



## **Position Paper on the European Territorial Cooperation Objective**

**linked to the Consultation on the Conclusions of the 5<sup>th</sup> Report on Economic, Social and Territorial Cohesion: the Future of Cohesion Policy (COM(2010) 642 final)**

It is important to recognise the unique contribution and potential of European Territorial Cooperation (ETC) in the overall context of EU cohesion policy and devote sufficient attention to the discussion on its future. Therefore INTERACT has been offering a platform for territorial cooperation practitioners to contribute to the future shaping process.

During the course of 2010 and 2011 several consultation rounds have been carried out involving representatives of European Territorial Cooperation, IPA CBC and, to some extent, also ENPI CBC programme stakeholders from throughout Europe. This Position Paper sums up the relevant ETC related issues and reflects the opinions collected during the consultations.

Attached to the Position Paper are also the two written contributions INTERACT has received: feedback by the Territorial Cooperation Unit within the Planning and Priorities Coordination Department, Office of the Prime Minister, Malta, and the letter from the Network of EU's Eastern External Borders.

This is not an official position paper of any programme Monitoring Committee or Member State. It reflects the ETC practitioners' points of views, with an effort to cover the opinion of the majority of them, if not all. Altogether representatives from 38 cross-border cooperation programmes, ten transnational cooperation programmes, the interregional cooperation programme INTERREG IVC, eight IPA CBC programmes, nine ENPI programmes have contributed to the consultation process. Colleagues from the Member State national and regional bodies responsible for ETC have also taken part in the consultation.

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INTERACT is an EU and Member State financed programme aiming at increasing the efficiency and effectiveness of European Territorial Cooperation programmes and contributing to the quality and know-how in cross-border, transnational and inter-regional cooperation in 27 Member States and in the programme associated countries Norway and Switzerland. INTERACT supports EU-wide knowledge exchange, networking and capitalisation between the European Territorial Cooperation, IPA CBC and ENPI CBC programmes.

## SUMMARY OF THE CONCLUSIONS

- With the funding share of only 2,5% of the EU's structural expenditure or 7,5 billions EUR, European Territorial Cooperation is a very cost-efficient way towards the integrated Europe. It is meant to minimise the negative effects of the physical borders and to bring Europeans closer together. Already today people living in border regions are more aware of the European picture. The desired European multi-level governance is already tested in cross-border and transnational areas. As Prof. Ricq-Chappuis of the European Observatory of Regions put it during the recent hearings in the REGIS Committee of the European Parliament, regional cooperation, in particular on the cross-border level, is the EU integration on the micro-level. It acts as a catalyst to measure the success of the EU integration overall.
- Territorial cooperation also plays an essential role in improving the coordination of the sector policies, actions and investments on a cross-border and transnational scale. It promotes joint governance of shared resources, supports development of innovative solutions to common challenges. It offers possibilities for knowledge transfer and capitalisation among the European regions and Member States. Furthermore, the cooperation programmes on the EU's external borders contribute to safety and stability, as well as friendly and mutually beneficial relationships with neighbouring countries.
- Since early 90-ies the EU supported territorial cooperation programmes have been contributing to the European cohesion on local community, regional and trans-national levels. This is a good time for the reflection on what has been achieved and where to go next. There is a need to fine-tune the European Territorial Cooperation objective definition and identify its unique role amidst the different EU instruments.
- Programmes' objectives should focus on what ETC is about and can do at its best:
  - ETC is primarily about integration of the cooperation areas, territories and regions, working together around key common challenges.
  - ETC contributes to a change of attitudes towards improved, coordinated or even joint governance.
- Cooperation at external borders contributes to safety, stability and good relationships with EU's neighbours, while cooperation with candidate countries contributes to a smoother EU accession process. External border cooperation (IPA CBC, ENPI and EDF) programmes need to be integrated in the ETC framework. The principle of joint development, management and responsibility must be equally applied to these programmes.

### *Reinforcing strategic programming and partnership*

- For the post-2013 programmes, coordination is a key at all levels: local, regional, national, cross-border, transnational and EU, as well as across the sectors and between the cooperation strands. And in this respect the strategic programming framework proposed by the European Commission would ensure the coordination on the EU, Member State and programme level. Understanding, however, the complexity of such a mechanism, its success lies less with the legal requirements. Cooperation and coordination can only be successful if mutual benefits are seen by all involved stakeholders and if it is pursued as a continuous and constantly evolving effort. Lessons can be learnt from the development processes of the macro-regional strategies (Baltic Sea and Danube Region) on how to align different instruments/policies and involve a wide range of stakeholders.
- The benefits gained through cooperation include greater awareness about the programme territory and the wishes of the people living there. It also ensures that the decisions made respect these, and consequently ensures wider support and commitment to the implementation of programmes. Hence - it is not enough to cooperate and coordinate only at the strategy and programme design stage. Cooperation and coordination should continue during programme implementation and evaluation.

- The partnership principle and involvement of local and regional stakeholders, social and economic partners should be improved also in ETC. Besides direct involvement, greater transparency and openness to these stakeholders is a key.
- Programming and ex ante evaluation exercises of different objectives/strands/programmes should be better coordinated as well. They should start soon enough to better measure baselines and needs, to set realistic targets, as well as to fully cover the target groups' heterogeneity. Not only socio-economic data and SWOT but also territorial evidence provided by maps and spatial analysis (e.g. by ESPON and alike) should be used. Hence the key role EC should play in timely provision of legal framework and guidance, and in coordinating the programme preparation efforts.

### *Increasing thematic concentration*

- It is commonly recognised that each European region is unique. Any strategic approach should respect this. For ETC programmes additional factors to be considered are: size, geography, specific territorial features as well as maturity of cooperation. This is why it is difficult, even impossible, to establish obligatory thematic priorities on the objective level. Strategic EU objectives should be implemented through a place-based approach and the focus needs to be ensured on the programme level: Each programme should address a limited number of priorities, according to its features.
- Strategic focus should take the maturity of cooperation into account. Cooperation is a relationship, and relationships take time to evolve and mature. People-to-people and small-scale cooperation actions are still needed in areas with strong cultural borders.
- Greater flexibility in organising operational programmes is welcomed for ETC. In ETC there is a scope for rationalisation and / or flexibility vis-à-vis different needs of cooperation: extending geographical scope for thematic cooperation, allowing cooperation between smaller number of countries in the transnational areas, extending geographical territory of cross-border programmes to cover river and sea basins or mountain areas etc. In order to contribute to the global competitiveness of the EU, all limitations to geographical eligibility on expenditure should be abolished. Provided that funds are spent in line with programme objectives and for the benefit of the region, there should be possibility to spend anywhere in the world.

