**REGIONAL SEMINAR ON LOCAL GOVERNMENT REFORM
AND GOOD GOVERNANCE AT LOCAL LEVEL**

PRESENTATION OF THE COUNCIL OF EUROPE TOOLKIT ON CBC AND IMC

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IMC toolkit   ->   CBC toolkit

TOOLKIT MANUAL

INTER-MUNICIPAL COOPERATION

2010

CHAPTER 1 – UNDERSTANDING CBC	Step 4: Decision on CBC and its institutionalisation
1.1 Rationale	Step 5: Building self-awareness and support
1.2 Possibilities of CBC	**CHAPTER 4 – ESTABLISHING CBC**
1.3 Different kinds of CBC	4.1 Why do we need a legal framework for CBC?
1.4 Reasons for creating CBC	4.2 Key legal questions
1.5 Factors influencing CBC	4.3 Different legal forms (national vs international)
1.6 Side effects of CBC	4.4 Choosing an appropriate legal form for CBC entity
1.7 Summary	**CHAPTER 5 – FINANCING CBC**
CHAPTER 2 – THE INTERNATIONAL ENVIRONMENT	5.1 CBC's financial strengths
2.1 Institutional obstacles and measures reducing them	5.2 Choices of financial framework
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2.2.1 International legal framework	**CHAPTER 6 – ACCOUNTABILITY**
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Steps 1 & 2: Identification of needs, opportunities, potential partners and possible areas of cooperation	6.3 Democratic accountability
Step 3: Analysis	**CHAPTER 7 – CBC CASE-STUDIES**

Cross Border Cooperation CBC –> searching for a definition

TERMINOLOGY		CONCEPT
CoE Terminology	**EU Terminology**	
Transfrontier	Cross-border	Cooperation between neighboring regions along a border (bi-, maximum trilateral).
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).

Source: 17th Plenary Session, CG(17)5 appendix 1 2 July 2009, **The state of transfrontier co-operation in Europe**

A broader definition allowing for operative comparisons:
CBC as neighbourly relations between local communities and authorities on either side of land and sea borders.

[MOT, "Practical guide to transfrontier co-operation", CoE Transfront(2006)3]
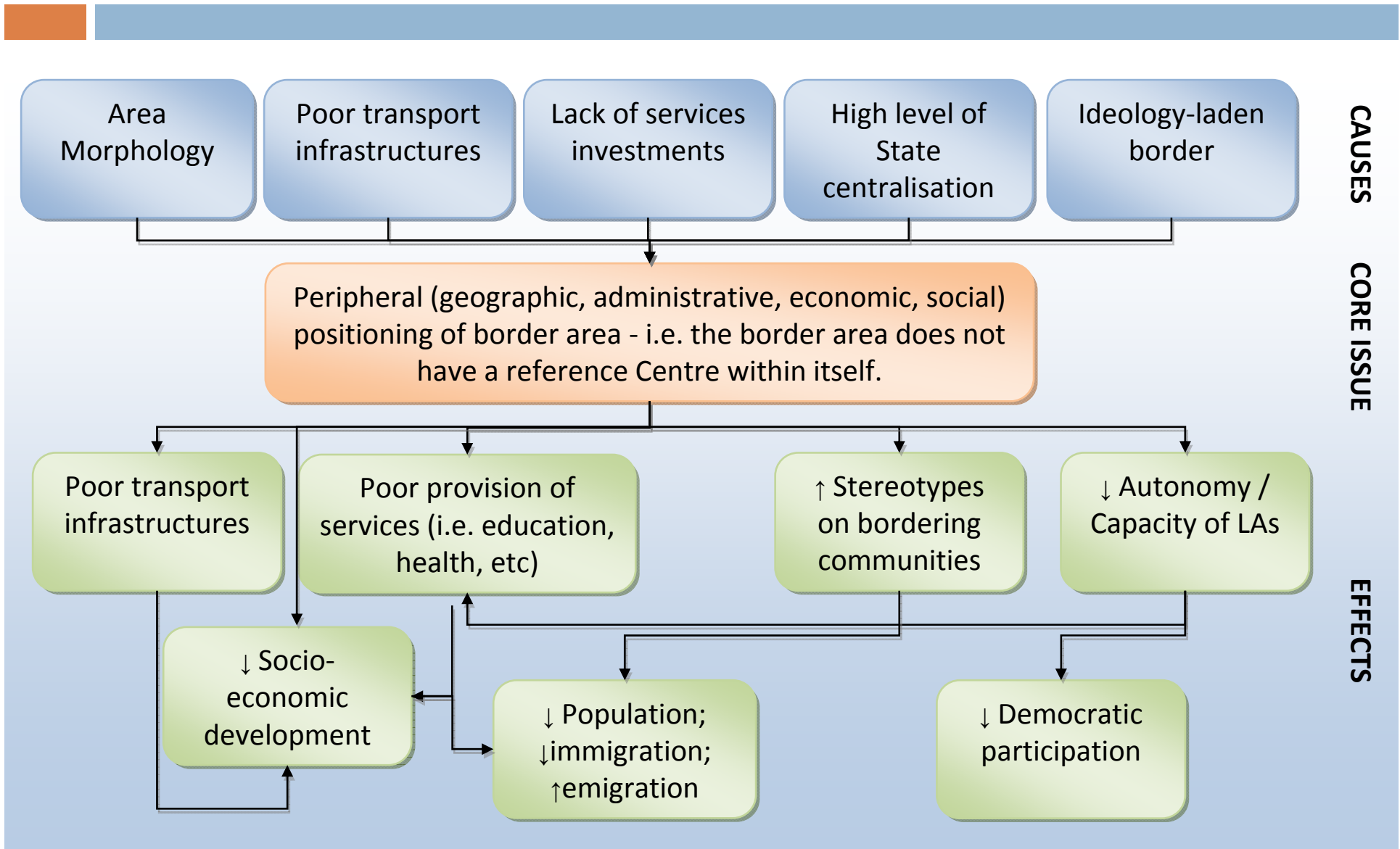
Cross-border cooperation (CBC): rationale

