

# **Making Technical Cooperation More Effective**

**March 2009**



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COMMISSION**



## **Guidelines N° 3**

# **Making Technical Cooperation More Effective**

**March 2009**

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Based on experience of using the guidelines, modifications and adaptations will be made as and when necessary. To help with this work comments, questions and suggestions are welcomed and should be sent to [EuropeAid-TC-PIU@ec.europa.eu](mailto:EuropeAid-TC-PIU@ec.europa.eu)

The guidelines and related documents are available on:

- internet: [http://ec.europa.eu/europeaid/what/delivering-aid/aid-effectiveness/index\\_en.htm](http://ec.europa.eu/europeaid/what/delivering-aid/aid-effectiveness/index_en.htm)
- EuropeAid intranet:  
[http://www.cc.cec/dgintranet/europeaid/activities/adm/technical\\_cooperation/index\\_en.htm](http://www.cc.cec/dgintranet/europeaid/activities/adm/technical_cooperation/index_en.htm)
- internet: [www.capacity4dev.eu](http://www.capacity4dev.eu) - a dedicated web-based knowledge platform which collects lessons learned about the TC reform, allows exchanges between users and feeds into future revisions of the guidelines.

## Abbreviations

<b>ACP</b>	African Caribbean Pacific Countries
<b>CD</b>	Capacity Development
<b>CD-TC</b>	Capacity Development TC
<b>COMESA</b>	Common Market for Eastern and Southern Africa
<b>CSO</b>	Civil Society Organisation
<b>DAC</b>	Development Assistance Committee
<b>EC</b>	European Commission
<b>EC-PG</b>	EC Partner Government Monitoring
<b>GBS</b>	General Budget Support
<b>HQ</b>	Headquarters
<b>LFA</b>	Logical Framework Approach
<b>NAO</b>	National Authorising Officer
<b>NGO</b>	Non Governmental Organisation
<b>OECD</b>	Organisation for Economic Cooperation and Development
<b>PIA</b>	Project Implementation Arrangement
<b>PIU</b>	Project Implementation Unit
<b>PFM</b>	Public Financial Management
<b>QA</b>	Quality Assurance
<b>oQSG</b>	office Quality Support Group
<b>ROM</b>	Results Oriented Monitoring
<b>SADC</b>	Southern African Development Community
<b>SPSP</b>	Sector Policy Support Programme
<b>SWAp</b>	Sector Wide Approaches
<b>TA</b>	Technical Assistance
<b>TC</b>	Technical Cooperation
<b>TOR</b>	Terms of Reference

## **Executive Summary**

## The EC is reforming how it works with Technical Cooperation

As part of its commitment to implementing the Aid Effectiveness Agenda as expressed in the Paris Declaration and the Accra Agenda for Action, the EC has launched a strategy to reform how it will work with Technical Cooperation (TC) in the future. The strategy is designed to achieve the following:

- ➔ **Provide quality Technical Cooperation** that supports country-led programmes, based on strong partner demand and which focuses on achieving sustainable development results; and
- ➔ **Provide support through partner-owned implementation arrangements**, with a substantial reduction in the use of parallel Project Implementation Units (PIUs).

These guidelines are a key element in the strategy implementation. They will be updated based on lessons learned and reactions from partners, EC staff and donors.

The guidelines cover TC funded by the EC. They apply to all EC modalities of support, including centralised and decentralised management as well as country system procedures (see annex 6 on procedures). They cover TC support to government, civil society and the private sector. The guidelines are also intended to help guide staff in situations where the EC is actively engaged in dialogue about and overseeing TC functions.

This may be TC delivered by others or TC procured by a partner receiving budget support for a programme from the EC.

## Ownership, demand and results-orientation

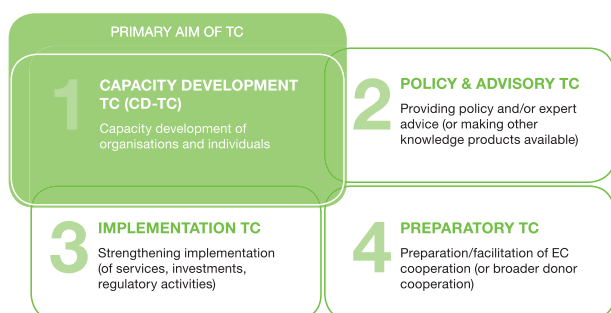
The guidelines set out practical steps to i) make ownership a real feature of TC-support; ii) base support on demand; and iii) ensure that TC delivers concrete results beyond merely “assisting”, “training” or “advising”. The conversion of “ownership”, “demand” and “results” into practical action is based on simple, yet fundamental notions that get away from “business as usual” when it comes to the supply of TC:

- ➔ **Ownership is not expressed in words but by continuous action:** Sufficient ownership is an indispensable pre-requisite for CD and sustainability. Country ownership is a real investment of critical resources (motivation, leadership, time, attention, funds, etc.) which can and must be specified.
- ➔ **Focus first on what the partner will do – second on the TC support from the EC and other donors:** This implies a mental shift towards focusing on the partners’ projects and programmes and, therefore, the principle that the EC is *supporting* partner projects and programmes, not making its own.
- ➔ **Demand from partners is articulated through constant dialogue and full participation:** Effective demand for support requires much more than a partner’s passive acceptance of TOR or programme documents prepared by EC staff or consultants. Supply is likely to overshadow demand unless there has been a deep, intensive dialogue and participation all the way through.
- ➔ **Results, not TC support, must drive dialogue, design and implementation:** Capacity development efforts result in enhanced organisational or sector-wide capacity – which, in turn, translates into enhanced service outputs delivered to citizens. Focusing on this level of outputs is the starting point. Defining specific TC support is the end point of the dialogue, never the starting point.
- ➔ **Implementation of country-owned programmes requires sound implementation arrangements:** These must cover the entire partner-owned programme rather than focus only on the donor support. Depending on the objectives, the optimum degree of managerial autonomy in programme implementation arrangements may vary.

These guidelines turn these principles into practical advice on the purpose of TC support, its identification, formulation (including the design of implementation arrangements), implementation, monitoring, evaluation and quality assurance. It is, throughout the guidelines, recognised that in practice there will be several dilemmas applying this approach to TC support, and a pragmatic and realistic approach is recommended.

## CD is the main purpose of TC – but not the only purpose

CD and sustainable results are the key objectives of all EC assistance. CD is the primary purpose of TC support. However, there are other important roles for TC. TC can serve four different purposes, but TC support from the EC may in some cases not be relevant at all. The four purposes are:

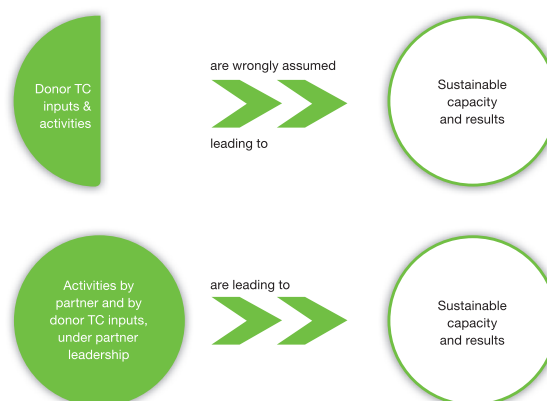


- 1. TC for Capacity Development.** When aimed at more comprehensive CD or reform processes, this is also the most complex. It requires considerable dialogue and joint understanding, and considerable investment in a partner-led identification and formulation of the CD process and the support it may require.
- 2. TC for Policy/Expert Advice** is often of short duration. It may be limited in scope and of a purely technical nature. Such TC is less complex and demanding for both partners and EC staff.
- 3. TC for Implementation** may be relevant when linked to classical investment projects in the form of design and supervision engineers, and other specialists. Implementation TC may also be relevant where a country has limited capacity and the partner cannot manage the implementation of urgent service delivery programmes. Supporting implementation through TC, however, may mean that long-term sustainability will not be attained.
- 4. TC for the preparation or facilitation of EC cooperation** may be needed to bring expertise or to facilitate the formulation of a programme by the partner, with the EC and other donors playing a supportive role.

## Partner-owned operations in practice

When CD or sustainability is a key objective, an intervention (a project, a programme or an initiative) is *by default* not something that donors do alone. The EC does *not* make projects - it *supports partner projects, programmes and processes*. The supporting role can vary, but as a logical consequence, the dialogue and the preparation of support must focus on making demand, ownership and commitment operational by:

- **Specifying the outcomes and outputs of the combined activities by all** who contribute to the intervention, whether funded by donors or domestic partners. It is only in this way that the relevance and effectiveness of EC or other external support can be assessed.
- **Specifying partner as well as donor resources** which are critical for the performance of the activities. Partner resources also include leadership, staff time, and daily commitment.
- **Specifying the managerial and governance roles** to be played by partner stakeholders. These implementation arrangements must cover domestic resources (e.g. managers, staff) as well as any external support.
- **Being aware of the roles of partners and EC staff.** Working to strengthen practical ownership of TC support requires playing a facilitating role, with careful attention to the details of communication processes and task division arrangements.



## Demand-driven TC support

TC support must be demand-led. This requires careful attention to the roles played by EC staff. Support must also be adapted to the context and to the existing capacity of partners. Finally, all harmonisation options should be explored:

- ➔ **Assess demand and support its articulation:** Disclose the full cost of TC support, and assess whether the partner has pro-actively requested support.
- ➔ **Assess the context:** Overall country performance matters, as well as incentives to performance. If there is already considerable TC support, additional TC may do little extra – and topping-up practices may impact on whether TC support is actually effective.
- ➔ **Assess existing capacity,** paying careful attention to the scope of assessments and how they are carried out. Blueprint approaches, normative models focusing only on “capacity gaps”, and expert-driven assessments ending in large reports, are likely to be bad starters – keep it simple, initially.
- ➔ **Harmonise TC support with other donors:** This requires putting all harmonisation options on the table; keep others informed if stand-alone TC support is the best or only option; create a joint agenda of analytical work as a first step to prevent fragmentation of TC; support the partner in playing a stronger role in TC support implementation and pursue mutual accountability about TC support and results.

## Results-oriented TC support

Results-oriented design of TC implies rigorous application of the logic of objective-oriented planning techniques. It is not about filling formats and matrixes, or about creating strait-jackets – but it is a systematic way of thinking about specific results to be achieved and how the partner can get there. The key steps are:

- ➔ **Start by focusing on the specific outcomes and performance that the partner wants to achieve.** Pay careful attention to the *level* at which outcomes and outputs are defined – “200 people trained in new customs procedures” does not indicate any increase in capacity, while “Customs clearance time reduced by 400% and seizure of illegal imports increased by 100%” does.
- ➔ **Avoid, initially, focusing on what donor-provided TC might do.** Focus on what the partner needs to change and develop to achieve the results.
- ➔ **Get the logical chain from results to TC deliverables right for different types of TC:** TC for CD contributes to CD processes leading to capacity results, which enables partners to produce service outputs. Implementation TC contributes directly to service delivery outputs. Getting this right from the start is crucial.
- ➔ **Specify all key activities and inputs from all sources, but maintain flexibility.** CD and reform processes are not linear and blueprint planning will not work. The challenge is to maintain strategic focus and specify just enough to take the next steps in the process and harness support from decision-makers.
- ➔ **Getting the right inputs – thinking beyond traditional international TA:** TC support can include peer mechanisms, twinning, outsourcing of non-core functions, and local or regional consultants. Exploring such options first may help to avoid the standard response of fielding international short or long-term TA.
- ➔ **Drawing up high-quality TOR and tender documents is essential – and demanding.** It may require professional assistance to develop TOR or tender documents for complex CD support. The process of preparing the TOR always requires careful attention. Donor-produced TOR with only formal endorsement by the partner are unlikely to be effectively owned by the partner and will not lead to sustainable results.
- ➔ **Partners must be involved in the TC procurement process** as far as procedures allow. This includes screening and interviewing candidates for TA.
- ➔ **High-quality procurement takes time and effort:** It may take 12-18 months to develop TOR, organise procurement and recruit high quality TAs who are usually busy in the short term. Checking the references of candidates is essential, and assistance from recruitment companies may be useful for critical adviser positions.



## Programme Implementation Arrangements

The EC vision is that the use of parallel PIUs be gradually replaced by partner-owned and managed programme implementation arrangements embedded in the local institutional context. Making such arrangements effective and avoiding the problems of donor-driven parallel units requires a consistent focus on the governance and daily management of the **partner's project or programme** – and **not** just the donor support to this. Key issues to be considered are:

→ ***The balance between autonomy and integration of the programme set-up is critical.***

This depends on the nature of the anticipated results. Greater autonomy will be appropriate when the results are largely independent of inputs and resources from other organisations, a higher level of integration is appropriate when sustainable CD is the priority.

→ ***Five basic organisational and governance parameters need to be considered.***

Implementation arrangements must be appropriate to the context and the results. Five parameters must be clearly defined:

- **Governance and accountability:** Who should oversee and govern the programme implementation and who should the programme be accountable to in the country system?
- **Management set-up:** Who will perform the day-to-day programme management functions, and have what authority in relation to resource management decisions?
- **Logistical autonomy:** Does the programme require its own vehicles, photocopiers, janitor and coffee service, etc., or should it share resources with others?
- **Relations between TC experts, partners and the EC:** If contracted by the EC (or another donor), who are the experts taking instructions from and to whom are they accountable?
- **Role of EC and other donors in the programme implementation:** Should donors play a role at all – and if so, what role should that be?

## Monitoring and evaluation of TC support

Consistent with the focus on partner ownership of projects and programmes supported by TC, the partners will have to play a vital role in quality assurance during implementation, where monitoring is a key instrument.

→ ***Monitoring the implementation of TC is primarily the responsibility of the partner country.***

The partner country institutions are responsible for accountability to domestic stakeholders. The EC's primary role is to "monitor the monitoring". When the EC takes part in joint reviews or uses its own Results-Oriented Monitoring System, care should be taken to ensure that these systems also contribute to domestic accountability.

→ ***Monitoring focused at two levels:*** Monitoring should take place at several levels consistent with the logical chain from impact/outcomes to all inputs into a programme. The focus should be on i) capacity enhancement and service delivery results; and ii) CD processes and TC performance. Mutual performance assessments between partner managers of TA and the TA may be particularly useful as part of this monitoring.

→ ***Evaluation of the entire chain of contribution from all inputs to outcomes and impact:***

Consistent with the focus on the partner's programme, evaluation of TC support will be an element in evaluations of the partner's programme. TC in itself is not sufficient to deliver capacity and sustainability, and evaluations will therefore have to systematically look beyond donor contributions to a programme.

## Quality Assurance of TC support

The EC's quality assurance of TC support is the responsibility of both the Delegations and EuropeAid. The quality criteria comprise:

1. **Commitment and ownership of partner(s):** There must be demonstrable demand for TC support and adequate country leadership and ownership of design and implementation.
2. **Fit to context:** TC in general and in particular TC aiming at CD, will only work if there is a reasonably positive and enabling environment.
3. **Harmonised support:** Harmonisation arrangements must be clear and justification provided if TC supply could not be harmonised with other donors.
4. **Clear links to outputs and expected outcomes:** The full logical chain from TC-support to outputs and outcomes must be sound and results must be monitored.
5. **Appropriate implementation arrangements:** Based on the nature of the programme, the programme implementation arrangements must exhibit an appropriate level of integration or autonomy, including effective governance by domestic stakeholders.