### *Strengthening performance through conditionalities and incentives*

- It is argued that the EU funding for the programmes is an incentive in itself. Likewise, the programme implementation provisions reflected in operational programme document and in documents describing its implementation framework set out the conditionalities. The implementation framework of the ETC programmes already is too complex. It is feared that introduction of further features requiring additional control and follow-up will only add an unnecessary further complication.
- Instead, ETC practitioners suggest to consider several programme implementation provisions which may lead to simplification of programme implementation, such as allocation of ERDF funds per border / programme, establishing co-financing rate per programme, individual negotiation of programme budgets and TA rates, possibility to increase TA budget, or fully finance TA with ERDF, and increased advance payments to programmes.
- N+2 should only apply if all pre-conditions are there for programmes to be set up, approved and started rapidly. Otherwise the rule should be extended to N+3 for all programmes and the whole period

### *Improving evaluation, performance and results*

- Programme implementation needs to be built on continuity, flexibility, trust and people.
- For ETC in particular, a major shift of programme management focus is necessary: from a focus on administrative and financial requirements towards a focus on results and quality assurance.

In this, whatever works well needs to be retained, and all efforts have to be directed towards addressing the challenges. The more harmonised legal, financial and administrative requirements and procedures, achieved through clarification, should lead to simplification of programme management framework and free the resources required for the delivery of results and quality.

- A strategic focus has to be kept not only in programming, but also during implementation and evaluation. There is need for a top-down approach in steering the programmes, in combination with bottom-up approaches. The evaluation culture still needs to be embedded in programmes as an opportunity for reflection and improvement. All this is part of a continuous capacity development effort taking place in programme management structures and teams. People are the key to the success of programme implementation! Hence continuous attention needs to be devoted to staff retention and development. Knowledge exchange between the different programmes from all over Europe is seen as a very efficient and effective way to learn.

### *Implementing provisions*

- It is important to recognise the difference between the so-called mainstream objectives 1 and 2 and the European Territorial Cooperation objective when it comes to the programme management and implementation framework. Cross-border, transnational and interregional cooperation programmes operate in a multi-country environment. This requires finding effective and efficient compromise between the requirements of the EU Regulations and the legal frameworks of the involved Member States. In light of the above it is necessary to reflect the ETC specific requirements in cohesion policy's legal framework and ensure adequate support and guidance for the implementation of the programmes on the EU level.
- ETC matters must be specifically addressed in the COCOF and other relevant EU policy high level groups, or a separate ETC assistance platform should be established. EU Commission Guidance should always include ETC specific explanations. Internal coordination at EU Commission should be improved.
- There should be flexibility in how many implementation bodies programmes have to establish. Fewer and truly joint implementation bodies may lead to increased effectiveness and efficiency of the programmes. EGTC regulation should be more 'ETC-friendly': provisions for an easier and quicker setup are needed.
- All in all private partners are benefiting from many ETC project results. However, even in areas where this would be important, such as innovation, their direct involvement and contribution is still very limited. Appropriate simplified modalities for the ETC still remain to be identified. ETC practitioners invite the European Commission to consider an exemption on state aid for ETC activities, because of the limited risk to distort the market.

### *Control and audit*

- Control levels should be reduced in ETC (e.g. remove control by the Certifying Authorities) and the controlling role of the Managing Authority / Joint Technical Secretariat, while still keeping Member State responsibility for control, should be clarified.
- Control and audit intensity should be proportional to the amounts at stake and risk based in order to move towards a more cost-efficient approach. The scope of action of First Level Controls needs a clarification and a harmonised EU-wide definition.

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*ETC practitioners remain committed to the continuous improvement of the cooperation programmes in the European Union and with its neighbours. We will continue working together, including with our closest allies - Europe's regions, Member States, the European Commission, other EU institutions and European networks, to address the challenges and build future on our accumulated experience, common knowledge and strength!*

## 1. ENHANCING THE EUROPEAN ADDED VALUE OF COHESION POLICY

### 1.1. Linking the ETC to the cohesion policy and the Europe 2020 strategy

In EU budget period 2007-2013 the former Community Initiative INTERREG was transformed into third objective of the EU regional policy - the European Territorial Cooperation. It was thus given greater political recognition and weight. It also implied higher expectations towards the cooperation programmes. However, these expectations were not translated into clearer objective definition for the ETC. Neither there were targets set for the objective. "Cooperation" remained the key word in the title of the objective, linking it more to the process rather than the result. Overall, the programmes were required to set their objectives along the Lisbon and Gothenburg agendas. Having no clarity on the objective means it is difficult to measure the results and ultimately, if the objective has been achieved?

Ex post evaluation of the INTERREG III revealed that it was difficult to capture the added value and achievements of cooperation programmes. Several reasons were identified for this and one of them was the lack of clarity on programme objectives on both EU and programme level. Having also looked at the current programmes, the evaluators admitted that not much had changed in 2007-2013. Therefore ETC practitioners are willing to work together with the European Commission on clarifying the scope of the objective and ensuring better focus of programmes.

ETC is part of the EU cohesion policy which primarily links to the "inclusive growth" objective of the Europe 2020. The original aim to support cross-border cooperation from the ERDF was linked to the recognition of the disadvantaged location of the border regions within the national economies. It is still true for many regions in new Member States and on external borders of the EU. However, even the "more mature" border regions still face obstacles to full integration.

Transnational cooperation started with funding joint efforts aimed at risk prevention and mitigation of the consequences of natural disasters. Hence in the early days the transnational cooperation was structured along the regions with particular geographical features. Nowadays transnational cooperation areas do not only relate to geographical features - they also reflect the historic cooperation ties between the European countries and nations. From risk prevention and mitigation the transnational cooperation has evolved into common spatial planning effort and further on into common development platform.