- **Rationale:** CBC is not about conveying additional powers to border communities or authorities. Rather, CBC is a more efficient tool to exercise their powers.

- Communities located in border areas seek to enact cooperative processes extending beyond borders in order to:

  - Promoting the socio-economic development of the border area;

    E.g. attracting new financial resources; efficiently using local (natural, financial, cultural, organisational, relational, etc) capitals; improving employment opportunities; etc.

  - 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.

  - Widening the area 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.
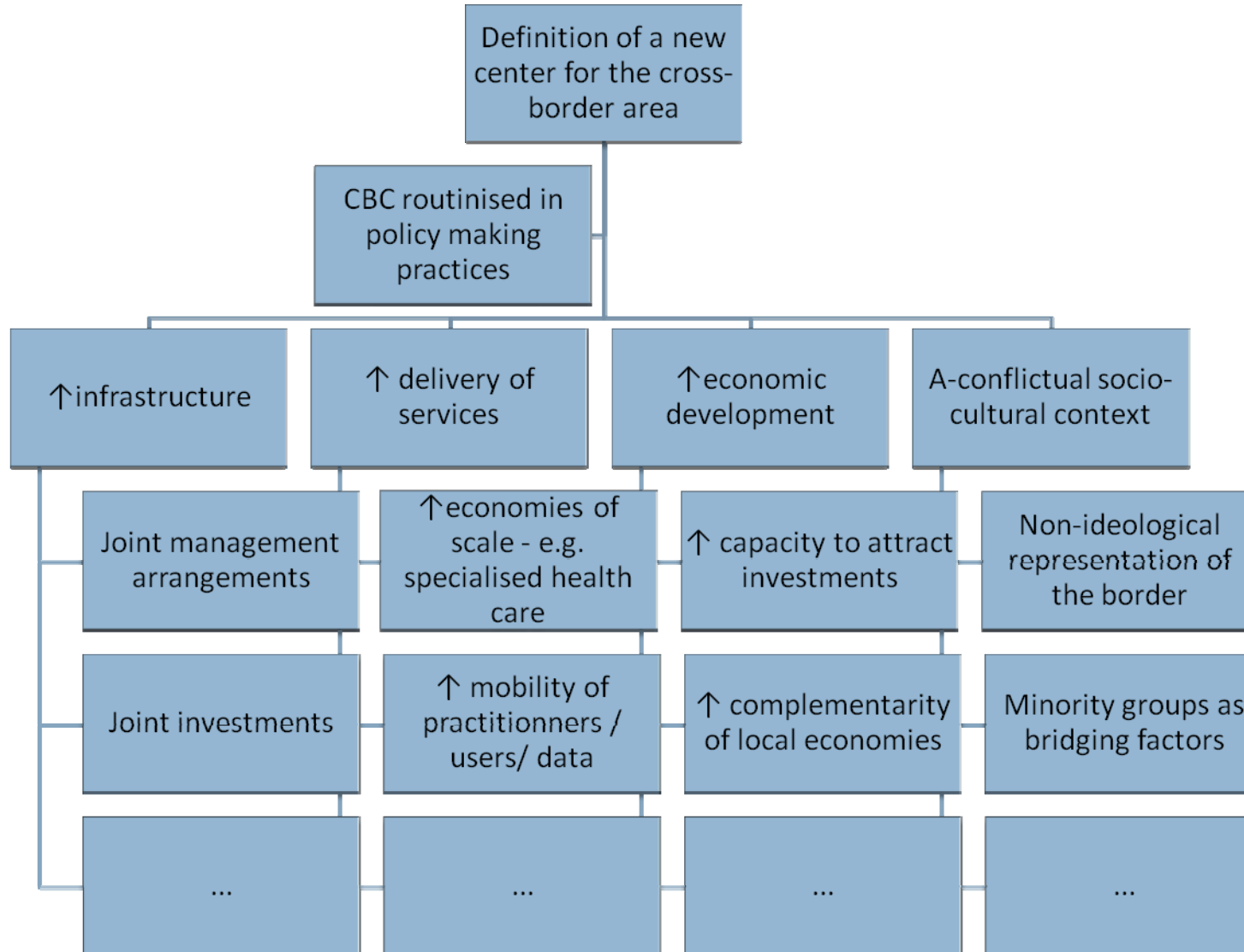
Spatial typologies of borders
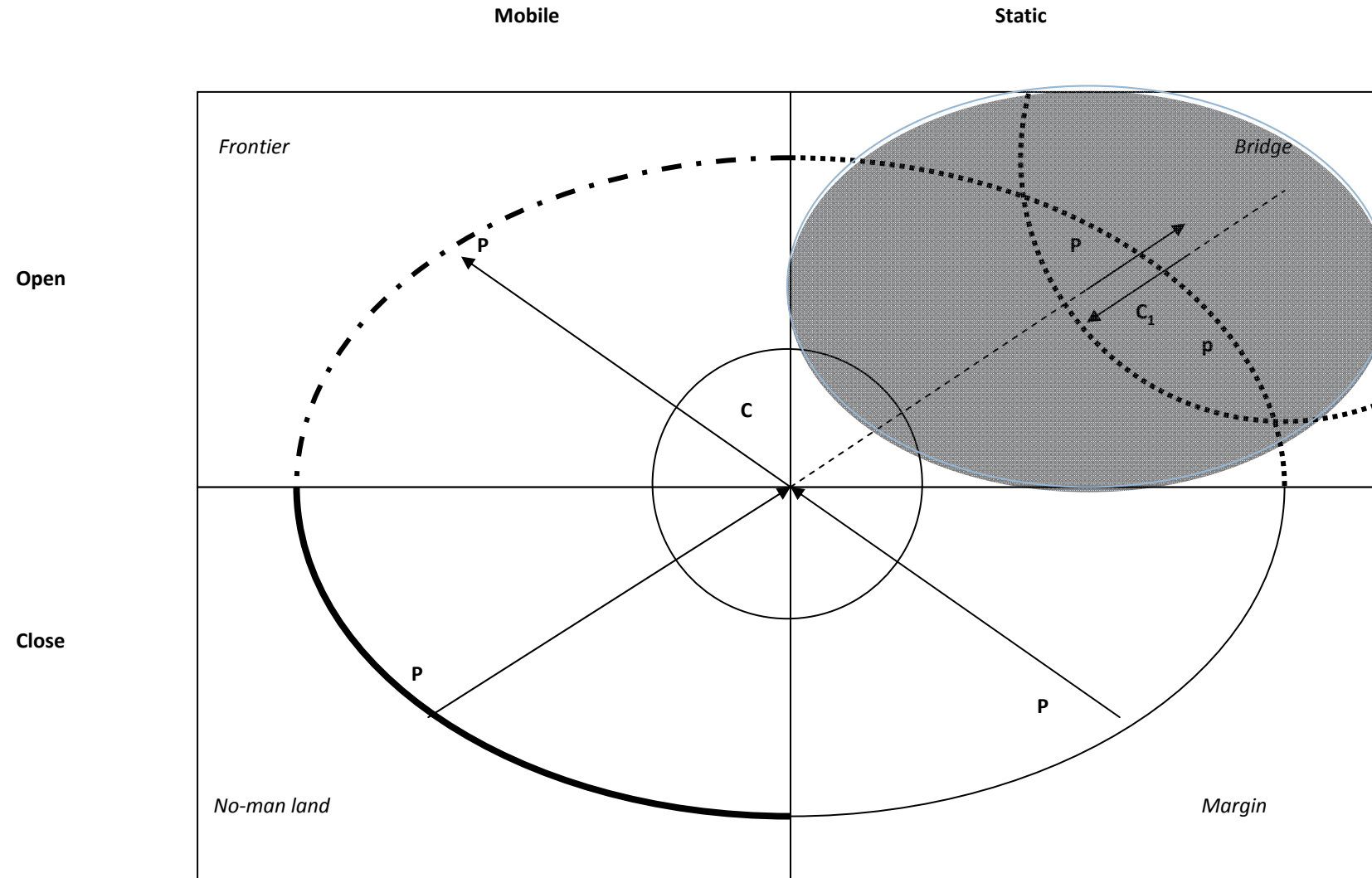
Overcoming the peripheral condition of border areas -> Peripheral positioning of border areas: problem tree approach

CAUSES

- Area Morphology
- Poor transport infrastructures
- Lack of services investments
- High level of State centralisation
- Ideology-laden border

CORE ISSUE

Peripheral (geographic, administrative, economic, social) positioning of border area - i.e. the border area does not have a reference Centre within itself.

