



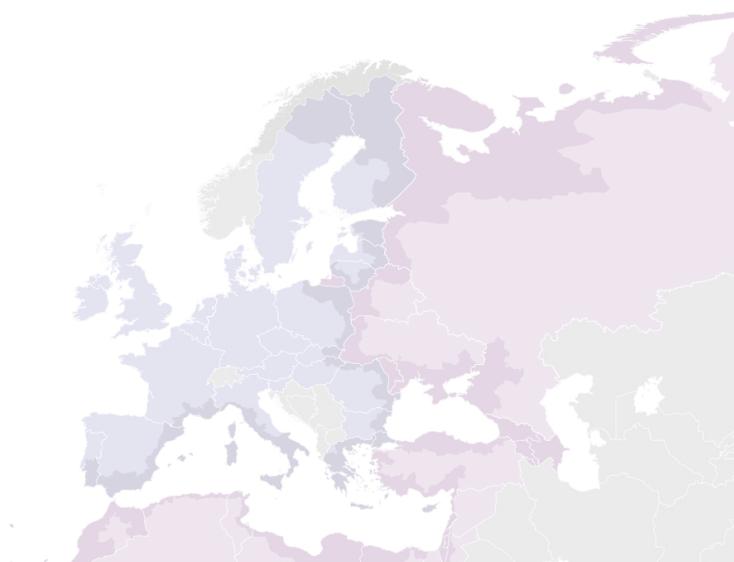
Technical support to the implementation
and management of ENI CBC programmes

Notes from the meeting on ENPI CBC programme closure

Brussels, 10 May 2017

(OFFICIAL PROCEEDINGS)

IMPORTANT! The questions raised before and during the event and which are already covered in the ad-hoc Q&A compilation on ENPI CBC closure are not re-proposed in this document.



Background and introduction

The meeting was organized by TESIM in close cooperation with the EC services, as a part of the series of instructions and recommendations to support an effective, efficient and timely closure of ENPI CBC projects and programmes. The aim of the event was to provide a platform for the programmes to discuss and exchange on the main challenges ahead.

The meeting gathered **33 representatives** from Joint Managing Authorities (JMAs) Joint Technical Secretariats (JTSS) and Audit Authorities of 12 ENPI/ENI CBC programmes, together with representatives of DG NEAR, GSDI (performing the ex-post evaluation of ENPI CBC) and TESIM.

A note from the European Commission (EC) explaining the deadlines for the final reports together with the Guide on the closure developed by the TESIM project was forwarded to the programmes before the event. These documents, together with the questions sent by the programmes before the meeting, formed the basis for the presentations and discussions.

Mathieu Bousquet, Head of Unit at DG NEAR C1, opened the meeting and stressed that the programme closure procedures are **new both for the programmes and the DG NEAR**. He also mentioned that there is on-going cooperation between DG NEAR and DG REGIO on the issues of programme closure and this will allow to take on board the good practices and to harmonise the exercise, where possible. Mr Bousquet stressed that it is very important that ENPI CBC programmes **show their achievements and the impact** they have brought to their programme areas.

General overview of the TESIM Guide on closure

TESIM started the event with a presentation on the **legal framework and overall principles for closure**. It was reminded that the discussion with the ENPI CBC programmes on the closure started back in April 2014, when INTERACT ENPI organized a meeting on project and programme closure.

The experience of the TESIM project shows that obtaining evidence on what has been delivered by ENPI CBC as a whole is rather challenging, and the final reports of the programmes shall thus be an important tool for the generation of information, which can be further aggregated to show the achievements and changes brought by the programmes.

Since several extensions have been granted to the programmes for the implementation of their projects and the technical assistance, the end of the execution period is different:



Type of extension	Programme	End of implementation phase for projects	End of implementation phase for technical assistance	End of execution period
A	Karelia	31 December 2014	31 December 2017	31 December 2017
B	Kolarctic, SEFR, ELR, LLB, LPR	31 December 2015	31 December 2017	31 December 2017
C	MSB, BSB, IT-TU	31 December 2016	31 December 2018	31 December 2018
D	PBU, RUM, HSRU	31 December 2017	30 June 2019	31 December 2019

Several milestones have to be reached both on the side of the programme as well as the EC before the set deadline for the programme execution period. There are three processes that have to be finalized in order to close a programme, and the schedule for them is very tight:

- closure of all contracts concluded under the programme;
- payment or reimbursement of the final balance;
- decommitment of the remaining appropriations by the Commission.

The final report has to include similar elements as the annual report. However, the strategic difference from the annual report is that both information from the last implementation year and information covering the whole duration of the programme should be provided.