## Revisiting EC procedures for more effective TC

In the framework of the Backbone Strategy, EC procedures have been screened in order to highlight the various options that can support the implementation of TC, notably in terms of ownership, quality of support, mobilisation of public sector expertise and of non-profit organisations. The output of this analysis is presented in annex 6 - "Short guide to EC rules and procedures" - structured following the procedural steps in the preparation and implementation of Technical Cooperation. This document:

- ➔ encourages and clarifies modalities for more **donor coordination** (co-financing, delegated cooperation), the use of decentralised management and local systems and the involvement of the beneficiary country in the key steps of the procedure (preparation of procedures, evaluation of experts, etc) to achieve the objectives of ownership, alignment and harmonisation expressed in the Paris Declaration and its Accra follow-up;
- ➔ addresses the need to explore **alternatives to the traditional Technical Cooperation** (use of peer support and, in general, grants, mobilisation of expertise from public administration, etc) and to use more flexible procedures when justified;
- ➔ encourages an **adequate planning** and clarifies the use of the **suspensive clause**.
- ➔ provides guidance on how to consider, *inter alia*, **past experience of experts** (including checking references or, where applicable, using database of experts), on how to ensure quality of **selection and award criteria** (which may focus on local expertise or involvement of public administrations where required), on how to perform **interviews** and apply all the required mechanisms when an expert is not available (including penalties to the contractor), etc.

The crosscutting message is that it is essential to plan ahead to develop TC support to a programme and think in terms of procedural options from the very start of the identification. Annex 6 also offers a number of practical examples and a set of checklists.

# **Reading Guide and Key Terms**

The EC has launched a multi-faceted strategy to reform how it will work with Technical Cooperation (TC) in the future. These guidelines are a key element in the implementation of this strategy. Other elements include the adaptation of various internal systems, tools and procedures (including tender and contract procedures) to underpin this vision. The strategy also includes support for internal learning through communication, knowledge management and training.

The target group for the guidelines include EC staff working in Delegations and at Headquarters, national partners and others involved in the management of EC-funded TC. Other donors and stakeholders may also find them useful.

Based on lessons learned and user feedback, these guidelines will be regularly updated.

The guidelines apply to all types of TC support ranging from partner programmes which only receive TC support, to programmes where TC is just one support component among others. They cover support to central government agencies, local authorities, private sector and civil society partners.

The guidelines are particularly directed at TC funded by the EC. They apply to all EC modalities of support, including centralised and decentralised management (see annex 6 on EC procedures). They are also intended to guide staff in situations where the EC is actively engaged in dialogue about and overseeing TC functions. This may be TC delivered by others or TC procured by a government or non-state partner receiving budget support from the EC.

The guidelines build upon and complement key existing guidance material produced by EuropeAid. The guidelines have been organised in six chapters covering TC aspects such as identification, formulation, implementation, quality assessment, monitoring and evaluation (key actions and guiding questions for each phase are outlined in annex 3). The chapters thus follow elements in the normal operation cycle (identification, formulation, implementation etc.). The guidance in each section, however, is often applicable beyond a single phase in the EC's operation cycle.

Procedural aspects are addressed in annex 6 “[Short guide to EC rules and procedures](#)”, which offers a set of examples and practical explanations about how EC procedures can enable the pursuit of the Backbone Strategy. Throughout the Guidelines references are made to specific sections of this Short guide (highlighted as “[Bridge to procedures](#)”).



Quality assurance is a horizontal aspect that covers all phases in the process from identification to evaluation of TC support. A section dedicated to the quality criteria that the EC will apply for TC support is included in each relevant chapter, building up a complete quality criteria table which is provided in chapter 6. Annex 4 includes a Quality Assessment Grid in the form of a checklist which can be used by staff as an operational tool for quality assurance.

**Throughout this document, two kinds of boxes are being used.**



#### YELLOW BOXES:

Key guidance & messages



#### GREEN BOXES:

Examples, tips & additional insights

The guidelines should not be blindly applied, and they do not replace professional judgment.

## Key terms

The key terms used in these guidelines are set out below. Most of these are definitions which have been agreed on in the context of the Development Assistance Committee (DAC) of OECD.

Throughout these guidelines, the term “programme” refers exclusively to a *partner’s* programme (or project), **not** to the EC support to such a programme. This support is referred to simply as “EC support” or “TC support” when EC is providing TC support<sup>1</sup>.

### Box 1: Key Terms

#### Technical Cooperation (TC) and Technical Assistance (TA)

**Technical cooperation (TC)** is the provision of know-how in the form of short and long term personnel, training and research, twinning arrangements, peer support and associated costs.

In these guidelines, **Technical Assistance (TA)** refers to the **personnel** involved (individuals as well as teams of consultants) in developing knowledge, skills, technical know-how or productive aptitudes.

*The guidelines use Technical Cooperation - TC - as the general term. Technical Assistance (TA) is used only when referring to TC personnel, e.g. advisers and experts.*

#### Capacity and Capacity Development (CD)

**Capacity** is the ability of people, organisations and society as a whole to manage their affairs successfully.

**Capacity development** is the process whereby people, organisations and society as a whole unlock, strengthen, create, adapt and maintain capacity over time.

**Promotion of capacity development** refers to what outside partners — domestic or foreign — can do to support, facilitate or catalyse capacity development and related change processes.

#### Project Implementation Units – PIUs

**Project Implementation Units:** When providing development assistance, donors have commonly established Project Implementation Units to take charge of the process of managing project implementation. PIUs are also referred to as project management units, project management offices, project co-ordination offices, etc. PIUs may be more or less integrated into local institutional and administrative structures. PIUs typically share the following key features:

- ➔ PIUs are typically required to perform subsidiary (rather than principal) tasks with regard to the implementation of a project or programme: monitoring and reporting on technical and/or financial progress, accounting, procurement of works, goods and services, drawing-up terms of reference, contract supervision, detailed design or equipment specification.
- ➔ PIUs are often established at the request of a donor following the inception of a project or programme.
- ➔ The staffing of PIUs varies considerably in size and composition. Staff size can vary from 1 to as many as 200 but most count less than 10 professional staff. Although a significant number of PIUs make use of government staff, most PIUs rely on staff recruited outside the civil service (e.g. long-term local consultants).

**Parallel PIU:** A PIU is parallel when it is created and operates outside of existing country institutional and administrative structures at the behest of a donor. In practice, there is a continuum between parallel and integrated PIUs<sup>2</sup>.

The guidelines have a chapter on **partner-owned programme (or project) implementation arrangements** which looks at the alternatives to PIUs. A programme or project implementation arrangement refers to the organisational set-up that any partner-owned project or programme needs for implementation, including both country partner and donor inputs. PIUs often looked only at how to make donor inputs work, and this term is therefore not used to avoid the traditional donor-focused connotation.

<sup>1</sup> The phrase: “EC support programme” is not used in the guidelines because it may cause confusion about what the term “programme” then refers to.

<sup>2</sup> Complete OECD/DAC definition is provided in Section 5.1, Box 30.



# Reforming Technical Cooperation

This chapter explains:

- The link between these guidelines, the Backbone Strategy on Technical Cooperation and PIUs and the EC's commitment to the Aid Effectiveness Agenda;
- That demand-led support to capacity development is the primary – but not the only – purpose of TC support provided by the EC;
- That, in addition to capacity development, TC can serve to offer advice, provide support for the implementation and facilitation/preparation of EC cooperation, and that it is important to be clear about the purpose of TC;
- How to turn ownership into a practical and operational concept;
- How to adapt the roles played by EC staff in the cycle of operations for TC support.

## 2.1 The Backbone Strategy on TC and PIUs

### Box 2: What are the problems with Technical Cooperation?



- ➔ Evaluations of TC effectiveness and efficiency have pointed to persistent problems with such support:
- ➔ A significant proportion of TC continues to be supply-driven with an overall low level of ownership.
- ➔ Many partner countries have insufficient capacity to ensure “active” ownership and coordinated TC.
- ➔ In many cases, the provision of TA personnel and the use of “PIU structures” is taken as a given, without questioning their appropriateness.
- ➔ TC effectiveness is compromised by lack of clarity about roles and results expected.
- ➔ Reliance on Northern providers results in high costs.
- ➔ Insufficient attention is given to ensuring that TA personnel have the necessary skills and profiles to be able to engage effectively in demanding change processes.
- ➔ Much of the TA and the majority of PIUs are provided to manage EC procedures and to comply with the various related requirements.
- ➔ Tendering and contracting procedures are lengthy and slow.
- ➔ Operational staff do not always have a clear understanding on how to use existing procedures to promote and comply with aid effectiveness principles.
- ➔ There is limited experience in the use of alternative forms of TC provision such as the use of public sector expertise through twinning arrangements, and the use of South-South cooperation.
- ➔ The use of TC by the EC partly reflects management structures, incentives and internal capacity gaps. Human resource policies and the way delegations are managed has a bearing on current TC and programme implementation arrangements, as do incentives that tend to reward control, disbursements and quick results.

The EC has launched a multi-faceted strategy to reform how it will work with Technical Cooperation (TC) and programme implementation arrangements in the future. The strategy is part of the broader commitment of the EC to the Aid Effectiveness Agenda as expressed in the Paris Declaration of 2005 and confirmed in the Accra Agenda for Action adopted in September 2008. These commitments are summarised in annex 1. It also responds to the observations made in the European Court of Auditors’ Special Report No. 6/2007 on the effectiveness of technical assistance in the context of capacity development (see annex 2).

A key goal of the Aid Effectiveness Agenda is to increase the use of country systems for the delivery of aid, thus replacing the use of donors’ own procedures. For the EC, this goal will be pursued through the increased delivery of aid through general and sector budget support and sector approaches. These aid modalities which are aligned to country policies and systems also require a re-evaluation of the roles and functions of TC.

The TC reform strategy is designed to achieve the following:

- ➔ Provide quality Technical Cooperation that supports country-led programmes, based on strong partner demand and which focuses on achieving sustainable development results; and
- ➔ Provide support through partner-owned implementation arrangements, with a substantial reduction in the use of parallel Project Implementation Units (PIUs).

### Box 3: Reform – or business as usual?



The Backbone Strategy builds on principles which are already to some extent applied in different regions and sectors, not least as part of programme-based and sector-wide approaches.

However, when integrated into a single comprehensive approach to TC they represent a clear break with “business as usual” in which TC has often been supply-driven and focused more on implementing EC support than on supporting country-owned capacity development.



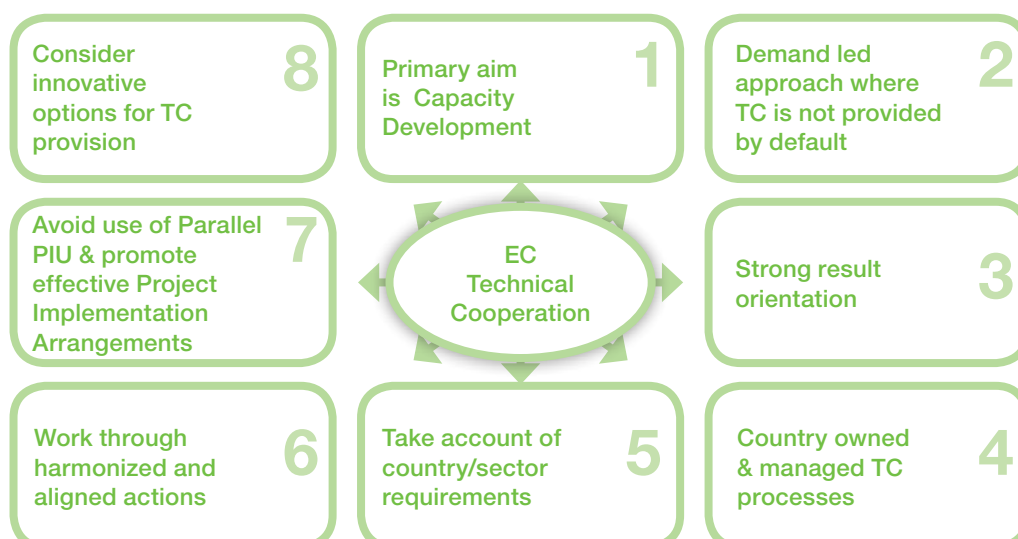
The full strategy is available at [http://ec.europa.eu/europeaid/what/delivering-aid/aid-effectiveness/index\\_en.htm](http://ec.europa.eu/europeaid/what/delivering-aid/aid-effectiveness/index_en.htm).

The guidelines focus on the design and implementation of TC support. Procedural aspects are dealt with in annex 6. Reference to the procedures and to relevant sections in annex 6 are included (highlighted as *Bridge to procedures*).

The guidelines provide operational guidance and advice on how to put the following **eight key principles** of the EC's Backbone Strategy on TC and PIUs into practice.

#### Box 4: Eight key principles of the EC's strategy

1. **Focus on capacity development** – TC is provided with the primary aim of supporting internal country processes to promote capacity development at individual, organisational and countrywide levels. Where relevant, TC can be called upon to play other roles, such as offering advice, providing support for the implementation and facilitation/preparation of EC cooperation.
2. **Demand-led approach where TC is not provided by default** – The provision of TC must be based on the demand and requirements of the partner country. Costs and available options should be transparent. Appropriate dialogue and support may be needed in order to enable clear formulation of the demand for TC.
3. **Adopting a results-orientation** – TC design will ensure that TC inputs/activities are linked to targeted outputs which in turn lead to sustainable development outcomes. Appropriate indicators will be agreed on in advance to monitor the implementation of TC.
4. **Country-owned and managed TC process** – Country partner ownership is the key underlying principle for the organisation of EC-funded TC. From the identification to the implementation phase, partner countries will be actively involved in the design of programme implementation arrangements and TC-supported programmes, including the procurement of TC services and the management, review and accounting of TC results.



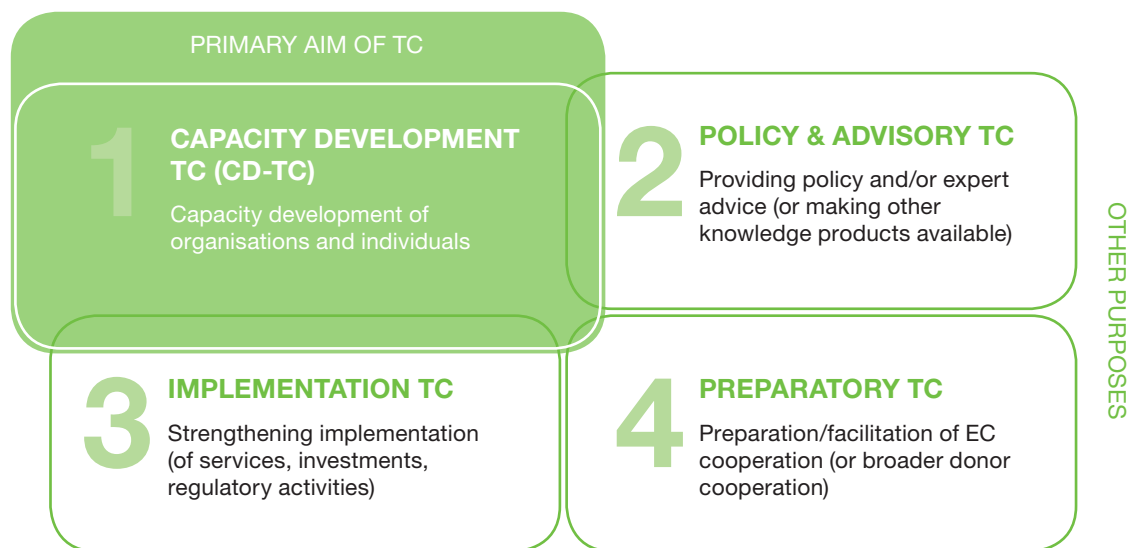
5. **Taking account of country and sector-specific requirements** – TC support will build on a thorough understanding of the political, socio-cultural, sectoral and institutional context. Blueprint approaches should be avoided.
6. **Working through harmonised and aligned action** – TC support will be closely coordinated with other donors and aligned to country strategies and programmes through the increased use of pooling arrangements or other harmonised approaches, such as delegated cooperation.
7. **Avoiding the use of parallel PIUs and promoting effective partner-owned implementation arrangements** – The use of parallel PIUs will be avoided as far as possible in favour of effective implementation arrangements that are fully integrated and accountable to national structures.
8. **Considering different and innovative options for the provision of Technical Cooperation** – The design of TC support will consider alternatives to the use of international long and short-term consultants. These alternatives could include the use of national and regional resources, twinning arrangements and knowledge transfer beyond standard training approaches.