EFFECTS

- Poor transport infrastructures
- Poor provision of services (i.e. education, health, etc)
- ↑ Stereotypes on bordering communities
- ↓ Autonomy / Capacity of LAs
- ↓ Socio-economic development
- ↓ Population; ↓immigration; ↑emigration
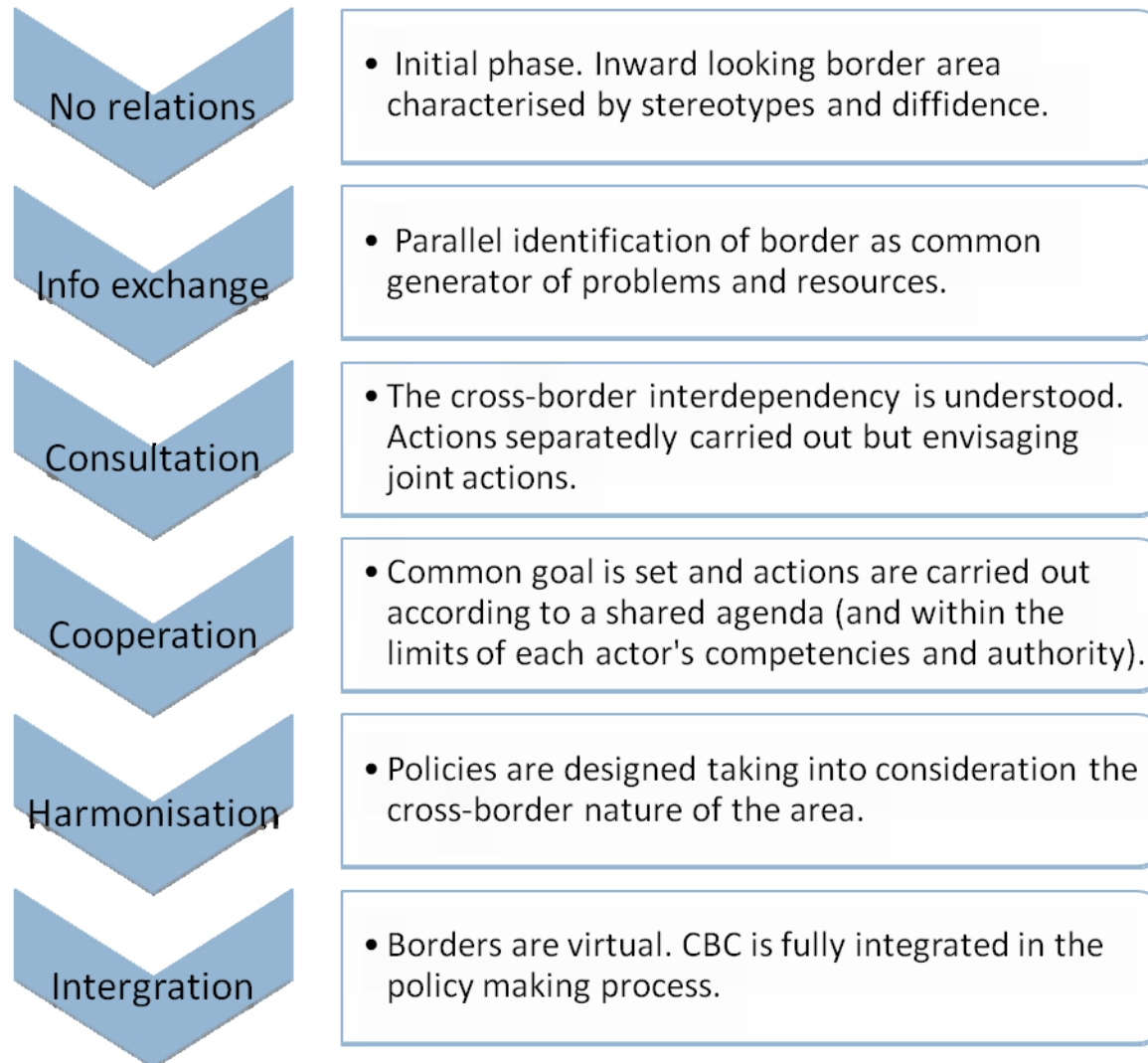- ↓ Democratic participation

Overcoming the peripheral condition of border areas
-> Peripheral positioning of border areas: solution tree approach

Main stages within which CBC processes develop

No relations
- Initial phase. Inward looking border area characterised by stereotypes and diffidence.

Info exchange
- Parallel identification of border as common generator of problems and resources.

