moldova border of international and local importance; ➲ establishment of relations with international organisations, funds, institutions, agencies and other foundations.
B4 Founding members:	From Ukraine: ➲ Vinnytsia Regional Council ➲ Vinnytsia Regional State Administration From Republic of Moldova: ➲ Ocnita Raion Council ➲ Donduseni Raion Council ➲ Soroca Raion Council ➲ Floresti Raion Council ➲ Soldanesti Raion Council ➲ Rezina Raion Council

B5 Organigram:	Euroregion Dniester has the following structure: ➲ Council of the Euroregion Dniester (15 members) ➲ The Head of the Euroregion Dniester ➲ The Deputy Head of the Euroregion Dniester ➲ The Co-ordination Centre (The regional Centre for cross-border cooperation Euroregion Dniester)	
B6 Staffing:	The Coordination Centre (The regional Centre for cross-border cooperation Euroregion Dniester) as executive body of the Euroregion as the following structure: ➲ The Director of the Centre ➲ The Deputy Director of the Centre ➲ 2 Co-ordinators ➲ Accountant ➲ Representation of the Coordination Center in Soroca (Republic of Moldova) with 2 coordinators.	
B7 Financial resources:	Financial resources are provided by: ➲ Membership contributions ➲ Technical assistance and other financial contributions of the donor and other financial organizations ➲ Other contributions	
B8 Accountability to citizens:	The Head of the Euroregion presents annual reports concerning participation in different programmes, implementation of projects and other activities in the frame of the Euroregion. All Information concerning Euroregion constantly updates on the official web-site of the Euroregion Dniester (www.dniester.eu).	
B9 Monitoring and evaluation:	Participation of independent experts and auditors is foreseen.	
C. EFFECTIVENESS OF THE CBC		
	STRENGTHS	**WEAKNESSES**
C1 Contribution of partners:	↑ Own financial resources ↑ Own human resources ↑ Own technical resources	
C2 Coordination among partners:	↑ All Parties of the Euroregion are equal to each other, have equal rights and duties. ↑ Temporary Working Committees report to the Council of	↓ Undeveloped communication infrastructure including interactive and on-line communication in some areas of the Euroregion

	Euroregion. Co-ordination Centre reports to the Head of the Euroregion. ↑ Co-ordination Centre assists Committees in organising its activities. ↑ Organisation of the Euroregion "Dniester" is provided by the Charter of the Euroregion and Regulations of Organization and Activity of the Council and Co-ordination Centre of the Euroregion "Dniester" ↑ Council is the supreme body, coordinating the cooperation within the Euroregion. ↑ The Head of the Euroregion co-ordinates Co-ordinating Centre's work. ↑ The Co-ordination Centre (The regional Centre for cross-border cooperation Euroregion Dniester) is an executive body with the right of legal entity. ↑ Representation of the Co-ordination Centre in Soroca (Republic of Moldova) reports to the Co-ordination Centre in Vinnytsia (Ukraine)	↓ Dependence on political situation in countries-participants
C3 Degree of participation in specific areas of cooperation:	For set objectives achievement, Parties will cooperate, in terms of the competence, in the following areas: ↑ <u>Economy, infrastructure, labor resources</u>: ➲ establishment and strengthening of cooperation in areas of industry, agricultural production, processing of agricultural products, transport and trade in industrial, agricultural and food products; ➲ facilitating the conclusion of agreements between economic agents, establishment of joint industrial and commercial enterprises, increasing the number of export-import transactions; ➲ participation in various European economic programmes; ➲ assistance the development of road and river infrastructure, reestablishment of navigation of the river Dniester; ➲ facilitating the modernisation and technical re-equipment of	↓ Different level of territorial units development, specific of the participating areas ↓ Disproportions in the process of involving participating territorial units in different projects implemented in the frame of the Euroregion

	existing checkpoints at the state borders. ↑ <u>Environment and water management</u>: ➲ coordination of programs for protecting ecosystem of the river Dniester basin; ➲ development of joint programmes for preservation and use of fish resources of the river Dniester; ➲ development and implementation of joint measures to create new and expand existing nature landscape reserves; ➲ co-ordination of joint efforts to provide citizens with quality water; ➲ co-ordination of joint actions in cases of fire, flood and other natural disasters. ↑ <u>Science, education, culture, health, tourism and sport</u>: ➲ establishment of relations between educational and research institutions; ➲ development of cooperative programs between local cultural institutions to preserve ethnic peculiarities and cultural diversity of communities in areas of compact residence; ➲ establishment and development of relations in areas of health care, sanatorium-and-spa treatment and recreation; ➲ cooperation in tourism and leisure time organisation; ➲ organising sport events. ↑ <u>Protection of human rights</u>: ➲ co-ordination of law enforcement agencies in combating organised international crime in the border regions, contraband, drug traffic, firearms, illegal migration of citizens; ➲ co-ordination of public order in areas adjacent to Ukraine-Moldova border.	