## 2.2 Four purposes and roles of TC

**CD and sustainable results are the key objectives of all EC assistance.** TC in its many variants can provide excellent support to capacity development, and TC may also be required to ensure sustainability.

While CD is the primary aim of TC support, in some situations TC may be needed to provide timely policy or technical advice. Highly specialised TC may also be required to ensure the effective implementation of complex investment projects, such as power plants and transport infrastructure. Finally, there may be a need for assistance to facilitate programme preparation and cooperation between partners, the EC and other donors.

### Box 5: Purposes of TC and corresponding types of support



The four purposes are not necessarily mutually exclusive and some may overlap (see more in chapter 4). **CD should nevertheless remain the primary purpose of TC** – and it is in this area that the EC has to do better. Importantly, however, there are legitimate and important roles for TC which do not focus on capacity development, or only on capacity development. **The aim of listing different purposes for TC is to make the choices transparent and explicit, and to avoid situations where TC support is claimed to be for CD but is, in fact, not for that purpose.**

1. **TC for Capacity Development** can be a powerful category of support for sustainable development. It is also the most complex when aimed at more comprehensive CD or reform processes at sector level or across sectors (e.g. reform of public financial management). To be successful it must support a strong domestic process. Considerable dialogue, insight and joint understanding between those involved are required. Therefore, it also demands considerable investment in a partner-led identification and formulation of the CD programme and of the support that this programme may require. Trying to make it work without this investment is unlikely to yield results.
2. **TC for Policy/Expert Advice** is often of short duration. It can be limited in scope and of a purely technical nature, e.g. presenting relevant EC environmental and product standards to prospective exporters of goods to Europe, or ensuring that high level officials in the Ministry of Transport are made aware of regional experiences with road funds. Such TC is less complex and demanding both for partners and EC staff.
3. **TC for Implementation** may be relevant in two situations.
  - linked to classical investment projects in the form of design and supervision engineers, and other specialists, who on behalf of the building owner, specify design and supervise contractors. This form of TC is used in both developed and developing countries because governments and other building owners do not have the technical expertise and do not aim to have it either. Such implementation TC should follow good international practices for building owner/engineer/contractor cooperation, a specialised topic which goes beyond the scope of these guidelines.
  - in cases where the partner cannot deliver the necessary services or manage the implementation of urgent complex service delivery programmes. If a country has limited capacity, some degree of implementation support through TC may be justified.  
Supporting implementation, however, may entail serious risks. Experience shows that it is very likely that results may be achieved in the short run but that long-term sustainability will not be attained. It may also contribute to undermining domestic capacity through poaching of partner staff or demoralising ordinary staff who do not receive the same benefits that donor staff enjoy.
4. **TC for the preparation or facilitation of EC cooperation** may be required if specialised support is needed for the preparation of EC supported programmes. TC can bring the necessary expertise or facilitate the process, e.g. to ensure that a programme is formulated by the partner, with the EC and other donors playing a supportive role. TC may also be relevant in the context of sector-wide or programme-based approaches where several donors harmonise their support to a country-led programme. In such cases TC may also support policy dialogue, monitoring and interaction with the country stakeholders and other donors.

#### Box 6: The basic “law” about implementation support



The more that TC implementation support to a service delivery programme is required, the more likely it is that:

- ➔ the capacity to commit and exercise practical ownership is lower than required;
- ➔ the scope, time-horizon and budget of the programme is too ambitious;
- ➔ the results will not be sustainable.



#### Bridge to procedures:

How to use EC procedures for preparatory work ➔ see section 1.3.1 of annex 6



### Box 7: The fifth type of Technical Cooperation: no TC!

**Not all programmes supported by the EC need TC:** TC may be a possible answer to demand and needs – but it is far from always the right answer. It should never be assumed that TC must be part of a support package!

**No TA support to Education in India:** The EC's education sector support to India is now going to a third phase of a nation-wide reform initiative, with cumulative contributions of € 420 million. In the first phase, a TA component set aside for capacity building of over € 6 million remained unspent. Yet another TA allocation was made in the second phase, but again € 9.2 million was converted into additional sector budget support. Essentially, the Government of India had clear plans and initiatives for in-country capacity development and did not find that external TA would be appropriate.

In the third phase of collaboration, no traditional TA was envisaged. However, responding to the government's demand, a provision of € 3 million has been made to make international good practice available in teacher management, school management and leadership and inclusive education. This will be implemented through a Call for Proposals from not-for-profit institutions, which will collaborate with a lead national institution in India.

The institution(s) selected through the call for proposals would cover 20% of the total cost of the action at € 3 million. The national institution would ensure coordination and participation of selected state level policy makers and practitioners in this exercise.

Even when TC is identified as the relevant response to support development needs, there is the critical issue of time and phasing to be considered. Donors, including the EC, often underestimate the time required to support effective change processes. This is particularly the case with TC for CD (often requiring a long-term process of change management). Without appropriate phasing, and longer term planning, the objectives of ownership and sustainability can be seriously compromised. This issue is raised again in chapter 4 in relation to Results-oriented Design of TC support.



**Bridge to procedures:** About planning ahead: TC support requires time and maturity  
→ see timeline on program preparation, chapter 1 of annex 6

The box below shows the types of results, examples of processes and the TC activities which might be considered for each of the four main purposes. The box is indicative only and could be used to expand the scope of the dialogue between partners about possible ways and means, if and when TC is considered.

## Box 8: Results, Processes and TC Roles



<b>Examples of results</b>	<b>Examples of processes</b>	<b>TC activities</b>
<b>1. Capacity development</b>		
Enhanced sustainable performance of organisation(s) or units; new procedures, skills or management approaches actually applied; enhanced governance and/or supervision; voice of clients strengthened; enhanced resource management.	<ul style="list-style-type: none"> <li>➔ Access to knowledge/skills, exposure to practices, network creation</li> <li>➔ Modifying internal processes, structures, technology, etc.</li> <li>➔ Strengthening ethos, leadership, self-confidence, creativity</li> <li>➔ Strengthening civil society, governance, checks-and-balances organisations</li> </ul>	<ul style="list-style-type: none"> <li>➔ Peer-exchange, secondment, twinning, training/coaching, support to networks</li> <li>➔ Outsourcing, coaching, advising, expert delivery</li> <li>➔ Coaching, on or off-site leadership development</li> <li>➔ Facilitate reflection and learning processes, facilitate change management</li> </ul>
<b>2. Policy/expert advice</b>		
Enhanced dialogue between sector/policy stakeholders with reference to data and comparable evidence; senior level executives able to decide on specialised technical issues, international standards, etc.	<ul style="list-style-type: none"> <li>➔ Access to knowledge, exposure, network creation</li> <li>➔ Analytical work feeding into evidence-based policy development</li> <li>➔ Availability of <i>ad hoc</i> advice</li> </ul>	<ul style="list-style-type: none"> <li>➔ Peer-exchange, study-tours, coaching, support to networks</li> <li>➔ Specific macro/sector surveys, coaching internal analytical work, independent expert assessments</li> <li>➔ Short-term or recurrent advisors to senior level executives/forums</li> </ul>
<b>3. Strengthened implementation</b>		
Direct delivery of products, services or regulatory activities, construction works or other investment goods.	<ul style="list-style-type: none"> <li>➔ Implementation of performance-frameworks with temporary incentives to boost staff performance</li> <li>➔ Investment activities organised with parallel or semi-parallel financing modalities and set-up</li> </ul>	<ul style="list-style-type: none"> <li>➔ Outsourcing of certain tasks that the beneficiary cannot handle with existing human resources</li> <li>➔ Programme/project management including financial management and control</li> <li>➔ Technical implementation</li> <li>➔ Monitoring and reporting</li> <li>➔ Liaison with partners and donors</li> </ul>
<b>4. Preparation/facilitation of EC cooperation</b>		
Domestic partners committed to and owning technically well-designed project/programmes. Wider partner-EC cooperation facilitated.	<ul style="list-style-type: none"> <li>➔ Facilitation of participative identification and formulation processes</li> <li>➔ Brokering of negotiation processes</li> <li>➔ Network creation and maintenance</li> <li>➔ Specialist/technical knowledge</li> </ul>	<ul style="list-style-type: none"> <li>➔ Specific sector surveys; sector “readiness” assessment as part of sector-wide approaches</li> <li>➔ Process facilitation and brokering</li> <li>➔ Coaching/mentoring</li> <li>➔ Expert advice</li> <li>➔ Conflict resolution</li> </ul>

## 2.3 Towards Partner-Owned Operations in Practice

This section presents an approach that helps to minimise the risk of supply-driven TC-support and contributes to convert ownership into a practical, operational concept. **This is particularly important for all operations supporting capacity development and for other support where sustainability is a key objective.**

### Box 9: Focus first on what the partner will do - second on the TC support from the EC

- ➔ Ownership of the CD process must be with the individuals or organisations developing their capacity – otherwise it simply will not work! What partners can and will do to develop their capacity or achieve sustainability is therefore the primary factor to focus on. Support to CD through TC is the secondary factor – it will not work without the first.
- ➔ Ownership and commitment varies over time and is influenced by multiple factors; there is no objective way of determining ex ante if ownership and commitment is and will remain sufficient. What can be discussed ex ante is if the partner can and will invest critical basic resources in the “practical ownership” needed to achieve capacity or sustainability. This can include leadership, management, staff and other inputs.
- ➔ TC support alone will not achieve CD or sustainability. Therefore, a programme which only specifies EC or donor support is incomplete and may indicate lack of ownership and commitment from the partner.

Figure 1 illustrates how donor TC interventions have often been wrongly conceived in a donor-centric manner. This model has not delivered on the key donor and partner priorities of capacity development and sustainability, because it marginalizes those who are supposed to be the “owners” of both interventions and results, and who should eventually carry them forward.

Figure 1: The limited hypothesis: focusing on donor inputs



Figure 2: The broader hypothesis: converting ownership into tangible commitments



Figure 2 shows how the EC aims to work in the future with TC support when CD or sustainability is a key objective.

In line with the continued emphasis on partner-lead development in the Accra Agenda of Action, figure 2 illustrates that a programme is *by default* not something that donors can do alone. The EC is *not* making programmes – it is *supporting partner projects, programmes and processes*. In the guidelines, the term “programme” consistently refers to the *partner’s* programme. Partners can be from executive government agencies, local governments, civil society, private sector, the judiciary or the political system. The supporting role of the EC and other donors can vary depending on the purpose of the programme, the country and sector context in which it unfolds – but it remains a supporting role. As a logical consequence, the focus of dialogue and the preparation of support must be on making demand, ownership and commitment operational through:

- ➔ Specifying the **outcomes and results** of the **combined activities** by all who contribute to the intervention, whether funded by donors or domestic partners.
- ➔ Specifying both **partner and donor resources** which are critical for performing the activities.
- ➔ Specifying the **managerial and governance roles** to be played by partner stakeholders and supporting donors, respectively.

In this context it simply does not make sense to specify only the donor part of the investment.

That would amount to detailing the inputs and tasks of an assistant surgeon without considering what the chief surgeon will do. The specification of partner resources may or may not be expressed in monetary terms – but if, for example, 100 staff will spend half their time on a CD process then that cost can and should be calculated.

Ownership that works implies responsibilities for partners which should not be assumed lightly, or imposed as tacit expectations. These responsibilities and resources can be discussed, detailed and monitored over time to allow adjustment as necessary.

EC funded TC support is in practice very different, depending on context and many other factors. The approach outlined in this section may well be integrated in many programmes while appearing quite revolutionary in many others where a change of culture and of practices is needed. Working towards ownership and “responsabilization in practice” should be actively promoted everywhere.

### Box 10: Institutional support for economic management in Rwanda



The Rwandan government has taken the lead in a process that aims to build capacity across public institutions responsible for economic management in support of its policy objectives, as laid out in the Economic Development and Poverty Reduction Strategy Paper. Coordinated support for this is provided by the EC, as well as a number of other donors. Both the preparatory and the implementation phases are led by the government and activities are linked to a clear vision which aims to mobilise and build national capacity in a coordinated way; government structures and procedures are used wherever possible.

Because it was led by the government and embedded in government structures, implementation of the EC support stalled somewhat as the State reform process began just after the financial agreement was signed. However, the EC Delegation adapted to this transitional period and by adding a number of “riders” to the original agreement, it was possible to keep the process on course.

### Box 11: Are there always partner inputs and activities to consider?



The short answer is: yes. If, say, a bridge is “parachuted in”, with everything done by international contractors and TC then, in principle, all the partner has to do is show up and cut the ribbon at the inauguration ceremony.

But experience has shown that such projects are often poorly maintained unless they are at the very top of national priorities. And they may represent lost opportunities for helping local private and public sector partners to develop some capacity through participation in the project.

The resources that the partner needs to bring may be small if TC is used to fill gaps because of an urgent need or because CD is not found to be feasible. However, the sustainability of the benefits will be at risk.

Invariably, the less that the partner is involved and takes operational ownership, the greater the likelihood that capacity will remain unchanged. Capacity may even be undermined if donor-driven activities use parallel implementation arrangements, poach staff; and/or distract partner managers by taking them away from their other ongoing core activities.



There may often be a perceived tension between short term pressures to disburse considerable amounts of support for service delivery results, and the longer term, time-consuming dialogue about TC support for CD. Staff may rightly consider that it is difficult to create space and time for working in a facilitating mode with multiple partners spanning from government agencies over civil society to the private sector.

There are different ways of tackling this. The basic solution is that at the right time (well ahead EC deadline for financing decisions), CD issues get on the joint donor-partner agenda in a sector or around a jointly supported programme. So, plan ahead! If it has not been possible to plan ahead, then ambitions of delivering major support to CD should simply be postponed – rushed preparation is likely to lead to poor results. Finally, preparatory assistance – for example by a trusted local consultant – might be applied to dialogue with the partners, help the partner design CD processes and detail requirements for EC support. EC staff should accompany such a process in moments where consent at the strategic level is required.

## 2.4 Roles of partners and EC staff

The emphasis on partner-owned programmes – with the EC and other donors in a strictly supportive role – will change how EC staff work in all phases in the cycle of operations.

Ideally, the partner country should prepare its own programmes through an inclusive process with domestic stakeholders and in dialogue with donor partners. The partner should identify and specify the external support needed and then come to the EC or other donors to discuss support – much like an entrepreneur approaches a bank with a business plan to ask the bank to invest in it. No matter how desirable, this ideal situation rarely occurs in development assistance.

At the other extreme, the donor effectively manages the identification and preparation process with a minimum level of consultation with the partner, who then accepts the package. It is the bank coming to the entrepreneur with the idea and the money – and the resulting limited ownership and lack of commitment is not surprising. The support will be supply- rather than demand-driven.