Consultation
- The cross-border interdependency is understood. Actions separatedly carried out but envisaging joint actions.

Cooperation
- Common goal is set and actions are carried out according to a shared agenda (and within the limits of each actor's competencies and authority).

Harmonisation
- Policies are designed taking into consideration the cross-border nature of the area.

Intergration
- Borders are virtual. CBC is fully integrated in the policy making process.

Factors determining the possibilities of CBC

1. CBC actors' competencies and powers

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

2. CBC possible objectives per domain

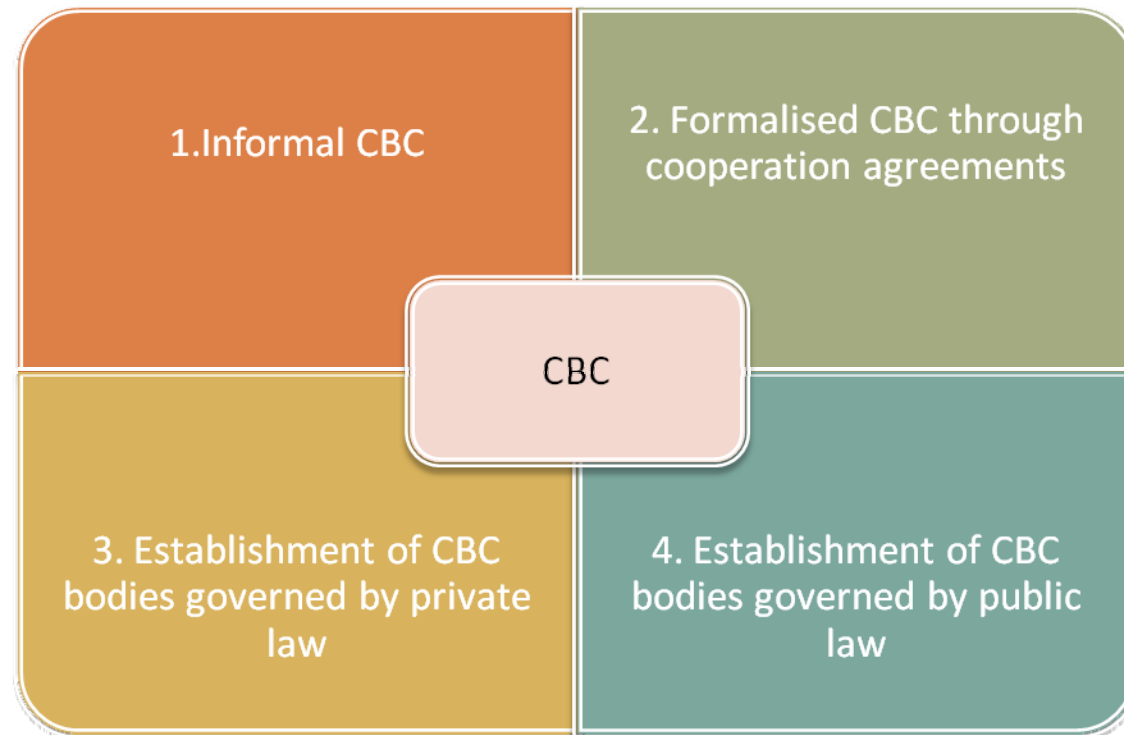| DOMAIN	SECTOR OF ACTIVITY
ENVIRONMENT, AGRICULTURE AND SPATIAL PLANNING	Environmental management and protection
	Agriculture
	Spatial planning (i.e. regional) / Urban planning (i.e. twin cities)
	Water and waste management
TRANSPORT AND COMMUNICATIONS	Public Transport
	Transport infrastructure
	Communications
ECONOMY AND EMPLOYMENT	Local development
	Cross-border labour force
	Business and industry / Technology
	Tourism
HEALTH AND WELFARE SERVICES	Health care
	Health infrastructure
	Social security and cross-border workers
EDUCATION AND CULTURE	Education services
	Cultural action / Youth and sports
	Common cultural heritage
	Media
	Bilingualism