C4 Local socio-cultural context - challenges and opportunities for CBC:	↑ The territory of the Euroregion is very rich in cultural heritage. ↑ Some traditions in border regions are common and some are unique. That makes cultural life more diverse and interesting for different kinds of tourism.	↓ Lack of financial support of cultural activities. ↓ Undeveloped transport and touristic infrastructure
C5 Local economic context - challenges and opportunities for the CBC:	↑ Activities in the frame of common trade fairs, exhibitions and other economic actions will facilitate economic development in the Euroregion territories	↓ Low level of entrepreneur activity ↓ High level of shadow economy
C6 Achievements of the CBC:	Euroregion "Dniester" is newly created CBC structure. The founding documents were signed on the 2 of February, 2012. Today the Action Plan 2012-2013 is developing by both Parties. This Plan includes common activities and participation of the Parties in events in the frame of the Euroregion. The possibility of establishing new contacts between local communities of participating regions is of high importance.	
D INSTITUTIONAL CONTEXT		
	OPPORTUNITIES	THREATS
D1 National institutional context:	↑ Support of the state authorities	↓ Political situation
D2 International institutional context:	↑ Cooperation with international organisations (ICDT, ISD)	↓ Newly created organisation, lack of partners ↓ Lack of experience
E. EVALUATION OF THE CBC		
E1 Main challenges that had to be overcome:	➲ poor transport infrastructure ➲ low actitvity of economic agents ➲ undeveloped tourist infrastracture ➲ Environmental and conservation challenges ➲ development of people-to-people cooperation	

E2 Critical success factors:	➲ support of national and local authorities ➲ willingness to cooperate between border regions
E3 Any other comments:	Cooperation between border regions within the Euroregion will consolidate joint efforts to overcome common problems, which in turn will lead to deepening of the existing regional cooperation and partnership contacts between local communities of participating regions.
F. LESSONS LEARNT	
On the way to establishing the Euroregion, there were moments that made further communication and cooperation difficult. One of those moments was an unstable political situation in one of the countries. This created delays in the negotiating process. Moreover, support from the local authorities is also extremely important.	
G. FUTURE PLANS	
Euroregion “Dniester” is new CBC structure but it has long-term goals and willingness to bring people from both sides of the river Dniester together by involving them in common events, actions and projects.	

8.4 CBC case study NotaBENe

A. SUMMARY OF CBC		
A1. Reference	Title: NotaBENe	Web reference: http://www.notabenenord.org (under construction)
A2. Type of CBC activity	➲ To create a Virtual NotaBENe Platform ➲ To create a network between the project partners for the exchange of knowledge and best-practice examples in rural cross-border regions ➲ The Virtual NotaBENe platform will be used by project partners for specific cross-border small and medium business competition projects ➲ Training activities ➲ Thematic seminars ➲ Summer school ➲ Master courses for students of partners' HEIs ➲ Study tours to the Nordic and Baltic countries ➲ Competition on best project ideas ➲ Research on obstacles and favourable factors in cooperation across the border ➲ Coordination Group (CG) meetings ➲ Evaluation, Auditing and Reporting	
A3. Actors involved	COUNTRY A – Russian Federation	COUNTRY B – Nordic, Baltic countries and CoE
A3.1 Local Authorities	1. Administration of Vyborg region 2. Leningrad region	1. Council of Europe (Directorate for Democratic Institutions, Department of Local and Regional Democracy and Good Governance)
A3.2 Other stakeholders (public and private)	1. North-West Russian Academy of Public Administration, St.Petersburg, Russia 2. Association "Council of municipalities of the Republic of Karelia", Russia 3. Petrozavodsk State University 4. Murmansk Humanities Institute, Russia	1. Finnish-Russian Cross-Border University, Joensuu, Finland 2. Norwegian-Russian Chamber of Commerce 3. University of Tromso, Norway 4. Copenhagen Business school, Denmark 5. Peipsi Center for Transboundary Cooperation,

Please specify type of stakeholder	5. Regional economic development Agency, Kaliningrad, Russia 6. Pskov State Polytechnic Institute, Russia	Tartu, Estonia 6. Municipal Training Center, Kaunas, Lithuania
A4 Geographical area covered (Km2)	1.400.000	1.300.000
A5 Total population covered	5.000.000	28.000.000
B. STRUCTURE OF THE CBC BODY		
B1 Legal framework:	Local Authority	
B2 Legal form of CBC arrangements:	Agreements between the body and foreign partners, incl. CBC partners from the Finnish side	
B3 CBC objectives and activities:	To promote cross-border economic cooperation between local and regional authorities, business community and high education institutions (HEI) in the Baltic Sea and Barents regions, with a focus on rural and peripheral territories.	
B4 Founding members:		
B5 Organigram:	Local authority	
B6 Staffing:	The unit for cross-border and international projects	
B7 Financial resources:	State funding, EU financial resources	
B8 Accountability to citizens:	Yes, as a local authority body	
B9 Monitoring and evaluation:	Yes, provided	
C. EFFECTIVENESS OF THE CBC		
	STRENGTHS	**WEAKNESSES**
C1 Contribution of partners:	↑ Extensive knowledge of CBC gathered during the BEN&BEN-East projects	↓ Broad spectrum of partners from very different sectors (HEI, business, authorities), which might cause problems in communication
C2 Coordination among partners:	↑ Extensive network of CBC actors in the Baltic Sea Region gathered during the BEN&BEN-East projects	↓ Varying level of project administration skills among project partners