The ideal situation may only be attainable the day a country no longer needs development assistance. The middle ground, in most cases, will be that the EC and other donors play a *facilitating role* – assisting the partners but not doing the job for the partners. A facilitating role requires that particular attention is devoted to communication and the context for communication:

- ➔ **Understanding where the partners are:** The present focus of the organisations or persons involved matter for, the emotional state and readiness to address an issue or engage with external actors.
- ➔ **The choice of setting for the facilitation:** Dialogue in the partner's setting will play out differently than dialogue in the EC Delegation – both places may have their merits, but those merits will be different.
- ➔ **The nature of the exchange:** A communication process can be symbolic, explorative or conclusive – and it can be part of a negotiation or conflict process. Facilitation approaches have to be adapted to the mix and little can be achieved if the parties are only willing to meet symbolically.
- ➔ **The details of the communication process:** Facilitation, coaching and mentoring all require thorough and constant attention to the communication *process*, because the nature of the process (is it open, closed, controlled, directive or reflective?) will determine how content is shaped and owned by participants.

It goes beyond the scope of these guidelines to offer detailed advice on facilitation. The intention here is to stress its crucial importance. The table below provides a simple summary matrix which can be used to support an open dialogue with partners about what roles the EC, other donors and the different partners, respectively, can play in relation to the design and implementation of TC support. The aim is that the partners should play as active and leading a role as possible.



**Bridge to procedures:** EC contractual procedures allow working with different types of actors  
➔ individuals, NGOs, private and public organisations



## Box 12: Roles of partners and donor staff



Tasks	Roles					
	Partner doing, limited donor role	Partner doing, donors in facilitating role	Partner leads joint process	Donors lead joint process	Donors doing, extensive consultation	Donors doing, limited consultation
Identification						
➔ First articulation of demand						
➔ Proposal for dialogue/design process						
➔ Initial identification document						
➔ Action plan for formulation process and possible TOR for preparatory TC						
➔ Procurement of preparatory TC if needed						
Formulation						
➔ Management of formulation process						
➔ Preparation of draft documents						
➔ Management of broader consultations						
➔ Specification of TC inputs and TOR						
Implementation						
➔ Procurement of TC inputs						
➔ Management of broader programme						
➔ Management of TC support						
➔ Monitoring of broader programme						
➔ Monitoring of TC support						



## **Demand-Driven and Harmonized TC Support**

This chapter explains:

- The key aspects that would normally be dealt with in the identification phase of EC support, though the border between identification and formulation cannot be strictly defined (see annex 3 on the cycle of TC support).
- That there are four key issues to consider in the early identification and design phase of possible TC support:
  - assessing the demand from the partner;
  - adapting to the country/local context in which TC is being considered;
  - assessing existing capacity;
  - looking for harmonised options for the provision of TC support.
- The chapter ends with a summary of the quality criteria for adequate commitment and ownership by the partner, the fit to context and harmonization.

### 3.1 Assessing demand for TC

Did the partner really want the TC assistance – or was it more the donor who pushed for this assistance? Most evaluations find that demand for TC is often low, leading to un-owned, supply-driven TC. Therefore, whenever TC support to a partner is considered, it is of vital importance that the demand for this assistance is real and adequate. Assessing demand is an integral part of the identification and formulation phases, fed notably by elements emerging from the analysis of the context and of the existing capacity (section 3.2 and 3.3).

There is no secret litmus test for whether demand is “real” in settings where the opportunity costs may be close to zero – i.e. where the funds for TC cannot be converted to other uses. As a step towards strengthening an open discussion about demand for TC, the full cost of possible TC assistance should be transparently presented to partners. There are a number of factors that should be considered, which are listed in the box below.

Demand is expressed in specific, daily interactions: who calls a meeting, who defines the agenda, who sits at the end of the table, who talks and who listens. Demand is not constant – what a partner at one point in time may see as a great support can be irrelevant when the TC materialises 9-12 months later. And when partners include different stakeholders, they may legitimately disagree strongly on needs and priorities – and therefore also on possible need for TC support.

Demand may also be difficult to articulate, because the capacity to see beyond a mountain of pressing daily tasks is limited.

There is therefore a fine line between attempting to “stimulate” or “create” demand for TC support – and overselling it so that it becomes supply driven. If good ideas launched by donor staff are perceived as offers that partners cannot afford to refuse – then it is clearly supply driven. If they are offered for inspiration and information, with no undue “selling pressure” – then they may add momentum and promote change.

In practice, it may seem that donor staff often tend to think that they are just offering ideas – while partners perceive them as more than that. The way out may therefore reside in the ability of partners and donors to discuss these possible differences of perceptions openly. To do so requires the building and maintaining trust in the relationship between partners and donors.

Obviously, when pressure for approval of support and disbursement of funds is high it is difficult to allow the time necessary for ensuring that demand is genuine and ownership more likely to be effective. Foresight and planning well ahead is the key response – and even within procedural constraints there is much that can be achieved with good forward planning!

#### Box 13: The art of silence



Donor staff are used to speaking up in meetings, arguing for their viewpoints, and presenting their ideas convincingly. Often, so-called “dialogue” takes place in meetings with a handful or more of donor staff and one or two partner representatives.

By their sheer number, eagerness to speak up and inability to keep silent, donors can inadvertently crush any articulation of partners’ demand, and any real dialogue about how that demand could be met.

Sometimes silence is a good thing. At least be aware of the behavioural and cultural dynamics during meetings, and actively promote opportunities for partners to speak up and share their views.

## Box 14: Assessing demand for TC

**Indicates demand****Does not indicate demand****Locus of initiative**

Partner takes initiative to discuss CD or TC support.

EC takes the initiative to put CD or TC support on the agenda.

**Specificity of the request**

The partner quickly expresses a fairly specific idea of the capacity, implementation or advisory results to be achieved.

The exchanges are broad and general, and then quickly focus on TA or other TC inputs for e.g. study tours, funds for vehicles, or computers, etc.

**TC itself**

Demand is articulated around CD or implementation objectives independent of other EC assistance.

TC is implicitly or explicitly seen as part of a “package” where the partner may fear not getting other funding unless TC is accepted.

**Transparency of TC costs**

The partners demand TC support with full insight into the implied costs and have rejected alternative non-TC use of the funds.

The full cost of TC is not known, or funds for TC cannot be programmed for other purposes with higher priority.

**The power behind the demand**

The demand for TC support is expressed by partners at various levels, including by partners with sufficient power to ensure the implementation of the programme that the TC would support.

Demand is only expressed at one level or by a few individuals, and is not clearly supported at policy and senior management levels.

**Preparation of TOR for TC**

Terms of Reference are prepared by the partner or in a joint process between the EC and the partner, with the EC playing a facilitating role.

TOR are prepared primarily by EC staff with minimal input from the partner.

## 3.2 Considering the context for TC support

Many TC supported interventions have failed to achieve their objectives not because the TC inputs were of poor quality, but because TC was an insufficient or inadequate response in the specific context and country conditions. Capacity development affects interests and most often create winners and losers, and the political economy factors – the drivers of and constraints to change – will determine if TC can be helpful or not. Understanding the political, institutional and cultural factors at play is therefore essential, not only to assess whether TC support will be effective, but also to be a trusted dialogue partner.

Context analysis is crucial to determine if the partners' objectives are realistic, and if TC support can play any role in achieving them.

### Box 15: Three country scenarios on a continuum



Countries cannot be neatly classified according to how well TC support is likely to function, but three scenarios on a continuum can be distinguished:

**Countries performing well:** middle-income countries and countries with reasonably sound public sector performance will be able to play a stronger role when identifying TC demand, leading and managing implementation and getting the best out of the EC-funded TC inputs. TC is likely to play a purely advisory and facilitative role, where partners selectively use, adapt and apply the expert's advice supplied.

**Countries in fragile situations:** Immediate service delivery objectives may overshadow sustainability and CD objectives when capacity is less developed, or where there are strong political and social constraints to reform and capacity development. This may justify TC to fill gaps or support implementation. Major steps forward with CD may be difficult under such circumstances, but there are likely to be opportunities for small, incremental steps.

**Countries in-between:** Most developing countries, sectors and organisations are somewhere on the continuum between the two extremes. Only a specific assessment of drivers and constraints can determine if and how TC inputs can support sustainable capacity development or reform. Experience indicates that caution is warranted: in most cases CD is harder to achieve and TC is less effective than envisaged.

Three key issues are particularly important to look at when assessing if and how TC will work: the overall “capacity to develop capacity”, the track record of previous TC support, and the general incentives to performance in the country and/or sector:

1. **The “capacity to develop capacity”:** Countries, sectors and organisations will differ in their ability to articulate their needs for assistance, formulate programmes, and to lead and manage TC inputs. TC support which may work in one context will not necessarily work in another (see box below):
2. **The track record of previous CD efforts and TC support:** If donor-supported CD efforts have a poor track record, then it is harder to mobilise enthusiasm. If TC in the form of international long-term advisers has been frequent for decades, then views and expectations about how TC is used may be so ingrained that it demands an extra effort to break away from that tradition.
3. **Incentives for performance:** Only where performance is enabled and rewarded will CD efforts bear fruit. Six common factors shaping incentives are listed in the box below. The overall incentives and human resource situation in the public sector is often the focus for Public Sector Reform activities, and the commitment to and progress of such reforms in a country may greatly affect if and how CD is possible at for example sector or local government levels.

## Box 16: Common factors shaping incentives & the success of TC support



**Economic, social and political situation.** Whether a country is stable or not, growing or declining, will affect effectiveness and relevance of TC. Crises can and often do foster change and opens windows of opportunity. A level of stability, on the other hand, enables the longer, steady haul required to consolidate and deepen reform and CD.

**Overall incentives to performance in the public and/or private sector(s).** If incentives are weak or distorted, then TC is unlikely to contribute to major CD unless incentive issues can be addressed

**Staffing, qualifications and experience levels in the public sector.** If the levels are modest, then the capacity to absorb the advice given by TC may be limited, prompting advisers to assume implementing roles.

**Rapid turnover of local staff.** If rapid staff turnover is a problem, then the effectiveness of TC support for capacity development may be limited.

**Density of TC support.** If there is already a lot of TC support going on, then the marginal utility of additional TC – another expert, another workshop – is likely to be limited.

**Donor practices regarding topping-up, allowances, etc.** In some aid-dependent countries, salary supplements and allowances, e.g. for workshop participation, have become so ingrained that TC will not work unless this reality is accepted which, again, is likely to undermine the overall capacity of the public sector (see the section below).

### Limiting the negative effects of topping-up practices

In most cases it is very damaging for the wider system of public administration if donors offer topping-up to partner staff working close to “their” support, or disguise such topping-up through the conversion of staff into consultants, payment of “training allowances” or other perks. In some countries it has, however, become a standard operations procedure that donors offer such incentives.

Based on the logic of partner-owned programmes as detailed in these guidelines, in principle, there should be a broader point of departure for discussion how to avoid introducing or maintaining distortive incentives in relation to TC:

- ➔ If there is good senior level leadership and ownership of the programme, then the discussion should at least be able to look beyond the “topping-up” issues and be about what it would take to make the donor’s support work.
- ➔ If special incentives are required, they should follow a broad government system for this rather than individual donor approaches. They should be monetary rather than through fringe benefits (e.g. cars, computers, special allowances) which risk distorting incentives and create non-transparent situations. They should be public and information about them shared with the Ministry of Finance and other donors.
- ➔ Special incentives should be linked to clear performance targets and a regular performance assessment process.
- ➔ If there is no government system for special salary enhancement for key staff in units where there are compelling reasons to have such salary enhancements, then the EC should work with the authorities and other partners to introduce such a system, integrated in a longer term vision for civil service reform.
- ➔ If the only way to make a TC-supported programme work is to establish an *ad hoc* incentive system funded by the EC for that particular programme, then it should almost certainly not be supported by the EC.

### 3.3 Assessing existing capacity

To ensure a good fit between possible TC support and the partners' need, the parties involved must have a reasonable picture of the existing capacity of the organisation or sector system which is going to be supported. This is important not only when the primary purpose of TC support is CD, but also for other purposes. TC for advice, implementation or preparation must also be tailored to the existing capacity.

There are many different ways to assess organisational or system capacity, and there are numerous tools and instruments that can be used to diagnose different aspects of organisational or system capacity. There is, however, no single approach which can claim superiority or much less objectivity. EuropeAid has prepared specific guidance on issues to consider when preparing TOR for capacity assessments, available at [www.capacity4dev.eu](http://www.capacity4dev.eu). This site also includes references to other websites, documents and tools that have been found of particular interest in relation to TC and CD issues.

The following main points should be kept in mind when considering capacity assessments:

- ➔ **Self-assessments are the best point of departure.** Partner-lead assessments engaging staff can foster buy-in to subsequent CD processes, while external assessments often are perceived to be judgmental, disenfranchising those being assessed.
- ➔ **Avoid approaches which focus only on identifying “capacity gaps”** according to a pre-defined normative model for “good capacity” or “best practice”. Such models tend to overlook the existing capacity assets which are likely to be a good starting point for future capacity development. Gap assessments tend to have a one-sided focus on weaknesses, and they tend to lead to predictable solutions: sending in TA to “fix” capacity problems and “close” or “bridge” capacity gaps. Such approaches rarely work.
- ➔ **Look beyond single organisations.** Particularly in sector wide approaches, it is important not to stay inside the “tower” of e.g. a central ministry, and see capacity issues from that view only. Front-line service providers, central level cross cutting ministries, oversight institutions and non-state actors are likely to shape and condition the dynamics of CD. The EC reference document n°4 “Analysing and Addressing Governance in Sector Operations”<sup>3</sup> details such a broader approach to capacity diagnostics at sector level.
- ➔ **Timing, modality and scope of capacity assessments should be carefully considered.** As noted, expert or TA-driven capacity assessments made on the insistence of donors and subject to donors' calendars and deadlines is a particularly poor point of departure for home-grown CD processes. Depending on the nature of the organisation in question, it is often best to keep things simple to begin with and to consider more elaborate exercises only when participants are comfortable with the process. Clarity about the commitment to change and the capacity to lead and manage change may in some cases be a sufficient starting point, while a participatory, more comprehensive assessment process can come later.

#### Box 17: Getting from a poor assessment to a poor solution

A “gap assessment” might typically observe that a sector “lacks comprehensive planning”. The implicit normative solution – comprehensive planning – could then be supported by one or more planning experts. They would typically consult, hold workshops and then produce a plan with their partners, who would then be expected to repeat the exercise.

In the process it is likely that the existing formal and informal processes of bargaining about priorities and coping with uncertainty would be overlooked. Instead of building on the existing strengths of these processes, the result of this “gap analysis” is quite likely to be a plan that will collect dust on the shelves – because the underlying dynamics which make traditional planning inadequate have not been identified.

3 The document is posted at [http://ec.europa.eu/europeaid/infopoint/publications/index\\_en.htm](http://ec.europa.eu/europeaid/infopoint/publications/index_en.htm)



- **Capacity assessment should be an integral part of the CD process.** Capacity assessment should not be viewed as a one-off exercise carried out simply to fulfil the requirements of a design process; rather, it should be used as an instrument for continuous learning, building a constituency for change, and for monitoring change over time. Involving the organisation itself in a process of periodic self-diagnosis will help reinforce organisational learning. Comprehensive capacity assessments using linear cause-effect logic and ending in detailed blueprint for CD processes fail to capture the messy dynamics of change processes as they unfold.

The box below presents key questions to support the assessment phase.