Interregional cooperation has probably been the most consistent strand of the ETC: ever since its inception it has supported knowledge exchange and capitalisation between the European regions. In current programming period the INTERREG IVC programme focuses on two thematic priorities, environment and innovation.

The ETC beyond 2013 Position Paper from July 2010 recognised that the ambition level for the ETC objective and the programmes can only reflect the overall political support for EU integration on EU, national, regional and local level, as well as the funding allocated for these programmes. It was also stressed that equally important are small steps; "soft" cooperation is an important first step towards working together on strategic issues.

Very few ETC programmes have the financial resources to directly contribute to the achievement of the Europe 2020 targets. It has to be recognised that the majority of funding for the Europe 2020 related interventions will come from regional, national, Europe 2020 flagship initiatives and Objective 1 and 2 programmes. What ETC can offer, however, is a unique opportunity to contribute to the process through "joint governance" and "integration".

As seen by the ETC practitioners, the added value of the territorial cooperation lies in:

- Facilitating territorial, societal and economic integration and cohesion of the respective cooperation areas. The integration begins with overcoming and removing the obstacles, be it physical -> investments into infrastructure, societal -> removing the stereotypes and integrating communities, professionals, businesses, organisations; or to the extent possible - legal. It then proceeds to working together on e.g. common challenges, such as environment, energy, demography and global competitiveness, and building the future on common strengths - seeing and perceiving the territory as "ours".

- Contributing to the change of behaviour and attitudes and moving towards improved, coordinated or joint governance.

### **1.2. Reinforcing strategic programming**

To achieve the required synergy, it is necessary to coordinate the related interventions on local, regional, national, cross-border, transnational and EU levels. It implies that cooperation programmes should not be developed in isolation from other actions aiming at fulfilment of Europe 2020 targets covering the particular programme area, be it Objective 1, Objective 2, national, regional or any other type of intervention. Likewise, the coordination is needed between the different strands of cooperation in the same area.

The multi-level and cross-sectoral coordination of the Europe 2020 implementation effort is required throughout the programme development and implementation cycle - i.e. during programming, programme implementation (in particular in decision making and monitoring the progress of implementation) and programme evaluation.

The Commission proposes to streamline the strategic programming process by introducing three levels of programming: (1) an EU-level common strategic framework for CF, ERDF, ESF, EAFRD and EFF, (2) a development and investment partnership contract with each Member State, and (3) operational programmes. While recognising that such a framework will establish a structured legal basis for the coordination of actions, ETC practitioners note that the coordination effort should be a continuous one and extend into the programme implementation and evaluation phases.

Programming and ex ante evaluation is the stage when it can best be ensured that the envisaged actions have been coordinated and aligned, and are complementary. Understanding the complexity of such an effort, it is important that the programme development starts early enough and is devoted sufficient attention. An important pre-condition here is for the EU regulatory framework, preferably including the related guidance and interpretations, to be ready well in advance.

ETC practitioners also invite EC to assume stronger role in programming. Programmes should be negotiated between programme stakeholders and EC during programming in terms of focus and allocation of funding. EC involvement is also welcome in the role of a mediator - to mediate between the sometimes narrow interests of local, regional or national politics and the wider EU interests. In that way the strategic steering of the ETC objective could be achieved through a combination of top-down and bottom-up approaches.

The experience of the EU Strategies for the Baltic Sea Region and the Danube Region could be used as an example of how to align the planning process and engage the wide range of stakeholders. An important lesson learnt from the strategy development - any effort of coordination takes time and only succeeds if it is seen as a continuous process and is pursued with perseverance!

The experience of the macro regions can also be drawn upon when seeking solutions for coordination of interventions beyond cohesion policy. In fact, the Baltic Sea Strategy already presents such an example as the resources for its implementation are drawn from wide range of EU, national, regional, local, transnational, cross-border sources, IFI etc.

The European Commission should ensure better coordination of the different EU funding instruments overall, not only the Cohesion Policy ones. As far as possible the objectives, scope, implementing rules and requirements of each instrument needs to be clarified and mutual synergies need to be explained so as to minimise overlap of interventions.

### **1.3. Increasing thematic concentration**

Lack of focus has been recognised as a problem across the Structural Fund interventions - and ETC is not an exception. During the earlier consultations programmes themselves recognised the need for improvements. As put in the ETC beyond 2013 Position Paper from July 2010- "whatever focus is needed, as long as there is a focus!"

ETC practitioners are of the opinion that the establishment of obligatory priorities linking to Europe 2020 should not undermine the flexibility of countries and regions in selecting their unique

priorities, in particular where it concerns societal integration and joint governance. It is also argued that apart from, or instead of “targets” the “developmental objectives” may be more relevant for the ETC programmes. These could link to the expected change in behaviour and attitudes of the main target groups.

ETC programmes’ efforts extend to the widest thematic areas: energy efficiency, innovation, seeking local solutions for better functioning of the single market, addressing territorial challenges in the fields of environment and risk prevention, transport and communication links, urban and rural development and interaction, demographic change and maritime issues. Due to varied maturity of cooperation across the EU and its territorial diversity, which need to be respected, it may be quite difficult to limit the themes for European Territorial Cooperation. Flexibility is needed to respect the specifics of each programme area. Focus, however needs to be ensured on the programme level by selecting a limited number of intervention areas and setting clear and measurable targets.

Whilst a clear EU priority focus would be very welcome many ETC programme strategies relate to a place-based approach. The three strands tend to have different focus: cross border cooperation is clearly place-based with a local and regional focus; transnational cooperation is a mixture of place-based approach and EU priorities, whereas inter-regional cooperation is solely based on EU priorities.

On the cross-border level, people-to-people actions are still indispensable to address cultural and mental borders which are sustained by stereotypes and cultural, language and historic perceptions. Small actions should not be left aside - they are most beneficial to the local people.

The strategic focus of the programme should be the result of a proper analysis of the situation in the programme area. Analysis should not only look at socio-economic data and SWOT but also at territorial evidence, like maps and spatial analysis provided in the Cohesion Report, by ESPON, regional frameworks like VASAB, Norvision and alike.