3. cross-border structural and administrative arrangement

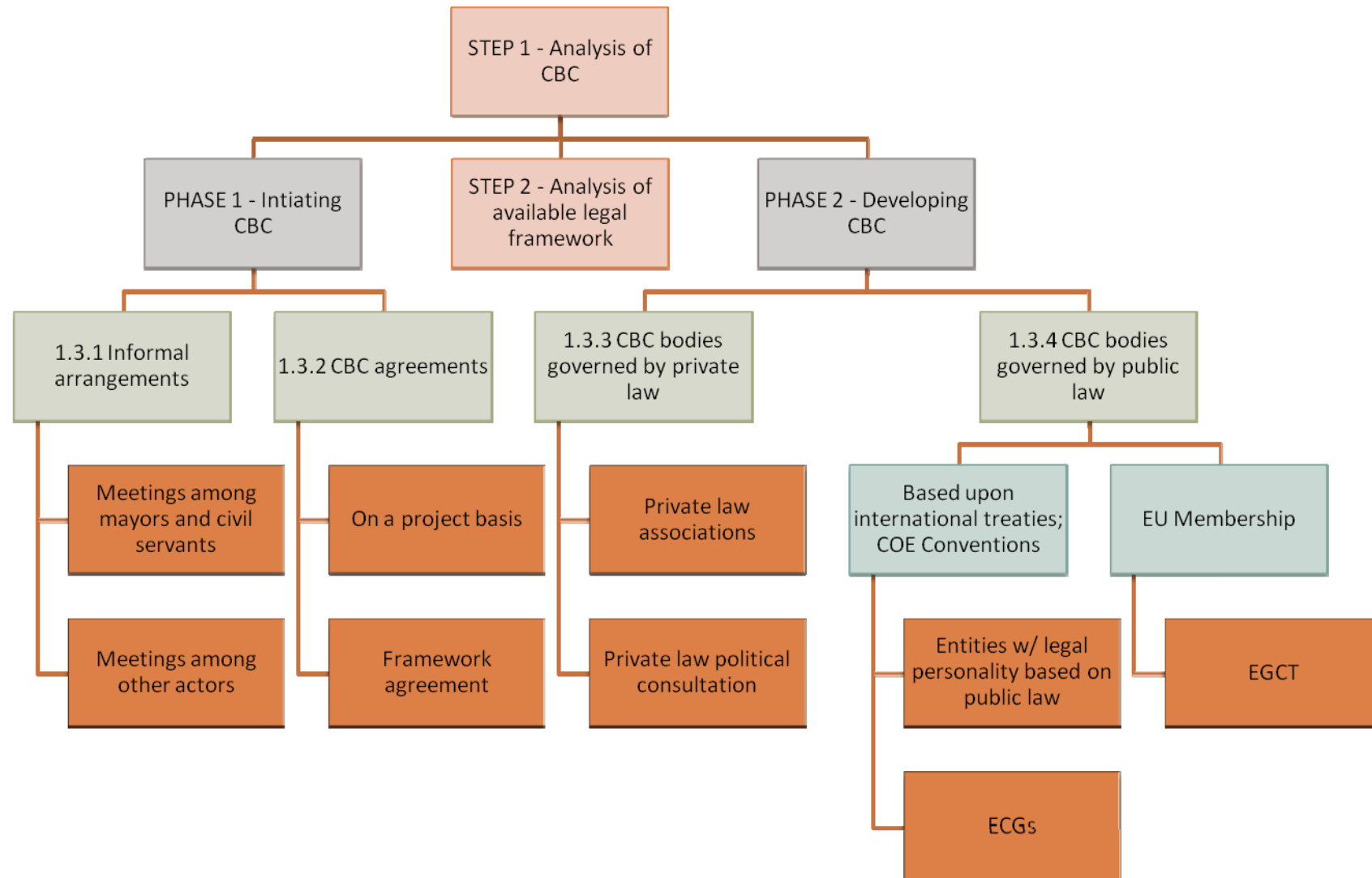| DOMAIN	POSSIBLE OBJECTIVE
Structural/administrative measures	- Promotion of the establishment of local and regional association which have as their objective fostering cross-border cooperation. - Joint establishment / support of cross-border research centres studying CBC relevant matters. - Organising periodical 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 available legal framework for cooperation.
Project making and management	- Develop the capacity to design and manage joint project to gain access to dedicate funds from the EU and other international donors. - Informing private actors on the external (i.e. international donors) fund available for CBC actions and coordinate 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.

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	- State centralisation; - Local communities and authorities competencies / powers; - Bi- / multi-lateral undertakings entered by States; - Membership to EU; - Neighbouring States international relations; - …

Different kinds of CBC

1.Informal CBC	2. Formalised CBC through cooperation agreements
3. Establishment of CBC bodies governed by private law	4. Establishment of CBC bodies governed by public law

CBC

Main kinds of CBC and types of CBC bodies

Main Legal framework

- "**Madrid Convention**" – European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities
  - CoE 21/05/1980
  - Contiguous LAs
  - Coop.Trans. = "any concerted action targeted to reinforce or promote the neighbourly relation among Las belonging to the Parties (Contracting States)"
- **Additional Protocol**
  - CoE 9/11/1995
  - Establishing a body for transfrontier cooperation
    - Legal personality under the juridical system of the contracting state where the body has its legal seat.
- **Protocol n. 2.**
  - CoE 5/05/1998
  - Inter-territorial coop. = "any concerted action among Las belonging to non-contiguous states"
- **Protocol n.3**
  - 9/11/2009
  - Euroregional Cooperation Groupings (ECGs)