### Box 18: Basic questions for capacity assessments

Basics	Process
<ul style="list-style-type: none"> <li>→ What is the specific purpose of the capacity assessment? Does it serve a specific partner's decision-making – and/or donor decision-making? Which decisions, by whom?</li> <li>→ Are there recent assessments to learn from? How were they used, and why?</li> </ul>	<ul style="list-style-type: none"> <li>→ Who should lead the assessment? Should it be a “light” approach or a more comprehensive exercise, considering purpose and context?</li> </ul>
Content	
<ul style="list-style-type: none"> <li>→ What is the sector or organisation(s) actually delivering in terms of outputs?</li> <li>→ What is it supposed to deliver in the future, and is this commensurate with the factors constraining and driving context, and likely resource scenarios?</li> <li>→ What key capacities does the organisation/system need to have in place to be able to deliver effectively on its mandate?</li> <li>→ What is the organisation good at – how can these strengths be further explored and developed?</li> </ul>	<ul style="list-style-type: none"> <li>→ What is the organisation less good at – how can these weaknesses be addressed through processes inside the organisation, and/or through support to the demand side (civil society organisations, governance structure, checks-and-balances organisations, etc.)?</li> <li>→ What are the incentives for change in the organisation, its culture or leadership?</li> <li>→ How has the organisation tried to develop its capacity in the past? How successful have these efforts been, and what could be done differently?</li> </ul>

EuropeAid has produced a set of “Tools for Capacity Development” which can be helpful in the dialogue with partners about capacity assessments. They are available at [www.capacity4dev.eu](http://www.capacity4dev.eu).



**Bridge to procedures:** The assessment should assist identifying who should manage EC funds. When possible, the partner should be the contracting authority → see section 1.2 of annex 6

### 3.4 Harmonising TC support with other donors

Ensuring the best possible harmonisation is a key step in preparing TC. It must be considered early in the identification process, and efforts to maximise harmonisation benefits should be continued throughout the cycle of operations.

In situations where there are programme-based and sector-wide approaches in place or being planned, harmonisation of TC should be integrated as part of the wider harmonisation process. Programme-based approaches essentially seek to strengthen the capacity of partners to manage their affairs in a programme area or a sector. Capacity development in a sector programme, for example, could target policy-making capacity; public financial management capacity; organisational capacity; monitoring and/or coordination capacity. Linking to this wider framework helps avoid the risk that harmonisation of TC support becomes an issue in itself, disconnected from the broader objectives and results-frameworks that TC is helping the partner to achieve.

Stand-alone TC provision by the EC is the least preferred option when there are several donors supporting a programme. Stand-alone TC provided by the EC may be justified for purposes related to the preparation of EC cooperation and where TC plays a supporting role in the implementation of EC-supported service delivery projects. Stand-alone TC may also be relevant as support to stakeholders outside the public sector, though harmonised approaches should also be pursued here whenever feasible.

There are five main steps to take in the pursuit of harmonisation of TC:

1. Put all harmonisation options on the table in the dialogue with partners about possible TC support. Such options can include:
  - Full implementation, including contracting, by the partner;
  - Pooling funds from several donors. The pooled funds can be administered jointly or by the partner;
  - TC support delegated to one or a few partners on behalf of a bigger group;
  - Harmonisation around an agreed set of programme objectives and results with donors bringing their individual TC support to the programme.
2. If EC stand-alone TC is the only or the best option, then other donors should be informed about the TC support in preparation. Where relevant, invite them to participate in the design process. Verify whether other donors are providing TC in the same sector/area; circulate Terms of Reference for comments and assess risks of overlap and fragmentation with the partner. Assist the partner with the practical coordination of the different types of TC support.
3. If TC support in the area or sector is fragmented, start harmonising TC support around a joint agenda for analytical and advisory work, joint reviews and evaluations. If possible, follow-up with an agenda for joint support to a partner-led capacity development programme.
4. Support the partner in playing a stronger role in relation to Implementation TC provided by the EC or other donors. Harmonisation of this kind of TC assistance is not likely to be feasible until donors opt for fuller integration of their support in programme-based or sector-wide approaches.
5. Support mutual accountability mechanisms in the country with data about EC TC support and with useful lessons learned.



**Bridge to procedures:** When adequate, co-financing should be pursued as a way to improve harmonisation → see section 1.1 of annex 6.

### 3.5 Quality criteria – demand-driven, adapted to context and harmonised

The points covered in this section will form part of the quality assurance criteria for TC support. They are summarised in the table on the next page. These criteria apply starting from the Identification phase and continuing through the cycle of EC operations. Sections 4.6 and 5.5 include additional elements, leading to the full Quality Matrix which is presented in chapter 6.

The quality assurance will take place in delegations and subsequently in EuropeAid headquarters, as described in chapter 6.

### Box 19: Quality Criteria for the identification phase



<b>1. Demand, adequate ownership and capacity of partners</b>	<b>1.1.</b> Key stakeholders have convincingly expressed commitment and demand for support which is commensurate to the size of the project. For CD support, the commitment of partners matches the scope of change.
	<b>1.2.</b> Partners have participated adequately in the design of TC support, beyond formally endorsing proposals.
<b>2. Fits the context and existing capacity</b>	<b>2.1.</b> There are no critical constraints in the context which would impede achieving the purpose of the TC supported programme.
	<b>2.2.</b> The existing capacity has been assessed, confirming that the TC support is adequate based on absorption capacity and CD objectives.
	<b>2.3.</b> Similar programmes and types of TC support have been successful in the current context.
<b>3. The support is harmonised and sustainability of benefits considered</b>	<b>3.1.</b> TC support from other donors in the sector has been mapped, and other main donors have been/are consulted on the possible upcoming TC support.
	<b>3.2.</b> Synergies and harmonisation options have been explored and where relevant actively pursued with partners and other donors.
	<b>3.3.</b> Proposals for stand-alone TC support are clearly justified, and strategies for further harmonisation and sustainability of benefits provided.
<b>4. Link to outputs and expected outcomes</b>	<b>4.1.</b> Outputs and/or outcomes are defined/monitored at the level of actual service delivery, regulation or investments in use, beyond immediate TC deliverables.
	<b>4.2.</b> The inputs from partners have been specified and are sufficient to indicate that ownership is strong enough to achieve and sustain the desired results.
	<b>4.3.</b> Executive roles of partners and TC roles are specified/fulfilled. If partners play little or no role, this is separately justified.
	<b>4.4.</b> Innovative forms of TC support have been considered/used; the size and intensity of TC inputs are appropriate to the partner's capacity to lead, manage and absorb support.
<b>5. The programme implementation arrangements are appropriate</b>	<b>5.1.</b> The programme implementation arrangements are designed and effectively based on the results to be achieved taking into account their dependency on inputs from other organisations.
	<b>5.2.</b> The managerial autonomy of the programme implementation arrangement gives adequate authority over programme resources given the purpose of the programme.
	<b>5.3.</b> Partners lead the programme adequately and there is clear accountability to domestic stakeholders.



## Results-oriented TC support

This chapter explains:

- The key aspects that would normally be dealt with in the formulation phase of EC support, though the border between identification and formulation cannot be strictly defined (see annex 3 on the cycle of TC support);
- How results and activities should be specified so that they effectively guide complex and dynamic change processes;
- That logical frameworks for “CD TC” need to focus on outputs and outcomes beyond the immediate deliverables by TC;
- The need to consider different TC options, other than “traditional” expatriate TA;
- The importance of high quality Terms of Reference and tender documents;
- How to involve partners in the procurement process;
- The quality criteria linked to the formulation and procurement of TC support.

## 4.1 Detailing results and activities



### Box 20: Three key elements in good design of TC support

**Get the TC deliverables and wider results right for different TC types:** CD TC contributes to CD processes (for example, setting up new procedures for merit-based recruitment) and “capacity results” (merit stronger considered in recruitment); implementation TC contributes to direct performance and service delivery results. Getting this right from the beginning is crucial.

**Specify critical activities and inputs from all sources:** It is not enough to specify the EC-funded TC inputs and the activities. The programme documents should include partner input, partner activities and joint partner-TC activities – all have to be specified to a relevant degree. This is particularly important in CD types of operations. Examples are given on the next page.

**Don't create a straightjacket – maintain flexibility:** Be clear on the key objectives, strategic directions and core results to be achieved. Avoid over-specifying results frameworks, outputs and processes from the outset – CD and change rarely, if ever, follow linear blueprints.

### Clarifying the results that TC contributes to

Clarity about the wider results that TC is contributing to is essential for each of the four categories of TC. The terms (results, outputs, outcomes and impact) are used consistently with the terms used in EC's Guidelines for Support to Sector Programmes. Please note that while others may apply slightly different terms, what is important is to clarify the logical chain from inputs to different levels of results.

It is particularly important to specify the level of results which is here labelled “capacity” – which is the enhanced capacity of organisations or systems resulting from CD processes – and which again enables the organisations or systems to deliver services (“outputs”). This level of results between CD activities and wider service delivery outputs is important because it forces attention to the fact that for example training will not result in capacity unless this training is combined with procedures, tools and management behaviour which together will constitute enhanced capacity (and therefore, all things equal, lead to increased or improved outputs from the organisations/system).

1. **Technical Cooperation supporting Capacity Development:** This type of TC will deliver activities which feed into *broader processes to enable partners to do more and/or better – the result of this is that partners actually do more and/or better*. A new IT system for payroll management may be the immediate TC delivery – the resulting capacity is that it is used by the organisation, the related output is that the right people get the right salary on time.
2. **Technical Cooperation for Policy/Expert Advice and Knowledge:** The immediate deliverables are *advice* or *exposure to knowledge* in one form or another, feeding directly into partner decision-making processes, with the result that better decisions are taken in a given situation. The scope of the results thus more limited than for CD TC – a one time advisory service may improve a decision today, but does not necessarily develop capacity to take tomorrow's decisions.
3. **Technical Cooperation for Implementation Support:** Such TC is providing “doers”, performing managerial, technical or operational tasks with the output that *services are delivered* or *investment projects completed*. Implementation TC can be an engineer supervising a power plant contractor; or an agronomist coordinating crop-research; or an epidemiologist assessing risks of drug-resistance. This kind of TC performs functions that the partner cannot (yet) perform (gap-filling) or functions that will also be outsourced in the future.
4. **Technical Cooperation for Preparation/Facilitation of EC support:** The immediate deliverables may be e.g. facilitating a partner-led design process leading to a partner-prepared design, or more implementation-oriented, e.g. writing the design document. The difference in future ownership may, of course, be significant.

**Figure 3: Illustrating the difference: getting inputs, CD activities, capacity, outputs and results - wrong and right**

### Sector level example: Capacity for policy making

	Inputs	CD activities	Capacity	Outputs
<b>Wrong approach:</b>				
Narrow focus on donor support	<p>→ Donor funded policy expert on Land Reform;</p> <p>→ Study tour in region,</p>	<p>→ Workshops on Land Reform issues;</p> <p>→ Study tour to two countries;</p> <p>→ Drafting of Land Reform policy.</p>	<p>→ Senior staff made aware of land reform issues and able to take position vis-à-vis draft Land Reform policy.</p>	<p>→ Land Reform Policy Document formally adopted.</p>
<b>Right approach:</b>				
Extended focus on partners programme	<p>→ Senior level managers in five ministries composing reform team;</p> <p>→ Parliamentarians in Land Committee, Land Owners and Peasant Organisations;</p> <p>→ Chief executive in Land Reform Institute (programme manager);</p> <p>→ Donor funded policy expert on Land Reform; and expert in policy processes;</p> <p>→ Funds for study tour in region.</p>	<p>→ Formation of reform team who plans policy process (stakeholder consultations, dealing with resistance);</p> <p>→ Coaching by process expert</p> <p>→ Series of workshops on Land Reform issues and CD needs facilitated by senior staff;</p> <p>→ Study tour to two countries for key stakeholders;</p> <p>→ Drafting workshops facilitated by external experts;</p> <p>→ "Selling" of content to staff in various institutions with roles in implementation.</p>	<p>→ Land Reform Institute and other key sector stakeholders have assumed and accepted the land reform policy as guiding vision, and are aware of their particular roles in implementing it;</p> <p>→ Further capacity development needs required to implement the reform have been identified and made operational in CD plans in the relevant institutions and across the sector.</p>	<p>→ Land Reform moving to implementation largely in line with stated objectives.</p>

### Organisation level example: Capacity for project management of community projects

	Inputs	CD activities	Capacity	Outputs
<b>Wrong approach:</b>				
Narrow focus on donor support	<p>→ Expert trainer in Project Management for Community Development Unit in Municipality.</p>	<p>→ Develop training materials;</p> <p>→ Conduct training in Project Management.</p>	<p>→ 20 trainees have attended training.</p>	<p>→ 20 trainees have acquired project management skills.</p>
<b>Right approach:</b>				
Extended focus on partners programme	<p>→ 20 staff of partner who will assume project management functions in communities;</p> <p>→ Programme manager (partner staff);</p> <p>→ Expert trainer in Project Management.</p>	<p>→ Define required competencies and performance expectations;</p> <p>→ Review procedures and non-salary incentives;</p> <p>→ Prepare classroom and on-the-job training;</p> <p>→ Sensitise senior managers and garner support from top level;</p> <p>→ Train and coach 20 trainees, coach senior manager.</p>	<p>→ The organisation has geared procedures, competencies and leadership to adequate project management methods and approaches.</p>	<p>→ Communities are approached with participatory and efficient methodologies which ensure full community involvement and ownership of programmes and projects supported by the Community Development Unit.</p>

### Capacity development support versus implementation support?

It is often suggested to start with TC implementation support and have capacity development as exit strategy. This could be a way to deal with the apparent tension between a focus on implementation and a focus on CD.

Capacity development versus focus on implementation is, however, a “false” dilemma. The solution is to abandon the erroneous perception that capacity development is about taking people *away* from work and putting them on school benches! That may be a *minor* part of *some* CD processes – the most important is to remove constraints, allowing existing capacity to flourish, systems to work and communication barriers to soften – with increased service or product delivery as the result. CD support may take longer producing results than direct implementation support – but it is all about delivering results.

The real dilemma is different: if the immediate demand is for TC which support implementation either because needs are urgent or because CD is not considered feasible – how can TC then support implementation first and, particularly when the support comes towards the end, still do something that will enhance the sustainability prospects of the project or programme? How can the transfer be effective using the “Build, Operate, Transfer” concept (BOT), where a contractor builds e.g. a power plant, operates it in 1-2 years, and then transfer the operation responsibilities to the building owner?

First, the BOT concept works in many settings, for example, for infrastructure or energy sector projects. In countries performing well, it is a standard model – both for private sector or private sector-like projects. The more closely a programme is aimed at core government functions delivered by the civil service, the less well does the BOT model works.

Second, if continued implementation requires a capacity well beyond what a country has at the moment, then there is little that different TC approaches can do about it. The dilemma will find its own solution: either the country will find funds to continue a parallel or ring-fenced implementation arrangement – or the project or programme will die a quick or slow death. The basic problem is not the TC, the basic problem is a poorly designed project or programme that did not fit the context – TC cannot remedy this problem.

Third, when a “BOT strategy” is attempted under difficult circumstances, there are three things to consider, as described in the box below.

#### Box 21: Three complementary means to get beyond the dilemma between short-term implementation and longer term capacity development support

1. **Be clear about the purposes and orders of priority:** Help partners to define objectives which are clear about whether sustainable capacity is the first priority and ongoing service delivery the second – or the other way around.  
*Example – CD-focused:* “Five years from now, the provincial authority has sustainable capacity to plan and construct 200 primary schools annually; a capacity that has been developed over the same period during which the authorities were assisted in building 50, rising to 200, schools per year.”  
*Example – implementation-focused:* “400 primary schools built in five years. Provincial authority has sustainable capacity to continue planning and constructing 200 schools annually.”
2. **Specify both implementation and CD processes and inputs:** Regardless of the order of priority, help partners specify both CD and service delivery objectives, outputs, activities and inputs at the same level of operational detail. If CD processes and results are not tangible in the design phase, they are unlikely to become so during implementation.
3. **Separate the processes, use specialised CD input.** Without losing opportunities for synergies and to build on experience gained in service delivery processes, apply separate work streams and separate TC inputs for service delivery and for CD support, respectively – and work to ensure that overall partner management stays fully committed to CD objectives. If one consultant team is contracted to assist with both implementation and CD, then ensure that the consultant team leader has the requisite competencies to lead the team in relation to CD support. The consultant’s profiles and the quality of the TOR for the different work streams are essential.