INTERREG III ex post evaluation has concluded that the maturity of cooperation has a significant influence on the quality of cooperation. It is therefore important to build the future on the accumulated experience and aim for deeper regional integration and extension of the domains in which the integration and joint governance is to be achieved.

#### ***1.4. Strengthening performance through conditionalities and incentives***

ETC practitioners see difficulty in applying financial sanctions in a multi-country context. I.e. in case sanctions applied to one of the programme countries, what would happen to programme funds and how would recoveries be done?

The past experience with the performance reserve has not been entirely positive - the additional money was allocated too late in the programme lifecycle (i.e. too close to the programme closure) to ensure its efficient use.

As for the conditionalities, there is an opinion that the provisions reflected in the programme documents and management and control system descriptions constitute such. The programme and its implementation framework are both negotiated with the European Commission. Through this process the necessary pre-conditions for successful programme implementation are established and later on monitored, controlled and evaluated.

As for the incentives: during the earlier consultation process ETC practitioners suggested that programme budgets and TA allocations are negotiated on an individual basis. It was also concluded that allocating ERDF funds per border / programme, and not per Member State (i.e. having a single pot of money per programme without indicating national allocations), would ensure better focusing of programmes and a more collaborative approach.

In the current period the differentiated co-financing rates are applied in ETC programmes. Earlier consultation processes concluded that these should be kept. Establishing a common co-financing rate at programme level could be considered as well. The allocation of funds per priority should also be kept, with flexibility to re-allocate resources between priorities.

Increased advance payments to the ETC programmes have been proposed as an incentive in the ETC. It would allow for advance payments to at least some beneficiaries or types of projects.

It has also been proposed to increase the maximum rate of TA for ETC programmes. The exact TA rate for each programme would be established during the programme negotiation taking into account programme specifics, geography, budget etc. The current TA rate is seen as too low for small and / or geographically dispersed programmes. Furthermore, allocating 100% financing for TA from ERDF would ease discussions on programme management bodies and provisions. Here, however, it has also been argued that whenever regions or Member States co-finance the TA, they show greater commitment in its implementation. 100% ERDF co-financing for TA would be necessary in case it was decided to allocate ERDF funds per programme rather than by Member State.

### ***1.5. Improving evaluation, performance and results***

INTERREG III ex post evaluation concluded that ETC cannot be monitored through the same framework as other Structural Fund interventions. The ETC practitioners as well have recognised the need for a common set of ETC indicators<sup>1</sup>.

Following a strategic programme development, the strategic focus should also extend to programme implementation and evaluation.

Programmes must become efficient tools in the policy implementation process and this implies adequate steering through a top-down approach. As concluded by the ex post evaluation of INTERREG III, one of the reasons why programmes have not been able to achieve the desired results in the past lies in the fact that programme implementation has relied too much on a bottom-up (or demand driven) implementation approach. A combination of both is required to ensure that strategic objectives are fulfilled. This also calls for programme management bodies to have the adequate capacity to guide project development and implementation and to steer programmes on a strategic level. Current experience, however, is that a high administrative and technical burden is distracting programme resources from a strategic implementation.

The shift of programme management focus towards results and quality can partly be achieved by reflecting the required balance in programme implementation arrangements. Streamlining of legal, financial and administrative requirements and procedures through clarification, simplification and harmonisation, as well as ensuring continuity (“evolution not revolution” of the legal and implementation framework) present an opportunity for more efficient handling of administrative and financial monitoring, hopefully freeing the resources required for work with projects and monitoring results and quality.

ETC practitioners have agreed that ideally the core elements of the monitoring systems should be harmonised for all ETC programmes. If this is not possible, a harmonised set of indicators, as well as harmonised key programme implementation provisions (tools, procedures, guidance, documents, definitions etc) would be a step in the right direction. Harmonisation should imply a significant simplification of many existing documents and procedures, still respecting the programme diversity and programme specific conditions.

Evaluation should become better embedded in programmes. It is still too often seen as an external requirement rather than a tool for development and learning. In case of ETC programmes the scope and range of evaluation is, however, often limited because of low TA resources. Moreover, not all ETC programmes can benefit from ex post or impact evaluations as the ex post evaluation is carried out on the objective level and only selected sample of programmes is analysed in detail.

In earlier consultations ETC practitioners also stressed that apart from clear rules and regulations, the key to success in programme implementation rests in flexibility, trust and people. Who interprets the rules and in what way is thus as critical as having the rules. This means devoting enough attention to continuous staff development. ETC-wide knowledge transfer, capitalisation and cooperation should, therefore, be pursued and supported also in future.

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<sup>1</sup> The European Commission, INTERACT and ETC programmes have started to work on these. The Typology pilot and the recently launched “Capturing the impact of the ETC” initiative should provide inputs for ETC related indicators.

## **1.6. Supporting use of new financial instruments**

The EC Consultation paper lists three measures to improve financial engineering instruments within the cohesion policy.

In general it is felt that a clarification of what is understood with “financial engineering” may be helpful here. There are different understandings of it, depending on the context (i.e. in the context of cohesion policy, the financial engineering seems to refer to JESSICA and JEREMIE instruments, whereas in case of macro-regional strategies - to efficient use of and synergies between different funding instruments).

There are ETC programmes that are interested to pilot the “financial engineering”. Likewise, the ETC practitioners support the idea of linking different financial instruments in a wider strategic context (i.e. through development and investment partnership contracts).

It may be argued that the effort to combine the different instruments should take place on a strategy rather than programme level. The approach of using different funding instruments for implementation of macro-regional strategies can present a useful learning experience here.

## **2. STRENGTHENING GOVERNANCE**

### **2.1. Introducing a third dimension: territorial cohesion**

The explanation of the “territorial cohesion” provided in the Commission paper refers to cities, functional geographies, areas facing specific geographical or demographic problems and macro-regional strategies. In particular, the category of regions with specific geographical or demographic features includes outermost regions, northernmost regions with very low population density and islands, cross-border and mountain regions.