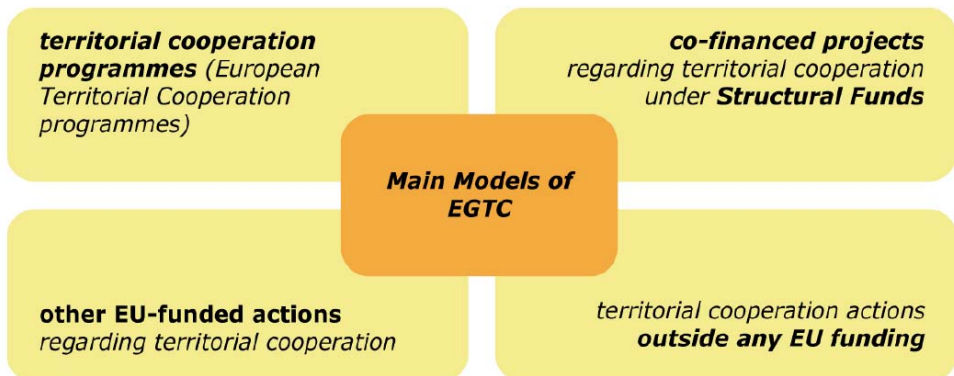| Council of Europe — International conventions	Year	European Union — Community legal structure	European Union — Cohesion policy
	^		
	2008		European Territorial Cooperation Objective (2007-2013)
Proposed 3rd protocol to the Madrid outline convention	2007	European Grouping of Territorial Cooperation	
	2006		
	05		INTERREG III programme (2000-2006)
	04		
	03		
	02		
	01		
	00		
	99		
2nd Protocol to the Madrid outline convention	1998		INTERREG II programme (1994-1999)
	97		
	96		
1st Protocol to the Madrid outline convention	1995		
	94		
	93		NTERREG I programme (1991-1993)
	1992	European association proposal	
	91		
	90		
	89		
	88		
	87		
	1986		Introduction of the cohesion policy (Single European Act)
	1985	European Economic Interest Grouping	
	84		
	83		
	82		
	81		
Madrid outline convention	1980		

Euroregional Cooperation Groupings (ECGs) - Protocol n.3

➲ May be established by territorial communities or authorities and by States if one or more of their territorial communities or local authorities are already members;

➲ Other agencies/actors with legal personality may become members if the DO NOT have an industrial or commercial scope – (i.e. public equivalent body);

➲ ECGs are open to territorial communities and authorities who do not have undersigned Protocol 3 is they belong to a State contiguous to the one the ECG will have its legal seat.;

➲ It has legal personality and obeys to the legislation of the state where it has its legal seat;

➲ Potential members must officially/formally notify or ask for and obtain the authorization from their respective national authorities;

➲ Objectives and functions are identified and established by its members.

European Grouping of Territorial Cooperation EGTC Interact handbook on the EGTC (2008: 28)

- ⮩ It is a **Community legal instrument that has been directly applicable in all EU MSs since 1 August 2007.** The EGTC Regulation, with direct applicability in all 27 EU Member States, offers a legal basis for the creation of entities with a **legal personality.**
- ⮩ **In each Member State it** enjoys the maximum legal and contractual capacity conferred on legal persons according to the respective national law
- ⮩ An EGTC must be composed of members from at least two Member States belonging to the following categories: local and regional authorities, other public entities or public-equivalent bodies, associations of public entities and, finally, Member States (national level).
- ⮩ Member States play up to three different roles in the process of establishing an EGTC:
  - ⮩ They have to designate responsible authorities for the approval of 'national' EGTC and the participation of prospective members falling under their jurisdiction;
  - ⮩ They have to designate competent authorities for the control of the management of public funds by the EGTCs registered in their territories26;
  - ⮩ They can also become member of an EGTC.

The four models of EGTC according to Art. 7(3) of Regulation (EC) No 1082/2006

territorial cooperation programmes (European Territorial Cooperation programmes)

co-financed projects regarding territorial cooperation under **Structural Funds**

Main Models of EGTC

other EU-funded actions regarding territorial cooperation

territorial cooperation actions **outside any EU funding**

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

Source: The European Grouping of Territorial Cooperation, MOT (2008:11)