### Specifying critical activities

Activity specification must cover critical activities by all involved and not only what TC will do. It is particularly important to specify change management activities if the programme aims at reform or CD. In most cases, TC and partner resources will have to work together closely to perform activities. It is important to ensure that there is a joint understanding of and commitment to the considerable amount of time that managers will have to dedicate to organisational change processes.

### Maintaining flexibility without losing focus on results

Donors are stepping back from their traditional hands-on management of their support, for example, by focusing on jointly agreed results-frameworks rather than on the detailed processes for producing the results. The demand for indicators related to “development-wide” rather than “TC-narrow” outcomes has accompanied this shift, which is embodied in the Management for Development Results Agenda which is part of the Paris Declaration.

In relation to TC support, particularly for CD, a balanced approach is recommended where results (and consequently activities and inputs) can be modified and specified along the way, and where indicators are not cast in stones. There are four reasons for this:

1. Successful CD processes are not linear and do not follow a blueprint. They are dynamic processes characterised by constant bargaining and strategizing. The more complex the situation, the less it is likely that linear planning approaches will work – and most situations are complex.
2. There is often a considerable time-lag between the design phase and actual implementation. Conditions and needs are likely to change. Support must be as flexible as possible to adapt to changes.
3. In CD processes the design phase, by definition, takes place at a moment where information is still limited. Only through implementation does knowledge increase and with it the ability to specify.
4. Modifications which are small but nonetheless require formal revision of documents and agreements may delay implementation unduly.

However, even if CD processes cannot make precise forecasts of what will happen, the level of specificity at the outset should nevertheless be sufficient to:

- ➔ communicate a clear picture of the means-ends logic of the programme;
- ➔ estimate the approximate costs and scope of both partner and donor-supplied inputs;
- ➔ recruit external resources (e.g. twinning partners, training institutions, or consultants);
- ➔ make an overall appraisal of the feasibility and approval of the support for the partner's programme.

### Box 22: Partner inputs – the partner's responsibility



TC cannot perform if there is nobody to talk to and work with, no information available, no support facilities, no management or no interest in using the TC. It is clearly the responsibility of the partner to ensure that the TC can perform.

However, the conditions for TC performance are often not there because the partner did not demand the support in the first place.

It is therefore the responsibility of EC staff to ensure that it is clear what the partner has to provide and that the partner expresses a clear commitment to deliver these inputs.



**Bridge to procedures:** information required for decision about the financing agreement and level of flexibility ➔ see section 2.2 of the annex 6

***Do's and don'ts in the dialogue about possible TC support and its design***

Good dialogue about design of TC support starts focusing on everything but TC support!

*Don't start by asking what the EC or EC-funded experts can do for the organisations or the sector:*

- ➔ Ask about what results the sector or the organisation(s) are supposed and want to deliver that they are not delivering today (according to the organisation, its staff, its customers and other stakeholders);
- ➔ Then ask what the sector or the organisation(s) want to do to strengthen their capacity to deliver services.

*Don't rush into making suggestions for TC support at this stage, but instead:*

- ➔ Help the partner clarify the broad set of critical activities needed to produce change and develop capacity;
- ➔ Assess whether the activities are feasible and will lead to results.

*Don't yet propose EC support, but instead:*

- ➔ Ask what resources the partner has to conduct the process;
- ➔ If these resources are not sufficient, then ask if and how donors (not just the EC) might be able to help;
- ➔ Then, finally, determine how the EC might be able to contribute to supporting the desired change.

## 4.2 Strengthening the results focus in CD support

Evaluations of TC for CD have often found that programme design was too narrowly focused on what the TC would do, and not adequately explained the wider outputs and the capacity that would be achieved. Thus, an expert was provided to deliver training or give advice with the result that partner staffs were better skilled and informed. Assumptions were then made about how staff would apply their skills to increase institutional capacity and enhance the performance of the organisation, without actually integrating these critical issues into the programme design.

It is no longer sufficient to specify what the trainer will do, because he or she alone cannot ensure that the trainees actually apply their skills in their work situation. Several other factors are critical. If, for example, systems and incentives are not conducive to the application of the skills, then the training will not lead to enhanced performance because the individual capacity is not translated into organisational capacity.

In order to address the problem of limited focus, an extended “results chain” is needed to clearly link the provision of partner and TC inputs/activities to capacity outputs, outcomes and wider impacts. (If CD is not the primary purpose of TC support, then there may not be distinct capacity level results, and thus only five links in the chain).

### Box 23: An extended logical chain from sustainable impact to partner and TC inputs

To achieve sustainable results, a partner-centred logical chain with six steps is needed:

1. **Impact** (e.g. the wider, feasible societal effects that are desired)
2. **Outcomes** (e.g. satisfying needs and demands of citizens/customers)
3. **Outputs** (e.g. better products/services delivered by the organisation)
4. **Capacity - resulting from CD processes** (e.g. staff using new skills and procedures)
5. **CD processes/activities** (e.g. training and practising, development of procedures, etc.)
6. **Inputs** (e.g. staff, TA, equipment, operational inputs/budget, management support)

Figures 4 and 5 illustrate and exemplify the extended logic that must be applied.

Figure 4: Results-driven design of TC support

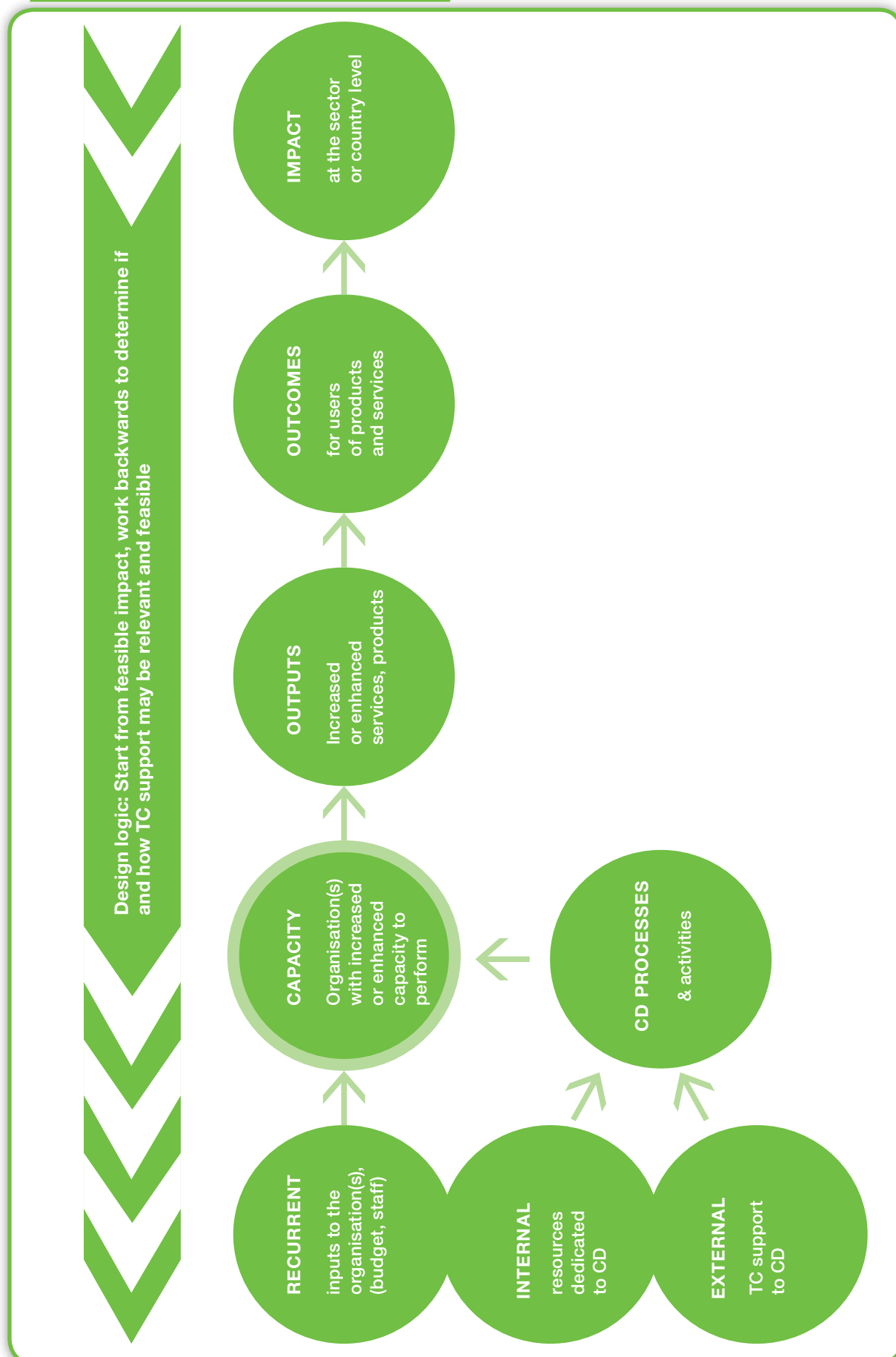
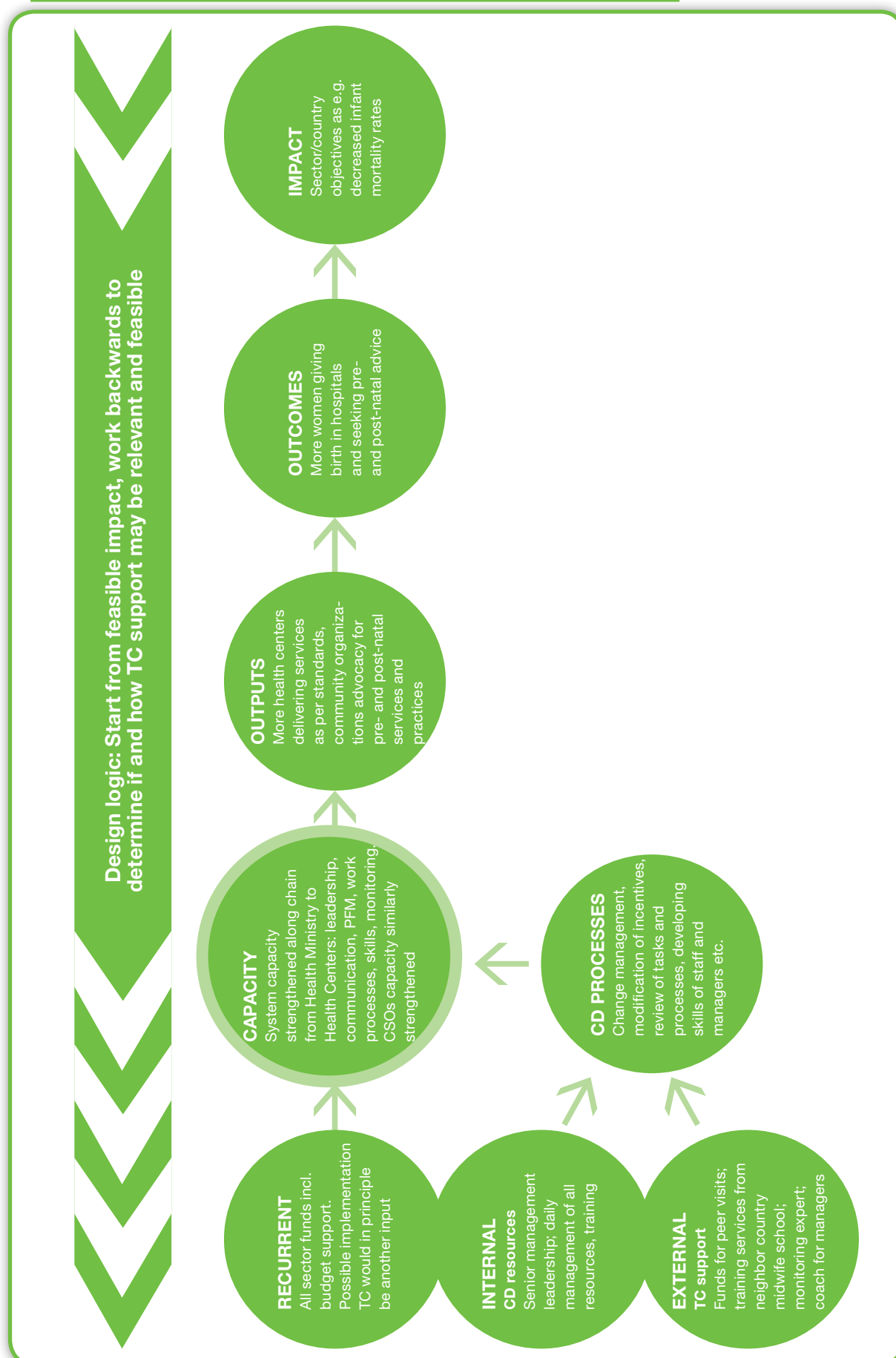


Figure 5: Results-driven design of TC support – Health sector example



### 4.3 Getting the right inputs

Short and long term international consultants or advisers are often seen as the default option for TC support. This may reflect real, but narrower concerns for implementation of EC support, but it may also reflect ingrained habits. Therefore, think through other options first.

#### **South-South cooperation**

The Accra Agenda of Action highlighted the commitment of donors to promote the provision of technical cooperation by local and regional resources, including through South-South cooperation. This can in many cases have particular advantages not only in terms of cost, but also in terms of cultural affinity, language capabilities and peer legitimacy. South-South cooperation can include twinning and staff-exchange arrangements, or the establishment of regional platforms for exchange and learning.

#### **Short or long term advisers?**

For some years, it has been quite common for many development agencies to prefer short term TA (often recurrent) rather than long term TA with multi-year contracts. This corresponds well to how the market for CD consultants operates in developed countries: it is **very** rare that a management consultant would be invited to work full-time for several years, with a permanent desk, at the client's office!

The argument for short-term is also that long-term advisers, simply because they are there every day, tend to take up gap-filling tasks and functions. CD processes normally vary in “contact intensity” between consultants and the organisation – few organisations will benefit from being in a constant “change mode” because change and CD also create uncertainty and anxiety. This may potentially make long-term assistance less efficient.

That said, there seem to be no systematic evaluations trying to assess the relative merits of short versus long-term TA, and sound judgment has to be applied.

#### **Box 24: International secondment between SADC Member States and to the SADC Secretariat**



The EC support to the implementation of the SADC Protocol on Finance and Investment is a capacity development programme for SADC Member States and the SADC Secretariat with a clear results orientation. The programme is meant to help SADC implement its own Finance and Investment Protocol which is a regional agreement that needs to be turned into domestic legislation in SADC Member States.

A key feature of the programme is peer exchange and peer learning: staff from SADC Member States are seconded to other Member States and to the Secretariat during the period of the programme.

The programme is owned and managed by SADC and support is received from several donors (EC and EU Member States as well as other organisations). Long-term and short-term TA provides expert and advisory inputs. All TA is recruited by SADC and typically from the region. TA is accountable to the SADC Secretariat.