The Commission asks: How can cohesion policy take better account of the development needs of these territories? Summing up what has been described in earlier sections of this Position Paper the solutions lie in:

- clarifying the objective of the European Territorial Cooperation and each strand, including clarifying the role of the ETC in the context of Cohesion Policy and Europe 2020,
- respecting place based and tailor made approach in programme design,
- strengthening the dialogue with local and regional authorities and relevant stakeholders, and
- ensuring that Regulations are flexible enough to respect the principle of proportionality and allow establishment of tailor made programme implementation frameworks.

The introduction of the macro-regional strategies has raised questions on their links to the ETC. As clarified in the ETC beyond 2013 Position Paper from July 2010, macro-regional strategies are a framework for setting common priorities, ensuring political support for them and aligning the available policy instruments for their implementation. The EU Strategies for the Baltic Sea Region and Danube Region present a wider scope for transnational cooperation than the one financed from the ETC. Both strategies build on extensive previous cooperation experience in which ETC programmes have played a central role.

There is a call not to identify related ETC programmes solely with the macro-regional strategies. To respect place-based approach there needs to be flexibility for ETC programmes, in particular on a cross-border level, to address issues which may be outside the scope of macro-regional strategies.

It is clear that macro-regional strategies cannot be established throughout the EU and there is also no such intention. Areas outside the strategies might look at alternative ways of achieving the same benefits delivered by the strategies and existing ETC frameworks are seen as one of them.

The Consultation paper refers to a possibility to allow greater flexibility in organising operational programmes. Such flexibility is welcomed for ETC. During the earlier consultation process programmes indicated that there was a scope for rationalisation and / or flexibility vis-à-vis

different needs of cooperation: extending geographical scope for thematic cooperation, allowing cooperation between smaller number of countries in the transnational areas, extending geographical territory of cross-border programmes to cover river and sea basins or mountain areas etc. General advantage was also seen in better inter-linking of the different strands, in particular in the context of macro-regional strategies but not only. A certain degree of flexibility was desired to allow overlap of thematic interventions on a regional level.

## **2.2. Reinforcing partnerships**

INTERREG III ex post evaluation concluded that the involvement of local and regional actors, as well as social, economic partners and civil society in programme design and delivery varies considerably across the ETC. Any strategic approach should include a debate on all levels including the relevant stakeholders. The “we” feeling and ownership of programmes is required to ensure sufficient support and engagement in their implementation.

For cooperation programmes in particular there is a need to maintain a balance between the requirement to involve different stakeholders and the need to keep the process manageable and avoid the conflict of interest during programme implementation. Apart from direct involvement of stakeholders in programming, decision making and delivery of programmes, a solution would be to ensure greater transparency and openness of these processes, i.e. by running thorough public consultations. More extensive consultations will require more time and this links back to the need to extend the programming time-frame and start programme preparations early enough.

Private sector involvement in ETC is a problem: this issue is generally recognised and in some areas (such as innovation, transport and renewable energy) it raises major obstacles to effectively pursuing the achievement of programme objectives. Often ETC programmes do not correspond to the needs of private sector stakeholders - they are not flexible and risk tolerant enough. Further challenges are caused by the fact that the status of the “private bodies” differs in the Member States. Likewise, the interpretation of the state aid rules is highly contextual and therefore presents additional difficulty in a multi-country context.

## **3. A STREAMLINED AND SIMPLER DELIVERY SYSTEM**

### **3.1. Financial management**

The Consultation paper refers to a possibility to introduce output or results based elements for disbursement of EU funds.

ETC practitioners argue that the pressure for speedy execution of payments to projects is there already due to the N+2/N+3 rule. Delaying payments to programmes until grants have been paid to beneficiaries will only add additional pressure. This may lead to compromising on the control quality; which, in turn may contribute to higher error rates. A vicious circle may be created as retaining the desired level of control and the desired expectations towards the quality may actually lead to de-commitment problems. The relatively slow project payments in ETC are not so much due to bad will but because of the complex implementation arrangements. Therefore rather than exerting additional pressure, simplification and harmonisation should be prioritised in the new system.

The difference between the current partial closure practice and the new proposal is not entirely clear. There is a risk that the added value of annual partial closure procedures may be limited due to efforts required to implement the additional requirements. Further doubt is related to operability of the proposal, considering the time which may be required for audit on operations.

ETC practitioners support moving towards a more results-oriented system and lifting the control weight. Division of control responsibilities should also reflect the shift - project results and quality should primarily be controlled by the MA/JTS and not the first level controllers.

Simplified cost options have a potential to alleviate the financial management burden at project level. However, these still need to be tested in the ETC. Considering the transnational nature of the ETC, the programmes could benefit from a fixed flat rate of overheads related to staff costs. It should be fixed in the Regulation. This rate should be applied to all programmes and all

beneficiaries. Likewise, the definition (scope) of staff costs should be harmonised at EU level, reflected in the Regulation or relevant guidance and applied to all Member States equally.

Regulation or related EC guidance should also establish that the real costs behind the flat rate expenditure (e.g. for overheads) is not controlled after the amount (or share) has been established. If the relevant cost categories are subject to further controls, even on a sample basis, there would be no real simplification.

### **3.2. Reducing the administrative burden**

*How could application of proportionality principle alleviate the administrative burden in terms of management and control? Should there be specific simplification measures for territorial cooperation programmes?*

ETC programmes have, indeed, called for the recognition of their specific context. Where specific implementation arrangements are required for the ETC programmes, these should be laid out in the Regulation.

The regulations should outline minimum and maximum requirements for programme scope and management, otherwise leaving sufficient flexibility for tailor made contents and implementation arrangements. The existing framework for ETC programme implementation is the result of many years of experience and evolution. Therefore the system should not be changed entirely but rather improved.

Recognising that more rules usually create more complexity and new errors, the improvements should not be about introducing new rules (e.g. new eligibility rules) but rather concern harmonisation and common interpretation of the rules.

Also here a stronger role of the European Commission is desired: there is need to take responsibility for the functioning of the entire ETC system at EU level. ETC representatives should be included in the COCOF or a separate COCOF for ETC and relevant high level working groups need to be established. Guidance issued by the Commission on interpretation of or amendments to the regulations should always include ETC specific explanations. Programme stakeholders would very much welcome a one-stop-shop ETC help-desk.