C3 Degree of participation in specific areas of cooperation:	↑ Good international project administration skills and experience	↓ NCM has more experience working with authorities but limited experience in working with business, lack of "business thinking"
C4 Local socio-cultural context - challenges and opportunities for CBC:	↑ Partners representing different spheres (public, private, educational), which gives possibility for synergy	↓ Lack of interaction between the target groups of the project – authorities, on the one side, and business community, on the other side
C5 Local economic context - challenges and opportunities for the CBC:	↑ Strong political position of NCM and Council of Europe concerning CBC issues in the NW Russia	↓ Some of Russian partners might experience lack of co-financing of the project
C6 achievements of the CBC:	↑ Extensive network of CBC actors in the Baltic Sea Region gathered during the previous projects	↓ Possibly more benefit and therefore interest for Russian partners then for partners from EU
D INSTITUTIONAL CONTEXT		
	OPPORTUNITIES	**THREATS**
D1 National institutional context:	↑ There is a clear political will from authorities in NW Russia to increase economic cooperation across the border. Innovations, SMEs, entrepreneurship are among the key priorities; ↑ NCM Information office in St.Petersburg, Russia has a good experience of project activities within cross-border issues in the Baltic Sea Region (BEN and BEN-East	↓ Developing of the Virtual NotaBENe Platform not at the proper (planned) time; delay in developing the trainings and master courses and their adaptation in time

	projects);	
D2 International institutional context: **List key factors that supported / hindered CBC**	↑ Council of Europe as a main partner of the project has a long-term experience on cross-border cooperation in Europe; ↑ There is increasing cooperation across the EU-Russian border between HEIs, especially in using innovative tools for education and increasing communications between HEIs and business.	↓ Possibilities for overlapping with similar projects within ENPI programmes in the NW Russia; ↓ Partners from universities might experience problems to adopt created MA courses into curriculum of their universities due to difficult bureaucratic procedures.
E. EVALUATION OF THE CBC		
E1 Main Project activities:	↑ 5 Trainings on how to use Virtual NotaBENe Platform (1 training in each pilot region of NW Russia) ↑ 2 Seminars on training of trainers. New interactive teaching tools in training for local and regional authorities ↑ 3 thematic seminars are carried out and material/conclusions are added to the Virtual NotaBENe Platform by the participants; ↑ 5 Study tours for the target groups – participants of the training sessions and master courses are provided and material/conclusions are added to the Virtual NotaBENe Platform by the participants. Experience of cooperation between local SMEs and authorities on rural cross-border territories in the countries and regions selected for study trips could be used in their further practical work; ↑ The participants will increase their knowledge and competence by taking part in the workshops, seminars and study tours.	
E3 any other comments:	The project network focused on the relevant target groups – local politicians, civil servants, business community (SMEs), and educational institutions which was result in a mutually beneficial exchange of knowledge and best practices among Nordic and North-West Russia partners. In this project, special attention was paid to development of cross-border economic relations and approaches and promotion of Nordic and other European and Baltic experience in the North-West Russia. Business contacts supported by authorities in rural and peripheral areas established and strengthened for the benefit of Nordic and Russian partners.	

F. LESSONS LEARNT

The project involved at least 150 participants of the seminars, 40 participants with a suggested 8 from each region divided into 2 from the specific topical area, of the training sessions and 40 participants of the study trips, 30 students from partners HEIs for participation in master courses, 30 participants of the summer school, 65 participants of the competition of the best project ideas.
This project created a common instrument of the Virtual NotaBENe Platform and established a network between the most central groups – local civil servants, local politicians, small and medium sized enterprises and high educational institutions' students in the region.

The Virtual NotaBENe Platform is a database which contains various tools for enhancement of competences of the main groups of stakeholders of cross-border economic cooperation (training courses, MA/BA courses, manuals, guidelines etc.) and the Council of Europe's Capacity Building Tool Kit. The information on best practices on cross-border economic cooperation, business offers provided by the local authorities for foreign investors and useful links on the issues on the purpose of the project has been presented. The Platform also encloses the information on:

- International regulatory and legal framework of cross-border cooperation
- Regulatory and legal framework of cross-border cooperation of the Russian Federation
- Cross-cultural communications
- SMEs and authorities in rural areas across the border – the ways of efficient cooperation: best practices from European regions and Russia
- The results of the study tours (material/conclusions), trainings, seminars of the project.

G. FUTURE PLANS

To continue work for CBC development, incl. small and medium sized enterprises cooperation across the borders.

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[i] Additional document also relevant in this connection are the Manual on Cross-border cooperation (Ricq, 2006) and the Guide to cross-border cooperation (MOT, 2007) also published by the Council of Europe.