### Box 25: What kind of processes and inputs can be considered?



**Peer mechanisms and staff exchanges:** Bringing in colleagues from other organisations in the country or the region, and sending staff to other organisations for short or longer term exchanges.

**Study tours:** Study tours can run the risk of becoming tourism, but when professionally arranged and including a reporting task for participants, they can usefully enable a partner organisation to acquire knowledge.

**Knowledge acquisition by partner staff:** Partner staff can be assigned priority research tasks on issues important to the organisation for shorter periods. Local universities may support and help.

**Networking for mutual benefits:** Participation in professional or institutional networks nationally, regionally or internationally, where all participate on equal terms, can facilitate knowledge acquisition.

**Piloting new methods:** Contracting CSOs/NGOs, think-tanks or private companies to carry out small scale experiments with new approaches to service delivery, client involvement, communication, etc.

**Outsource training to training institutions or the private sector:** Outsourcing IT training or leadership development, for example, as an alternative to delivery by individual “in-house” consultants may, in some cases, enhance quality, reduce the price and ensure sustainability.

**Peer support arrangements:** Peer support may be arranged with relevant institutions in the North or the South. Some countries with fairly well developed capacity may specifically want exposure to different European methods of operation.

**Assisting in getting a systematic approach to training and workshops:** In heavily aid-dependent countries, workshop participation may be seen as a decently paid alternative to work. Fragmented, uncoordinated offers by donors are often the cause of this situation.

**Recurrent or short term consultant and advisory service from local and regional providers:** Using available domestic resources from e.g. universities, think-tanks and consultancies, can foster a local consultancy market of permanent value.

**Recurrent, short or long term consultant and advisory service from international consultants:** If effective demand is there and the competencies cannot be acquired elsewhere, then international TA may be worth every euro it costs.



**Bridge to procedures:** Several contractual forms allow to pursue different options: programme estimate (direct decentralised operation), service contract and grant → see section 1.3 of annex 6

## 4.4 Preparing Terms of Reference and Tender Documents

Partners should prepare TOR and tender documents for their programme. It is the task of EC staff to facilitate this process so that quality *and* partner ownership is maintained, as discussed in the next section.

It takes a considerable amount of time, effort and expertise to prepare good Terms of Reference and tender documents. It may therefore be suggested to the partner to have preparatory TC support that could first assist stakeholders in getting to an “approvable” programme, and then assist with making the proposal operational through tender documents and TOR. This might also shorten the long interval between the agreement on a design proposal and the actual start of support.

If tender documents and TOR have not been prepared by the partner, the partner still has to formally endorse them. This, however, is not enough to indicate demand and ownership. The overview table below details basic do's and don'ts for EC staff aiming at more participatory approaches.

## Box 26: Terms of Reference – Do's and Don'ts for EC staff



### Basics

- ➔ Preparing good TOR is difficult. Make sure the process of preparing the TOR is well thought through.
- ➔ Understand that it takes considerable practical experience and insight into the professional field in question to make good TOR and/or tender documents. This also applies to the professional field of CD.
- ➔ Remember that TOR, as with other job-descriptions, are mostly made to get the right person(s) to assist. They are rarely useful in daily work and not constructive weapons in conflicts over who does what.

### Process

- ➔ Do not draft the TOR yourself and send them to partners for comments.
- ➔ Don't either, in the name of ownership, suggest that a draft be made by a partner staff member if he/she has no previous experience of doing this. Being asked to make a draft that does not serve and will therefore ultimately be rejected is likely to be perceived as humiliating and embarrassing.
- ➔ If the experience/capacity to make good enough TOR is not available, then discuss if and how preparatory TC can help by coaching partner staff through a preparation process.
- ➔ In less demanding situations, if TOR have to be drawn up quickly and you consider it appropriate to take the initiative, then start with a meeting with the partner with a blank piece of paper. Agree on structure, key objectives, etc., and then on who will make a first draft for comment.
- ➔ Ensure that the designated project owner and/or manager explicitly approve the TOR beyond a formal signing off. Go through them together, no matter how the preparation process has played out. Formal endorsement alone is not enough.

### Content

- ➔ Specify precisely who the TC reports to and takes instructions from.
- ➔ Specify the wider results that the TC and the partner are jointly responsible for achieving. Make it very clear whether the objective is CD or implementation support.
- ➔ Specify the main activities that the TC is expected to perform, and the deliverables.
- ➔ Specify that regular performance assessments will take place, including mutual assessments where relevant and agreed, of the effectiveness of the partner-TC relationship (see annex 5 for a possible format).
- ➔ Maintain flexibility thus enabling and obliging programme/project management and TA to adapt to needs, opportunities, personal skills and competencies.
- ➔ Avoid creating TOR which assume that you can get TC personnel with exceptional competencies. They are not likely to be found.
- ➔ Include specific reference to sustainability considerations and the phase-out/exit strategy for TC. Ask prospective providers of TC how they would approach these issues.



**Bridge to procedures:** Several “soft” competencies have to be considered when preparing a tender dossier (communication skills, cultural sensitivity etc. ➔ see section 4.1 of annex 6)

### **How to build on partner-led processes if they end up with poor design or demands for support which are not acceptable to the EC?**

A project proposal or a set of TOR may be technically less than satisfactory, but what to do if it is strongly owned by the partner? There are two issues here that have to be separated: is it a question of the *technical quality* of the documented proposal that is the concern (e.g. less than fully consistent arguments, incomplete set of envisaged activities, objectives phrased in general terms) or is it a question of *disagreement* over core content? In the first case, “**un-owned perfection**” is likely to lead nowhere, while “**owned imperfection**” is likely to lead at least somewhere in the right direction – creating opportunities for later work to adjust, complete, etc. Glossy, all-too-perfect documents of a standard that is clearly not in line with what an organisation would normally produce itself are not likely to be owned.

If there is substantial disagreement over content – the partners argue that capacity will increase with new computers and operational funds, while donors think that re-organisation and improved leadership is required – then the argument that a position is owned by partners should not be a reason to accept that position as a basis for funding. The EC does not simply fund CD support proposals that, based on sound assessment, are unlikely to achieve the intended results. Conversely – and just as important – the EC should not press for the acceptance of a position that the partner will not own.

To put the distance between the two positions succinctly: donors have to be able to *endorse* proposals, but partners have to be able to *embrace* them. If no negotiation process can lead the parties into genuinely doing this, then the programme should not be pursued by the EC.

## **4.5 Recruitment of TC**

When the EC recruits TC it is paramount to involve the partner. Full transparency about the process must be ensured (including the cost of TC) and as much participation by the partners as permitted by procedures. Partners should be involved in screening and interviewing candidates for key advisor positions, including through tele/video conferencing where appropriate, also when TC is procured through centralised procedures.

TA/TC staff should never be selected without properly checking their previous performance through the references they have provided.

For the sourcing and contracting of TC for complex operations specialist support may be required. **It takes time and effort to identify and mobilize the appropriate TC resources, including looking for less conventional sources of TC supply, such as twinning organisations from the region or elsewhere.** Finally, it may require extensive effort to formalise cooperation agreements. Support to this work could be part of a preparatory TC support package.

### **Box 27: Getting good quality TC inputs takes time**

It may take many months to prepare good TOR, the tender, the contract and then mobilise long-term TC personnel. Requesting TC input with only a month or two's notice is unlikely to result in a high response rate from highly skilled/experienced (and therefore busy) consultants.

Plan ahead!





Box 28 below provides some tips on how to select the right advisers or experts.

### Box 28: Good practices in selecting the right advisor or expert



It is well known that some advisors or experts are able to deliver exceptional support in difficult situations, while others deliver poorly even under favourable conditions. It is also well known that curriculum vitae may hide as much as they reveal. The following tips have proven useful for getting beyond and beneath CVs:

- **Check candidate references.** Those selecting should personally talk to a minimum of two former clients (e.g. partners for whom the expert has worked, and/or donor staff who have interacted with him/her).
- **The more the advisor will support CD, the more important are “soft skills”.** A well-defined, limited expert advisory role does not necessarily demand great communication skills. The more the purpose of the TC is CD, the more important it is that the advisor can communicate, has empathy and can play a facilitating role.
- **Conduct phone or face-to-face interviews, including through video-conferencing:** Conduct interviews with prospective consultants in order to cross-check their fields of competence, to assess their adaptability, their capacity to understand what is required for the assignment, and their communication skills.
- **Define roles and approach to interviews beforehand:** Poorly prepared interviews increase the risk of poor selection. Those conducting the interview(s) should be well prepared and understand their respective roles during the interview process. A checklist containing the same key questions for all candidates is useful, as well as a rating system to be applied by each member of the interview panel. In some cases, it is useful to require practical testing of applicant skills, such as asking them to analyse and respond to a specific problem, including submitting written responses (e.g. if technical writing skills are important).
- **Seek professional assistance:** Selection and interviewing for complex and demanding positions can require professional assistance from recruitment companies or experts. When TC is procured for engineering services, for example, this requires the involvement of senior experts in the relevant technical fields who can evaluate the technical qualifications of advisors and the back-up capacity of the company.



**Bridge to procedures:** How to award a contract → see chapter 4 of annex 6

## 4.6 Quality Criteria – Results-oriented design of TC support

The points raised in this section can be summarised by the following quality criteria which will form part of the Quality Assurance Matrix in chapter 6. These criteria should be addressed starting from the identification phase and focused on during formulation. They should be monitored during implementation.



### Box 29: Quality Criteria for the formulation phase

<b>1. Demand, adequate ownership and capacity of partners</b>	<b>1.1.</b> Key stakeholders have convincingly expressed commitment and demand for support which is commensurate to the size of the project. For CD support, the commitment of partners matches the scope of change.
	<b>1.2.</b> Partners have participated adequately in the design of TC support, beyond formally endorsing proposals.
<b>2. Fits the context and existing capacity</b>	<b>2.1.</b> There are no critical constraints in the context which would impede achieving the purpose of the TC supported programme.
	<b>2.2.</b> The existing capacity has been assessed, confirming that the TC support is adequate based on absorption capacity and CD objectives.
	<b>2.3.</b> Similar programmes and types of TC support have been successful in the current context.
<b>3. The support is harmonised and sustainability of benefits considered</b>	<b>3.1.</b> TC support from other donors in the sector has been mapped, and other main donors have been/are consulted on the possible upcoming TC support.
	<b>3.2.</b> Synergies and harmonisation options have been explored and where relevant actively pursued with partners and other donors.
	<b>3.3.</b> Proposals for stand-alone TC support are clearly justified, and strategies for further harmonisation and sustainability of benefits provided.
<b>4. Link to outputs and expected outcomes</b>	<b>4.1.</b> Outputs and/or outcomes are defined/monitored at the level of actual service delivery, regulation or investments in use, beyond immediate TC deliverables.
	<b>4.2.</b> The inputs from partners have been specified and are sufficient to indicate that ownership is strong enough to achieve and sustain the desired results.
	<b>4.3.</b> Executive roles of partners and TC roles are specified/fulfilled. If partners play little or no role, this is separately justified.
	<b>4.4.</b> Innovative forms of TC support have been considered/used; the size and intensity of TC inputs are appropriate to the partner's capacity to lead, manage and absorb support.
<b>5. The programme implementation arrangements are appropriate</b>	<b>5.1.</b> The programme implementation arrangements are designed and effectively based on the results to be achieved taking into account their dependency on inputs from other organisations.
	<b>5.2.</b> The managerial autonomy of the programme implementation arrangement gives adequate authority over programme resources given the purpose of the programme.
	<b>5.3.</b> Partners lead the programme adequately and there is clear accountability to domestic stakeholders.

# Programme Implementation Arrangements

This chapter explains:

- The commitments of the EC in relation to parallel PIUs and the underlying problems with these arrangements;
- The change from parallel donor-driven PIUs to partner-owned programme implementation arrangements and the need for a change in management perspective;
- How to ensure that the design of appropriate programme implementation set-up is driven by the scope and desired results of the programme;
- The need to assess organisational and governance parameters when defining the roles of TC personnel in programme implementation;
- The quality criteria linked to programme implementation arrangements.

## 5.1 The commitments to reduce parallel PIUs

The signatories to the Paris Declaration on Aid Effectiveness committed to reduce the stock of parallel PIUs as indicated in the box below.



### Box 30: The Paris Declaration and PIUs

**Indicator 6** of the Paris Declaration calls on development partners to “reduce by two-thirds the stock of parallel PIUs” by 2010 and thereby help to strengthen national institutions and procedures.

OECD/DAC defines a PIU as parallel when it is created and operates outside existing country institutional and administrative structures at the behest of a donor. In practice, there is a continuum between parallel and integrated PIUs. The criteria below have been designed to help donors and partner authorities draw a line within this continuum and identify parallel PIUs with greater certainty.

Donors have been invited to review all their development activities with a view to determining how many PIUs are parallel. PIUs are said to be parallel when **“yes”** is the answer to **three or more** the four questions below (anything less counts as integrated):

1. Are the PIUs accountable to the external funding agencies/donors rather than to the country implementing agencies (ministries, departments, agencies etc)? (Y/N)
2. Are the Terms of Reference for externally-appointed staff determined by the donor (rather than by the country implementing agencies)? (Y/N)
3. Are most of the professional staff appointed by the donor (rather than the country implementing agencies)? (Y/N)
4. Is the salary structure of national staff (including benefits) higher than that of civil service personnel? (Y/N)

As stated in the EC’s strategy for TC and PIUs, the ambition level within the EC is higher than what is expressed above. The EC’s vision is that the use of parallel PIUs be reduced substantially and gradually replaced by partner-owned and managed programme implementation arrangements embedded in the local institutional context.

Leading on from the questions in the box above, the target is that programme implementation arrangements will have three or more of the following characteristics:

1. The programme is primarily accountable to the country implementing agencies;
2. The Terms of Reference for externally-appointed staff are determined by the country implementing agencies and as relevant, endorsed by the supporting donors;
3. Most of the professional staff are appointed by the country implementing agencies;
4. The salary structure of national staff is the same as that of other civil service personnel.

The problems with parallel PIUs are highlighted in the following table. The sections below detail how to address these problems and move towards the EC targets in this area.

### Box 31: What are the underlying problems with PIUs?

Project Implementation Units are seen as problematic when they are parallel, that is operating outside existing country organisations and governance/accountability frameworks. Parallel PIUs are seen as a cause of:

- ➔ Fragmentation of efforts, with each donor having “their own” PIU.
- ➔ Capacity destruction when PIUs poach staff from line functions by offering better conditions, thereby not only weakening line functions, but also disenfranchising those left behind.
- ➔ Ineffective, because they are often input/activity focused and not impact oriented.
- ➔ Unsustainable, because the PIU is unaffordable and falls apart once a project is over.

**There is also a layer of more deeply rooted problems** leading to parallel PIUs.

- ➔ Donor-driven programmes without effective demand from partners, which are therefore managed by donor-contracted experts with a focus on donor-supplied inputs only.
- ➔ Ambitious agendas for quick delivery of results and disbursement which do not match existing capacity and therefore bypass it rather than developing it.
- ➔ PIUs defined without attention to basic managerial and organisational principles and concerns, particularly without consideration of what change management requires.
- ➔ Donor procedures which require parallel management of procurement and implementation.

The first set of underlying problems (i.e. donor-driven programmes and quick delivery agendas) has been addressed in previous parts of the guidelines. The next part focuses on the managerial and organisational aspect. The modification of EC procedures related to project implementation is part of the wider EC strategy for TC reform and is not addressed here.

## 5.2 Towards partner-owned programme implementation arrangements

Remember that these guidelines always refer to the *partner's* programme when using the term programme. Consistently, EC and other donors **support** partner programmes, rather than having their own. Any kind of partner programme needs implementation arrangements. How a programme or project is set up and managed is as important for its success as every other part of its design. This is particularly the case for programmes aimed at CD, but also for any other intervention aimed at creating lasting change.