The EC Consultation paper refers to a possibility of concentrating responsibilities in one accredited body which should assume responsibility for proper management and control of the operational programmes. It is argued that in the framework of ETC there is no need for such a body. Due to the specificity of the ETC programmes and their implementation arrangements, the continuity of those systems (i.e. verification performed by Audit Authorities) that function well is recommended. Introduction of a new practice will only delay programme start-up.

There is need for greater flexibility in deciding programme implementation set-up. The complexity of the current programme implementation structures contradicts the principle of proportionality. E.g. the requirement to have number of programme bodies (Managing, Certifying and Audit Authority, Joint Technical Secretariat) drains resources and does not always add value. Programmes should be free to establish their own optimum setup and number and size of implementing bodies. Here it is essential to provide clear guidance on separation of functions, where relevant.

One particular challenge for ETC programmes is the independence of the programme bodies from national / regional influences. An organisation belonging to one country may not always be truly unbiased in making decisions. Also, national and/or regional rules sometimes create serious barriers to genuine multi-national management and implementation. It is necessary to ensure that the interests of all involved countries are equally taken into consideration in programme design, decision making and implementation. The solution here lies in reinforcement of the role of collaborative bodies, such as the Monitoring Committee and the Group of Auditors, and in ensuring that the cross-border or transnational partnership principle extends to the setup of programme bodies and composition of their teams.

The role of collaborative bodies, such as Monitoring Committee and the Group of Auditors must be specified and reinforced. The Monitoring Committee and, where established, the Group of Auditors,

should assume the responsibility for the entire programme rather than acting on national interests. The Monitoring Committee should act as a managing body or a Programme Council which takes the responsibility for functioning of the programme, not only monitoring function. The strategic dimension of the Monitoring Committee needs to be reinforced in the regulations or guidance. Likewise, the Group of Auditors should assume the responsibility for the programme as a whole. Presently the main responsibilities rest with the Audit Authority and member of the Group of Auditors rather assist the AA.

The Regulations should require that the operational programmes contain provisions for ensuring the independence of and collaborative approach to programme management and implementation. Furthermore these should be verified through the ex ante evaluation and management verifications, and addressed during the programme negotiations with the European Commission.

It is recognised that in many cases it is not possible to establish legally, financially or organisationally truly independent programme implementation bodies. So far EGTCs have been established for management of cross-border projects or to provide cross-border services (such as cross-border hospital) or for governance of cross-border or transnational territories. EGTC for programme implementation has been established in “Grande Region” programme. Recourse to EGTC for programme management should thus remain optional. To be more attractive, the EGTC set up, registration and modification procedure need simplification. EGTC should provide attractive fiscal conditions (e.g. within a regime based on the EIIG example), etc.<sup>2</sup>

ETC practitioners would welcome clear models and recommendations on how to set up programmes, and information on what works well and what does not (e.g., a strong JTS is often a success factor).

As indicated earlier, simplification can also be achieved through harmonisation of programme implementation provisions at EU level. There is a need to increase synergies among ETC programmes and avoid reinventing similar tools and approaches. INTERACT, in collaboration with the programmes, has already begun working on standardised rules, model documents and tools.

#### *How can the right balance be struck between common rules for all the Funds and acknowledgement of Funds’ specificities when defining eligibility rules?*

ETC practitioners would welcome common approach to and / or harmonisation of the rules governing every euro spent from the EU funds. This would help to avoid confusion among partners who access different funds, e.g. Structural Funds and framework funds.

The hierarchy of eligibility rules in the ETC programmes consists of EU, programme and national rules. Problems are mostly caused by differences in national rules and interpretations of EU rules by Member States. Although key characteristics of national rules are very similar throughout the EU, national rules (and national interpretation of EU rules) differ in wide range of minor aspects which, when aggregated, make life difficult for ETC programmes and projects.

The core problem areas for eligibility in the ETC programmes are the same across the Europe: staff costs, overheads and public procurement (in particular below thresholds). Acting on these first should reduce the number of errors. Only a few eligibility rules should be fixed in the regulations (e.g. fixed rate for overheads). Instead, efforts should be directed into harmonising the rules across the EU through EC guidelines and continued effort to come to common interpretation and clarification of rules.

For ETC, the legal option to do joint public procurement needs to be provided. In most cases public procurement takes place for each partner individual - i.e. in order to build and bridge between the two countries, each involved regions procures part of works. Provisions for joint procurement may present an opportunity for more efficient use of funds and eventual cost savings (for sure, at least for the procurement and contract management)<sup>3</sup>.

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<sup>2</sup> Detailed proposals were submitted by INTERACT to the Committee of Regions during the consultation organised in 2010.

<sup>3</sup> Detailed proposals are currently being developed and will be outlined in INTERACT publication “50 questions and answers regarding public procurement in ETC”

The application of state aid rules in cross-border and transnational contexts present a particular challenge in the ETC. The effort required to monitor state aid is disproportionate to the programme size. If at all possible, ETC practitioners invite the European Commission to provide guidance what may and / or at least what may not constitute state aid in ETC programmes.

ETC practitioners also call for an abolishment of the so-called 10% and 20% rules both of which limit the programme expenditure which can be spent outside the programme area. It is believed that these rules limit the ambition level of the programmes, in particular in the context of globalisation. In order to contribute to Europe's global competitiveness, cooperation should be open to any part of the world, provided that the programme objectives are respected and the impact of actions remains in programme area. Extending geographical eligibility of expenditure will also benefit programmes which target "functional" areas outside the programme territory.

### **3.3. Financial discipline**

*How can financial discipline be ensured, while providing enough flexibility to design and implement complex programmes and projects?*

The European Commission suggests application of N+2 throughout without exceptions. If this, indeed, became a requirement, its fulfilment would only be possible if there was continuity of programme setup or implementation provisions and no major changes were introduced in the coming period. Also, if all ETC programmes were approved before 2014 and could start their implementation immediately.

During earlier consultations, however, the ETC programmes were unanimous in asking for the N+3 rule to be extended to all ETC programmes and all Member States for the whole programming period or at least its first years. This is based on the experience of the current programme period when programme approval and start-up was rather slow.