TESIM's availability to hold individual meetings with enlarged staff of each programme to discuss the details of the closure process was confirmed.

Mathieu Bousquet stressed DG NEAR's expectation that the technical part of the final report includes following elements:

- facts and figures;
- information on the lessons learned and progress;
- whenever possible to have evidences about the programme impact.

This information in the final report is viewed as a highly valuable tool to communicate the results and added value of ENPI CBC programmes both to the national authorities and to the EC.

Closure in detail: Preparation phase

TESIM's second presentation stressed the importance of the preparation phase of the closure process, especially the importance of cooperation among the programme bodies. In particular, close cooperation and coordination between the Joint Managing Authority and the auditor (either internal or external) carrying out the audit on the last sample of projects is needed; this audit may result in the discovery of additional irregularities in closed projects, followed by the respective recoveries. This is one of the main potential reasons for delays preventing the submission of the final report in the set deadlines.

Most programmes falling into categories A and B have already closed their projects, the pioneer being Karelia programme which has already closed its ENPI CBC accounts and submitted the final report to EC.

In order to **speed up the preparatory process** for closure, TESIM suggested that, unless necessary, the final reports of the projects are approved without lengthy clarification processes and corrections of purely formal nature. As an alternative, some of the programmes suggested that they could submit the final report to DG NEAR in parts, first the technical part and after a while the financial part. DG NEAR did not agree to the proposal.

The JMA of Lithuania - Poland – Russia ENPI CBC programme inquired about the possibility to prolong the deadline for submission of the final programme report for the programmes in the “B” category, arguing that the deadline for the submission of the report was not explicitly communicated to the programmes. DG Near representatives explained that the deadlines defined for each type of programmes is based on the legal framework currently in force, and it stipulates that the programmes have to be closed by the execution deadline, including the three above-mentioned steps, as explicated in article 43 of the ENPI CBC IR.

A representative of the JMA of the Black Sea Basin programme stressed that both the programmes and DG NEAR should have the **full commitment to the exercise**. The representatives of the contracting and finance unit of EC explained that there are just two persons in charge of checking and approving the ENPI CBC annual and final reports and that, notwithstanding the commitment, this conditions the timely provision of feedback.

Closure in detail: Closure of projects

Due to its complexity, the closure of projects is the most difficult challenge in the overall closure process. Any delay in project closure may have an influence on the timely closure of the programme as a whole. TESIM suggested that the programmes prepare well for this important step by:

- carrying out risk assessment to identify projects that are likely to submit low quality reports;
- improving instructions and information notes on the closure of projects;
- revising procedures and criteria for the administrative check of the reports;



- avoiding requests for re-submission of documents from the beneficiaries in case of minor issues;
- improving communication flows between the projects and programme bodies;
- performing the audit on the last project sample as early as possible.

The JMA has to ensure that the projects are implemented in line with the principles of **effectiveness and efficiency**, and in cases where the projects are implemented “poorly or partially” when compared to what foreseen in the application, the contract allows for a reduction of the grant. At the same time, the final amount of accepted eligible expenditure has to be in line with the actual project implementation, that is, using efficiency as main criterion. At the request of the Romanian JMAs, TESIM indicated that a full return of all the pre-financing payments should not be required by default in case of partial implementation; the analysis should be made on a case-per-case basis. In cases of negligence and non-implementation of activities, the relevant costs should be considered as not justified and the JMA has to take a decision and properly document it.

As concerns **revenues** of the projects, a working note on the handling of revenues was issued by INTERACT ENPI in January 2012, and it can be forwarded to the programmes on demand.

A representative of the Black Sea Basin JMA pointed out that most of the times the **recoveries** are deducted from the final payment to the projects, and in some cases it has created tensions with partners and/or the National Authorities. There was a discussion among the participants on the applicability of the lead partner principle in this kind of situations.

Programmes also shared their experiences concerning **recoveries from the projects** in case of underspending/overspending between the partners, and different calculations were presented to illustrate the situations possible in the projects. As a general practice, a number of programmes confirmed that they follow the lead partner principle for claiming recoverable amounts (i.e., not requesting the amounts due to the concerned project partner). DG NEAR clarified that it may pose a problem for its services to take over the recovery files in cases the project lead beneficiary is from a Partner Country, but the recovery is due to a partner from a Member State¹.

Building on this, the Black Sea Basin Programme requested what would happen if a Member State does not reimburse to the JMA the amounts due by an organisation located in its territory. Considering that the EC part of the amount of contentious recoveries transferred to Member States is deducted by EC from the final payment, the risk is that Member States do not pay, or that they do not do it timely, especially if their interpretation of article 27 of ENPI CBC IR is that they have one year to repay. If this is the case, the payment may come after the execution period of the programme (i.e., after closure).