Setting up a CBC body

1. Defining the cross-border area

1. Understanding the local context

2. Identifying objectives

3. Identifying partners

4. Assessment of powers/responsibilities

5. Assessment of CBC legal capacity

2. Drafting the appropriate agreement

1. Agreeing on each partner tasks

2. Agreeing on CBC competencies

3. Agreeing on type of legal instrument to adopt

4. Agreeing or resources

3. Establishing the appropriate CBC operative instrument

1.a Contractual legal undertaking

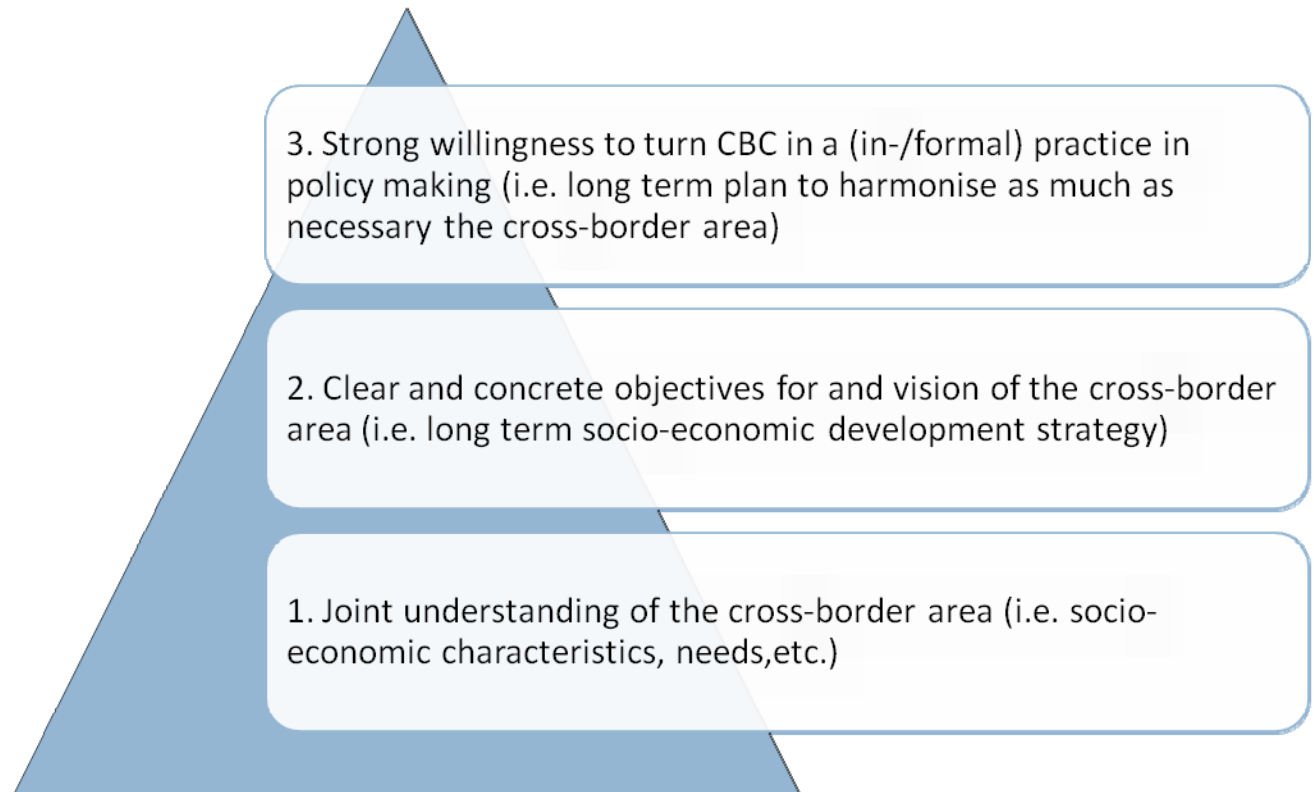1.b Institutional legal undertaking

2. General/Specific objectives

3. Structure and resources

4. Operative methodology and in-built review

Basic factors for the success of CBC

Reasons for creating CBC:
- ↑ mutual knowledge and trust
- ↑ economies of scale
- ↑ better services
- ↑ catchment area definition
- ↑ management of infrastructure
- ↑ territorial definition and marketing

3. Strong willingness to turn CBC in a (in-/formal) practice in policy making (i.e. long term plan to harmonise as much as necessary the cross-border area)

2. Clear and concrete objectives for and vision of the cross-border area (i.e. long term socio-economic development strategy)

1. Joint understanding of the cross-border area (i.e. socio-economic characteristics, needs,etc.)

Reasons for CBC: the CBC virtuous circle

Positive side-effects:
- Emulate best practices;
- partnership working;
- Strategic responsibilities;
- Accountabulity and transparency;
- Solidarity:
- ...

Negative side-effects:
- Slow decision making process;
- democratic deficit;
- Harden internal (administrative) borders;
- Political costs:
- ...

CBC increases mutual trust and a common vision for the cross-border area.

Shared goal to improve citizens quality of life actoss the border area.

Identifying cross-border area resources and possible synergies.

Enacting economies of scale and more efficient use of resources, better services are provided.

Improved development perspectives; improved visibility and territorial marketing possibilities.

Improved capacity to attract external funds to support CBC processes.

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PRESENTATION OF THE CASE STUDY FORMAT

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