To support start-up of the ETC programmes it is proposed to have a bigger advance payment for the programmes (i.e. 10% of the total ERDF co-financing). The European Commission should support programmes with more realistic financial planning. Especially for the first years of implementation a lower level of spending should be foreseen.

### **3.4. Financial control**

*How can the audit process be simplified and how can audits by Member States and the commission be better integrated, whilst maintaining a high level of assurance on expenditure co-financed?*

ETC programmes appreciate the clearer rules for the programme implementation introduced in this programming period, among them the obligation to develop an Article 71 description for each programme. This requirement should be retained also in future. But there is a call to respect principle of proportionality here - the implementation provisions for smaller programmes should respect the limited resources they can allocate for management and controls. In order to speed up and streamline the elaboration of the descriptions for the coming period, it is hoped that the requirements would not change significantly. New descriptions should rather involve update than re-writing. ETC programmes also support streamlining and harmonisation of the approach to the compliance assessment on the EU level.

The requirement to have Group of Auditors in the ETC programmes could be extended also in the future, however, still allowing programmes with centralised audit frameworks (i.e. audits carried out centrally on a programme level) to chose not to have one.

The current acceptable error rate of 2% is not realistic for ETC and needs to be adjusted to a more realistic level. It has been suggested that rather a 5% error rate should be considered.

*How control measures can be made more cost efficient, proportionate and risk based to improve their effectiveness and efficiency while ensuring adequate coverage of the inherent risks?*

The existing control framework of ETC programmes is seen as overly complex and sometimes involves as many as six control levels. There is a need to reduce the number of controls and the solution to this is seen in optimisation of the control framework. The number of the controls could be reduced e.g. by clarifying the role of the controls on the lead partner level and removing the verifications currently performed by the Certifying Authority.

Of the elements introduced in this programming period, designation of First Level Controllers (FLC) should be retained also in future. The responsibility for the quality of implementation of national FLC systems should clearly remain on national level - i.e. with the Member States, and not with the Managing Authority. MA has very limited means to ensure the quality of the FLC system in all participating countries and the quality control role has led to a lot of duplication. Furthermore, the role of the MA / JTS in FLC (such as checking environmental and equal opportunities information in activity reports) needs to be better defined to avoid misunderstandings and duplication.

The proportionality principle should be extended also to the controls. There is a feeling that first level control has run out of proportion. There is need for simplification and harmonisation throughout the European Union.

The amount and scope of controls and audits should reflect the general quality of the national public expenditure management and control systems: if the overall system works well, controls should be reduced. Systems tend to work best where there is credible FLC system at national level and trust in controls done in another country.

The role of First Level Controllers should be better defined in terms of scope and tasks. It should be made clear what the task of a controller is and what is not. Requirements to control issues beyond the typical expertise of controllers should be dropped from FLC tasks as they undermine the credibility of the entire system. This includes controlling environmental impacts, equal opportunities and non-discrimination, state aid, specialist and technical matters, the quality of outputs and potentially others. Some of these issues should be checked by the MA/JTS during the project assessment, decision making and monitoring phase. However, it needs to be ensured that transfer of the responsibility for controlling horizontal issues is accompanied with sufficient clarity on what such controls imply and how to carry them out in a most efficient way? Supported by INTERACT, the programmes have begun working on the solutions.

Also with regard to controls, the shift of thinking is required. The overall objective of the control system should be to improve the payment claims rather than reject them. The role of the Managing Authority / Joint Technical Secretariat in controls needs to be clarified. They should be involved in controlling content, progress and quality throughout the project life-cycle, beginning with project assessment and then following if what has been envisaged gets delivered. The requirement to control project outcomes after project closure needs to be clarified - i.e. how to ensure this after the programme closure?

In short, the separation of responsibility for verifying the compliance with sound financial management principle would imply that MA/JTS ensure control over effectiveness of project implementation, whereas FLC checks expenditures.

A cost-benefit approach to control should replace the current approach of scattering control resources among all potential sources of errors. It should be made clear that FLC is required to ensure the correctness of 100% of expenditure but is not required to check 100% of all items. More control resources should be allocated to high-risk transactions, less to minor transactions and it needs to be ensured that controls do not repeat their scope. There is also need to reduce the paper work in controls.

#### **4. THE ARCHITECTURE OF COHESION POLICY**

The conclusions of the 5<sup>th</sup> Cohesion Report confirm that “cohesion policy would continue to foster territorial dimension of cooperation (cross-border, transnational and inter-regional). This would include a review and simplification of the current arrangements for cross-border cooperation, including IPA, ENPI and EDF cross-border cooperation at the EU’s external borders, and also of current practices in transnational action supported both by the ERDF and the ESF.”

As stressed by the ETC practitioners, for the sake of beneficiaries and to ease programme implementation, the legal and operational framework of cooperation programmes co-financed by IPA, ENPI and EDF must be harmonised with the ERDF. Member States should not be required to use PRAG rules for public procurement on their territories.

Likewise, specificities and needs of cooperation on EU external borders should be taken into account when defining the priorities and strategic focus of such cooperation. ETC practitioners unanimously call for inclusion of external border cooperation programmes in the ETC framework or full alignment of the ENPI, IPA and EDF cooperation programme implementation principles and rules with those of the ETC. There is a need to formally recognise that these programmes are developed in partnership with the neighbouring countries, based on mutual trust, equal terms and offering equal opportunities for cooperation partners. Alignment would also ensure mutual collaboration and learning among the external border programmes, hence - their improved quality and efficiency.

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**Feedback submitted by the Territorial Cooperation Unit within the  
Planning and Priorities Coordination Department, Office of the Prime Minister, Malta  
in view of the Discussion Paper on the European Territorial Cooperation Objective  
linked to the Consultation on the Conclusions of the 5<sup>th</sup> Report on Economic, Social and  
Territorial Cohesion: the Future of Cohesion Policy**

Programming – Setting the right priorities

Malta agrees that territorial cooperation programmes have addressed a very broad range of thematic areas and objectives, which might be the reason underlying the lack of concrete results. Therefore, the need to focus on the most important priorities seems to be essential in order to crystallise the results and the visibility obtained by means of such programmes. Furthermore, whilst setting such priorities, the nature of territorial cooperation programmes, which are characterised and governed by diverse administrative and political frameworks, should also be kept in mind. It is also important to ensure that the participants have the mandate at the national / regional level to sustain the results so as to guarantee more tangible results on the ground.