¹ Please refer to Q&A number 10, 12 & 13, as well as to case B in page 2 of the proceedings of the meeting on recoveries.



In order to discuss all outstanding issues concerning recoveries, a separate meeting will be organized by TESIM in Brussels in last weeks of June².

A representative of the Estonia-Latvia-Russia ENPI CBC Programme inquired about the information that has to be included in the final programme report in case the contentious recovery file has already been forwarded to DG NEAR. It was explained that in such case an indication of the date on which the recovery order has been sent to DG NEAR should suffice.

DG NEAR will nevertheless clarify whether there will be a possibility for a partial closure or pre-closure of the programme. DG NEAR requested programmes to send all information related to these cases undergoing legal proceedings, in order for EC to decide how to deal with them. DG NEAR is also in contact with OLAF and DG REGIO to decide how to treat the cases that are submitted for verification to other structures (e.g. OLAF).

The number of contentious recoveries in all programmes has been very low so far and only four complete files related to contentious recoveries from Partner Countries have been submitted to the EC.

In spite of the limited extent, the participants requested guidance from EC on how to ensure due diligence and the transmission of a complete file for recovery³.

Closure in detail: Closure of technical assistance

TESIM explained that in accordance with Article 31 of the Implementing Rules, the technical assistance (TA) costs have to be incurred before the submission of the report, and they can be paid until the end of the execution period (e.g. audit or staff costs). There is no specific cut-off date indicated for the TA either in the guidance or in the note, this has to be decided by the programmes individually, taking into account that the submission deadlines need to be respected.

In the final report, it is necessary to take into account if the TA of ENPI CBC has been used to cover the preparatory costs of ENI CBC programme. And in cases where no clear differentiation of these costs is possible, the applied methodology for calculation of the costs has to be explained in the final programme report.

² The meeting took place on 27 June. Meeting proceedings and supporting materials have been shared with the programmes and are available on demand.

³ These issues were tackled during the meeting on recoveries held in Brussels on 27 June.



As per request the EC will provide the programmes with information on the calculation of the TA costs for the preparation of ENI CBC.

Programmes in which there is an underspending by projects and a high level of absorption of TA funds may face a situation where their actual TA costs exceed the 10% limit defined in article 18 of the ENPI CBC Implementing Rules. Some programmes pointed out that the 10% threshold in article 18 refers to the planning of the technical assistance and the Hungary-Slovakia-Romania-Ukraine ENPI CBC JMA stated that they received a letter from EC indicating that the calculation needs to be done on the allocated amount, not on actual costs. If confirmed, the Guide on closure will be modified accordingly.

UPDATED CONTENTS OF THE GUIDE ON CLOSURE

"In principle, this percentage has to be respected also at the moment of closure. Should the percentage be higher in the end, the deviation needs to be duly justified. Where sound justifications exist, percentages above 10% may be approved".

Closure in detail: Closure documents

Closure documents defined in the ENPI CBC Implementing Rules are:

- Annual report of the JMA
- Annual report of internal audit service
- Annual report on implementation of the audit plan for projects
- External audit report

The **final report shall contain information** both on the last year of the programme implementation, as well as consolidated overview for the whole programme period. Programmes need to pay sufficient attention to the development of the narrative part and describe the programme achievements, as well as its contribution to the ENPI CBC strategy. It was stressed again that the technical part of the report has to include a summary of the TA use and communication activities, and also highlight the good practices (e.g. capitalization activities, major programme events).

A representative of the JMA of the Poland-Belarus-Ukraine and Lithuania-Poland-Russia Programmes asked about the **authority in charge of the summary of audits**, taking into account that in most cases the audits that need to be described will not be carried out by a single audit body. To this the experts explained that the summary in such cases should be prepared by the JMA.



Concerning the financial tables that are to be included in the final report it was mentioned that in cases where programmes have other funding sources at programme level than ENPI (like IPA or national funds), this has to be reflected in the report and the tables have to be adapted accordingly.

Programmes mentioned that it is not possible to have the indicative division per **budget lines for the TA** foreseen in the Guide, as the JOPs do not have this information; it is only prepared for approval by the JMC on an annual basis. A representative of Kolarctic programme also mentioned that in their case the financing for the TA comes from 5 different sources, and identifying the EU contribution could be quite difficult.

A question was also raised on the notion of “prior approval of the waiver”, as defined in Article 27 of the ENPI CBC Implementing Rules and the bodies that need to grant this “prior approval”. A representative of EC explained that it refers both to the JMC and EC.

Further details will be explained in an instruction that will be prepared by EC.

It was agreed that the Guide on closure will be updated on the basis on the discussions that took place during the meeting, and the updated version will be sent to the programmes together with the financial tables in excel.

Some programmes showed their discontent concerning the timing of the event and the level of detail required in the guidance documents, arguing that it is not realistic to ask programmes to fulfill such requirements at this stage. This was considered as a proof of mismanagement and an additional reason for ENI CBC programmes to be transferred to DG REGIO. In a later intervention, the Head of Sector CBC within DG NEAR C1 acknowledged that the guidance on closure comes late for part of the programmes and that much work still has to be done. At the same time, he stressed that significant efforts have been invested in the closure exercise both by EC and by TESIM. Concerning the management issues, he stressed that in the ENPI CBC framework there is more flexibility available for the programmes compared to other instruments, such as INTERREG, and that the advantages of such flexibility should not be neglected.

Ex-post evaluation of ENPI CBC

The presentation was delivered by the Team leader of the ENPI CBC ex-post evaluation team, who explained that the evaluation aims to make a picture of what



has been done by the programmes. The methodology and the deadlines for the evaluation were presented, as well as a request to the programmes to fill in the questionnaires and provide the information needed for the evaluation. It was explained that one answer is expected from one body, irrespective of the number of persons who contributed to the exercise. It would be very welcome if a person is appointed in each programme to deal with the requests from the evaluators team.

Participants of the meeting inquired if the results of the evaluation will be available on the programme basis. To this the team leader explained that during the desk phase individual annexes will be produced for each programme; however, the final report will cover all programmes.

Additional Questions & Answers

A representative of the South-East Finland – Russia ENPI CBC Programme inquired about how successful recoveries should be reflected in the final programme report. It was suggested that this is discussed with EC on an individual basis. The same reply was provided to a question from the JMA of the Black Sea Basin Programme on the body to which the successful recoveries by EC shall be reimbursed.

Overall the representatives of EC encouraged programmes to send them information on the difficult cases that programmes are facing concerning the programme closure, as EC will create a working group to deal with them.

In case there are individual programme meetings organized with TESIM concerning programme closure, representatives of DG NEAR are willing to participate in them through video conference.

The Polish JMA requested whether the EC will send any instructions to the programmes on the minimum threshold and the way the irregularities shall be reported. It also suggested that, for the new funding perspective, EC should consider the use of the IMS for notification of irregularities and other exchanges. DG NEAR representatives confirmed that the note on the treatment and administration of irregularities is currently being developed. In any case, it will have to be agreed which Member State (probably the one hosting the MA) inserts the information from Partner Countries, as they will probably get no direct access to the IMS, if this approach is finally adopted⁴.

IMPORTANT

⁴ Further indications on the notification of irregularities may be found in the minutes of the meeting on recoveries held in Brussels on 27 June.



The EC note referred to above on the treatment and administration of irregularities will apply to ENI CBC programmes only.

Please refer to the notes of the meeting on recoveries held on 27 June for details applicable to ENPI CBC.

A representative of the Italy-Tunisia ENPI CBC Programme inquired about a specific case, where a project that has generated revenues has used them to purchase some tools that are relevant for the project, and with this they have exceeded their co-financing to the project. It was explained by TESIM expert that the contract modification is possible during the project execution. Therefore, a solution may be envisaged by increasing the amount of eligible expenditure and reducing the EU co-financing rate before the final payment to the project, even if the project is closed. In any case, the project has to observe not profit principle according to the article 125 of the Financial Regulation and make relevant calculations whether revenues generated has lead (or not) to such profit.

A representative of the JMA of the Black Sea Basin Programme inquired about the treatment of the cases when the beneficiary dissolves (either liquidation or any other reason) and there is no possibility to contact/regain the files from the entity. It was explained that one single solution is not possible, since each case has to be assessed individually⁵.

Conclusions and AOB

In the conclusion of the meeting the Head of Sector acknowledged that the sessions were interesting, and that the event had gathered prominent representation from the side of EC, which shows the importance given to the programme closure. He also stressed the importance of cooperation with the ex-post evaluation team, and informed that also the mid-term evaluation of ENI CBC is on-going, and that inputs from the programmes are expected to both exercises.

Even though some participants were frustrated due to the very tight deadlines of closure exercise, overall the documents and guidance provided were considered as very valuable. All participants agreed that upcoming works will be very intensive and that cooperation on all levels is crucial to success. TESIM reiterated its capacity to provide ad-hoc support and training to the programmes in the closing process, as well as during the JMCs.

Finally, it was announced that the annual ENI CBC conference would take place in Tallinn, Estonia, on 29-30 November 2017.

⁵ Further indications on this issue may be found in the minutes of the meeting on recoveries held in Brussels on 27 June.