In addition to the importance of channelling the resources towards the attainment of specific objectives, we should also address the respective means. In this regard, Malta recommends that territorial cooperation programmes be established on the basis of the thematic priorities they seek to address rather than solely on account of geographical proximity. Malta supports very strongly the removal of the distance criterion (150 km) used in the classification of island and border regions which may be eligible for financing from cross-border cooperation programmes in the context of the territorial cooperation objective of cohesion policy or of the European Neighbourhood Policy.

It is important that the particular characteristics / requirements of European territorial cooperation programmes are taken into consideration as early as possible. This could be achieved through the active involvement of policy makers (at a local and national level) vis-à-vis European policy making and through a better coordination of the feedback achieved in this regard. To this end, Malta proposes that COCOF should have special agenda meetings with respect to such Programmes, for which ETC members would be invited to attend.

## Regulatory Framework

Malta agrees with the fact that territorial cooperation programmes tend to be complex in nature and that there is a need for mechanisms to simplify such programmes. The low-take up of the EGTC by ETC programmes, coupled with the lack of any clear positive outcomes, seem to suggest that the EGTC might not be the solution in this regard and therefore alternative instruments should be considered.

For example, Malta would support the introduction of a separate regulation for ETC programmes so as to cater for the specific characteristics of such programmes. Having said this, we should refrain from starting all over again and hence we should ensure that there is a certain degree of continuation from the current and previous programmes. Furthermore, given that ETC programmes fall under the ERDF and that it might not be feasible to have a separate regulation, further provisos / clarifications in the ERDF regulation should be made for ETC programmes. One should also take note of the inconsistencies in the interpretation of the regulations: coordination within and amongst programmes is necessary to harmonise territorial cooperation concepts, most particularly the interpretation of such concepts. In this regard, clear guidance on the terminology used and on the respective interpretation should be provided by the EC. Furthermore, there should be some mechanism in the Regulation (or at least in Guidance Notes) that caters for serious concerns with regard to the implementation system of a Programme and which provides guidance on how any suspension / flat rate recoveries should be dealt with.

With regard to the allocation of funds within the strands, Malta would prefer to retain – and even increase - the flexibility of transferring funds between the strands. This will allow the MS to allocate such financial resources as they deem most appropriate and where they deem to maximise the experience and resources. Malta would also be in favour of retaining the N+3 rule for the forthcoming period and of increasing advance payments to ETC programmes so as to facilitate participation in such programmes.

Furthermore, due to the nature of such programmes, it is important that any decisions should reflect the interest of the programme and not of a particular Member State. In this regard, it is important to retain the Monitoring Committee and to ensure that any decision is taken by this body. On the other hand, the role of the Group of Auditors should definitely be strengthened.

## Macro regions

While there is agreement that the macro-regional approach will not be a substitute for territorial cohesion, Malta could agree that there is synergy between the two concepts especially if built on the diversity of territories and focused on those sectors, such as climate change and energy, where a macro-approach may more satisfactorily address the issue or add value to national initiatives. At the end of the day, any strategy adopted should aim to facilitate – and certainly not impose – ways of better addressing the needs of a territory.

## Financial management

Malta agrees that territorial cooperation programmes may have become too demanding in terms of the respective administrative and control requirements, which might eventually result in a lower participation rate in such programmes and projects. The introduction of simplified cost concepts - if agreed and applied at a programme level and not a national level - could constitute an important element with regard to simplifying matters<sup>4</sup> and eventually reducing the respective error rates. With specific reference to the error rates, one should also look into whether the current acceptable error of 2% is realistic taking into consideration the complexity of such programmes.

## Audit and control

Territorial cooperation programmes have also become very demanding with regard to the requirements pertaining to control. In this regard, Malta supports the principle of proportionality with regard to the number of checks which ought to be carried out, aiming at effective financial management and not increasing control per se. We should also be aware of the attention which is paid to control issues vis-à-vis the attainment of the actual deliverables as well as the quality of such deliverables. It is important to keep in mind that more controls do not necessarily imply better results and therefore efforts to avoid duplication should be made. This should not imply that operational issues may be ignored because these constitute an important element in adhering to sound accounting principles (e.g. accountability, transparency), however the operational aspect should not be the end itself - but rather a means towards the end. Hence, the emphasis should always be on the actual performance and the ensuing results.

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<sup>4</sup> A Simplification of administration costs reporting has been introduced under the fourth call of the Interreg IVC programme.

In addition to the above, one should look into the significance of the verification of certain current horizontal control requirements such as equal opportunities, state aid and compliance with environmental policies vis-à-vis the entire system, especially if these fall outside the remit and expertise of the controllers.

### External cooperation

Internal and external cooperation are very often seen as completely different areas, with limited scope of merging the two areas. However, this should not be the case. As an Island State on the periphery of Europe and in the centre of the Mediterranean, Malta believes that increasing cooperation between the European regions themselves as well as attracting the participation of regions outside the European Union is important, both from a political perspective as well as from the perspective of the success of a number of Community policies. Indeed, the approach towards external cooperation should be such that common challenges, which go beyond internal borders, are jointly addressed for the benefit of both areas. Policies, therefore, should allow for a higher degree of synergy between internal and external policies for the benefit of the respective territories. Furthermore, better coordination between territorial cooperation programmes and external instruments should always be sought as this would definitely yield a more dynamic framework for meaningful participation and effective cooperation.

### Evaluation

Malta agrees that evaluation should be strengthened and that it should not be seen solely as an obligatory requirement. An evaluation of a programme should address various aspects of the programme<sup>5</sup> in a timely manner so as to be able to contribute towards the forthcoming programmes. However, it is important to ensure that the resources necessary to carry out a thorough evaluation, including financial and human resources, are sufficient.

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<sup>5</sup> One of the issues that evaluation should look into is the participation of private entities in territorial cooperation programmes i.e. the added value of such participation and whether the current mechanisms (e.g. state aid mechanisms) are sufficient to encourage their participation.