To mark this fundamental shift in perspective the term “programme implementation arrangement” has been adopted to break away from the donor-centric focus implicit in the PIU term. Consistent with the emphasis on ownership as a practical concept, **the programme implementation arrangement is the governance, accountability, managerial and organisational set-up of the *partner's* programme, including all the resources necessary for its successful implementation.** By implication, the design of programme implementation arrangements is for the partner to decide – with EC and other donor staff in a facilitating role as helpful dialogue partners who can ultimately endorse the implementation arrangements as effective and appropriate also for the TC support provided to the partner's programme.

### Box 32: Focus on the partner's programme implementation arrangements!

The PIU concept has come to mean a *donor* arrangement.

The concept of “programme implementation arrangements” refers consistently to the *partner's* programme set-up, covering both own resources and any external support.

Over the past decade, it has become increasingly clear that in programmes/projects aimed at changing behaviour and capacity, careful attention also needs to be given to **change management** and thus work on implementation arrangements which facilitate the performance of change management functions. This requires seeking answers to the following types of questions:

- ➔ how the management set-up ensures that change and CD are brought to and kept on the political agenda of relevant domestic stakeholders;
- ➔ how the set-up gets those on board who can and will act as change agents and sponsors, gather support and deal with resistance;
- ➔ how to deliver the “selling work” of change;
- ➔ how to deliver the technical aspects;
- ➔ how to manage and lead all these different aspects.

External actors, including TA, cannot perform several of these functions effectively. Therefore, the basic method of “protection” against parallel PIUs is to focus on the partner’s programme and the detailed change management functions which have to be performed. The design process has to specify how the programme is going to operate on these parameters, i.e. how *all* inputs will be organised. Programme implementation arrangements capture this holistic perspective which breaks with the past focus on PIUs which effectively focused on donor-driven and donor-owned projects.

### Box 33: Support to the Regional Integration Agenda of COMESA



The aim of the programme is to assist the COMESA and East African Countries to implement their Regional Integration Agenda, including the completion of a customs union and the establishment of a common market. This EC support is the first of its kind (2005) with a regional organisation executing a Contribution Agreement through its own financial and contracting systems.

This is an example of demand-driven TC support, with CD objectives linked to clear outputs (implementing regional integration) fully integrated into the COMESA institutional framework.

The Programme Implementation Arrangements are those of COMESA: overall responsibility for implementation rests with the Secretary General of COMESA. The budget for the programme is separate from the COMESA operational budget but the implementation of activities is fully integrated in COMESA’s daily operations. Most of the project staff are regionally recruited by COMESA, through its own recruitment system and are remunerated in line with COMESA’s salary scales. Staff salaries are paid by the project, but tendering and payment is done through the COMESA Financial Directorate. Project staff are accountable to the Secretary General of COMESA.



**Bridge to procedures:** contribution agreement (as in the example in box 33) or a programme estimate allow to integrate the programme implementation arrangement in the partner organisation  
➔ see practical case n°1 of annex 6

## 5.3 Making purposes and results drive the set-up

The balance between **autonomy and integration** is the key parameter to consider when helping partners to design or assess a programme implementation arrangement. The design (greater or lesser integration/autonomy) should be guided by the type of results that the wider programme supported by TC aims to achieve:

- ➔ A greater level of **autonomy** and de-linking from the public sector is required when:
  - Results are highly independent on inputs or resources from other organisations operating in the public sector system;
  - There are no pressing demands for CD or sustainability.
- ➔ A greater level of **integration** with public sector organisations is required when:
  - Results are highly dependent on inputs or resources from other public sector organisations;
  - Sustainable CD of core public sector organisations is a high priority.

It is important to distinguish clearly between “autonomy” – which all organisations must have to some degree to be effective – and the concept of “parallel” PIUs which indicate de-linkage from and possible duplication of functions in relation to partner organisations. The box below presents examples of the links between desired results and the possible balance between autonomy and dependency.

### Box 34: Types of programme and results, and the implications for the “PIA”

- **Major reform:** Depending on the nature of the reform, the initial isolation of a reform unit may be required while it is developing the reform strategy to protect it from interference by organisations that may stand to lose from the reform process. Strong links to pro-reformers will, however, be necessary.
- **Sustainable capacity development and downstream reform processes:** An ability to work closely and positively with staff and managers, and keep reform/CD on the agenda will, in most cases, require full integration of CD/reform units.
- **Implementation of investment projects with subsequent transfer to the public sector (“Build, Operate, Transfer” models):** In settings with relatively strong local capacity, the “building phase” can be relatively autonomous as local staff will be able to take over afterwards. In settings with weaker capacity, the transfer process demands that TC is able to switch from an “implementation” to a CD mode.
- **Implementation of programmes or investment projects where the government will outsource the operating functions in the future:** Implementation units with relatively high levels of autonomy and which are ring-fenced against systemic issues in the public sector may be the appropriate programme implementation arrangement.
- **Results which can be produced by a small, high-powered team:** Many so-called first generation reforms (e.g. fiscal and monetary policy management) demand a small, autonomous team with open communication channels to the highest levels of management/policy making.
- **Results which can be delivered on a very broad scale with little interaction with other processes:** For example, high autonomy is likely to work well for a school lunch programme or a voucher system allowing poor farmers to purchase fertilizer.
- **Results on a very broad scale demanding inputs from several other public sector institutions:** A high level of integration will be necessary to ensure cooperation and sustainability, e.g. of quality of education which demands that several educational subsystems “meet” in every single classroom.



## 5.4 Organisational and governance parameters

There is no right answer or textbook approach when discussing the design of an adequate programme set-up. Nevertheless, there are five basic parameters that must be considered, as presented in the box and briefly discussed below.

### Box 35: Five parameters to consider

1. **Governance and accountability:** Who should oversee and govern the programme and who should the programme be accountable to in the country system?
2. **Management set-up.** Who will perform daily programme management functions, and with what authority over resource management decisions?
3. **Logistical autonomy:** Does the programme require its own vehicles, photocopiers, janitor and coffee service, etc., or should it share resources with others?
4. **Relations between TA experts, partners and the EC:** If not contracted by the partner but by the EC (or another donor), who are the experts taking instructions from and to whom are they accountable?
5. **EC and other donors' roles in the programme implementation arrangement:** Should donors play a role at all in the governance of the programme implementation arrangement – and if so, what role?





## Governance and accountability

The higher level authority which governs a programme can have a stronger or weaker mandate to:

- ➔ approve the modification of programme elements, results, activities, budgets, inputs and timeframes;
- ➔ issue incidental instructions to the management of the programme;
- ➔ hold the implementers accountable.

The governance of the programme can be vested in a single executive (e.g. a minister), or in a broader set of stakeholders in a board or a steering committee – or in a combination of the two. As a rule, the bigger the board, the less clear the leadership mandate and authority will be. If there is no other more focused and centralised governance then there is a risk that the programme will “float” and commitment to it will weaken. Conversely, if strong leadership is vested in one authority (e.g. the Ministry of Agriculture in an agricultural sector programme) the greater the risk that other key stakeholders (e.g. water, credit or transport authorities) will feel disenfranchised.



### Box 36: Support to the National Authorising Officers – starters for discussion (part 1)

The authorities of each ACP-country appoint a **National Authorising Officer (NAO)** to represent them in all activities financed by the Commission and the European Investment Bank. The NAO is in charge of both political and technical functions, including programming, coordination, management and monitoring of the entire EC country cooperation programme as well as the operational aspects of the implementation of EC aid and the dialogue with the Civil Society. The NAO may delegate the preparation and implementation of EC aid to the responsible services (Ministries or Public Agencies) within the national administration – quality of financial management and capacity permitting – to increase the ownership and responsibilities of the partners. The “NAO system” therefore encompasses usually the NAO itself (which is in the majority of the cases a Minister), the deputy NAO(s), delegated NAO(s), line departments involved in the implementation of EC assistance (which could be delegated NAO) and very often a NAO support unit.

The institutional anchorage of the NAO system should be consistent with the overall system of public resources management in order to contribute to better donor coordination and ensures appropriate synergies with the national budgetary process. While depending strongly on country contexts, the support to the NAO should include a dynamic vision permitting the needed evolution towards more delegation of responsibilities to relevant national public services and greater national capacity building in the management of the development processes.

In practice the **NAO Support Unit** consists of seconded officials, contracted staff and long term technical assistance mainly specialised in EC procedures, because of the high transaction costs of EC assistance in terms of financial and contractual procedures. Discussion about these units should cover the DAC standard criteria determining their “integration” versus “parallelism”:

- ➔ Are the terms of reference for the externally appointed staff of the NAO Support Unit determined by the NAO only?
- ➔ Is most of the professional staff of the NAO Support Unit appointed by the NAO?
- ➔ To what extent is all the staff at the NAO Support Unit accountable to the NAO only?
- ➔ Is the salary structure of the staff of the NAO Support Unit higher than that of civil service personnel? Is the level of salaries provided to national contract staff coherent with the level of salary of seconded government civil servants (including possible topping up provided) for the same level of duties? Is the level of possible topping up provided to seconded government civil servants kept under an appropriate threshold in comparison to government officials salary?



**Box 36: Support to the National Authorising Officers – starters for discussion (part 2)**

Discussions should also cover the following aspects:

- ➔ Has an institutional and organisational review(s) of the NAO functions and capacities been carried out? Is the NAO structure adequately organised to perform its duties and to contribute to capacity development? Is the unit ensuring a good interface with line departments and other relevant public agencies? What is the degree of sub-delegation in the preparation and implementation of EC programmes to national public services?
- ➔ What are the main implementation modalities of EC assistance? Is the focus of the work of the NAO Support Unit adapted to these modalities? Is it limited to implementation of EC procedures? Is there a need for developing capacities, such as a better knowledge of assessment requirements in cases where general/sector budget supports are or will be provided? Is there room for use of national procedures, for working on improvements in design and application of national procedures?
- ➔ Is the staff well suited and well trained to ensure timely implementation of EC support? What are the recruitment criteria?
- ➔ Will the NAO support unit be involved in supporting capacity development of coordination/management of national resources and bodies? What is the role the unit plays as regards external assistance and donor coordination?
- ➔ What are the monitoring arrangement and capacities of the unit?
- ➔ What are the staffing arrangements of the NAO Support Unit: what is the proportion of long term expatriate staff to government civil servants and other national contract staff? What is the structure of the staffing of the unit? Does the unit have government officials seconded from important line departments receiving EC assistance? What are the management responsibilities of line departments seconded officials?
- ➔ Is expatriate staff engaged in application of EC procedures, i.e. in operational tasks or (also) in transfer of knowledge to national staff? Is contract staff engaged in application of EC procedures, i.e. in operational tasks or (also) in transfer of knowledge to national staff?
- ➔ Are logistics provided by the Ministry hosting the NAO and its Support Unit or by the EC Delegation?

Care should be taken not to establish governance mechanisms which duplicate or overlap with existing coordination mechanisms between sectors or organisations.



**Bridge to procedures:** To what extent can the design the support from EC be based on the partner system ➔ see section 1.2.1 of annex 6

### **Management set-up and staffing**

The daily operations of the partner's programme demand a functional management set-up. If the objectives being pursued demand close integration, then the management function(s) should be performed by staff from the "owner organisation". It is important that the programme manager(s) has/have the necessary competence and status in the organisation to be able to perform the management functions. Crucially, the commitment of the manager(s) to attend to the required tasks on a daily basis (with whatever proportion of his/her time) should be checked.

A programme can be fully integrated into existing partner systems/structures, organised as a semi-permanent unit, or be supported by an interim task force whose members perform implementation functions while they are attending to their other "recurrent" tasks. Partner staff may be assigned on a full or part-time basis to programme management. Both full-time secondment for a period and part-time assignments have pros and cons. Seconded staff may be those who could best be spared, part-time assigned staff may have stronger links to their organisation (important if networking is part of the task) but may have difficulties in giving sufficient time to the programme. TC personnel should not normally assume formal managerial roles where sustainability, ownership and CD are important. International TA, in particular, may often have (and exploit) the ability to by-pass formal hierarchical levels which may risk undermining the authority of the programme management.

**Logistical autonomy or embeddedness**

In principle, a programme which is physically located inside a ministry can be as parallel as a programme sitting in a rented building in another part of town. The physical location, however, may have a significant symbolic effect – a programme which is operating under far better conditions than its “parent organisation” will be perceived as privileged and, most likely, as a donor-driven project. Full integration in a line organisation and dependency on existing general services (e.g. photocopying, computer networks, joint transport pool, PFM capacity, staff hiring procedures and remuneration) may slow down the implementation speed but help to ensure the legitimacy and sustainability of the smaller steps taken. Extended autonomy (pay levels, support functions, transport, etc.) may erode the motivation of neighbouring units which do not have the same benefits, and jeopardize sustainability since few countries can afford granting such a privileged status on a permanent basis.

**Relations between TA experts, partners and donors**

A classic problem is that donor-contracted advisers are asked to work for the partner but still have strong links to and interests in satisfying their paymaster. This creates what are often labelled “triangular affairs”, where the possibility of conflicts of loyalty and crossing boundaries can poison work relations which require a high level of trust.

Some donor agencies explicitly request consultants to report only to the partner and completely cut off direct communication with them. However, if the consultant’s role and responsibilities require full client confidentiality – such as providing mentoring/coaching for agency leaders and staff – then the basic advice is to ensure that consultant services are contracted directly by the partner.

Consultant contracts should, of course, specify that ethical and professional standards of client confidentiality must be fully respected.

**EC and other donors’ roles in the programme implementation arrangements**

Donors’ demand for accountability for the support they give often overshadows and undermines normal domestic accountability mechanisms. This is also the case when TA is involved, particularly if the TA has contractual ties to the EC. Ideally, the EC should not play a more direct role in TC-supported programmes than it does in any other national programme supported by the EC. That is, the EC should limit its participation primarily to policy dialogue, negotiation of results frameworks, and ongoing monitoring, review and evaluation. Monitoring and evaluation of TC support is discussed in chapter 6.

**Box 37: Providing cars and computers as part of TC support?**

TC support often includes vehicles, computers, photocopiers, etc., as well as experts. In some cases, the acceptance of experts may appear to be linked to the material benefits he or she will bring, rather than the advisory function.

Vehicles and computers may be justified as part of the package. Providing them, however, mainly serves to by-pass weak PFM systems that do not allow organisations to have their funding adequately divided between salaries and operational costs.

If the EC provides budget support, it could be part of the agreement that operational expenses linked to TC support should be funded through the treasury or, in some specific time horizon, pass over to such funding

**5.5 Quality Criteria – programme implementation arrangements**

The points raised in this chapter are summarized in the quality criteria presented in the box below; they need to be addressed through the cycle of operations. These criteria are included in the final Quality Matrix presented in chapter 6.

## Box 38: Quality Criteria on “PIA”



<b>1. Demand, adequate ownership and capacity of partners</b>	<b>1.1.</b> Key stakeholders have convincingly expressed commitment and demand for support which is commensurate to the size of the project. For CD support, the commitment of partners matches the scope of change.
	<b>1.2.</b> Partners have participated adequately in the design of TC support, beyond formally endorsing proposals.
<b>2. Fits the context and existing capacity</b>	<b>2.1.</b> There are no critical constraints in the context which would impede achieving the purpose of the TC supported programme.
	<b>2.2.</b> The existing capacity has been assessed, confirming that the TC support is adequate based on absorption capacity and CD objectives.
	<b>2.3.</b> Similar programmes and types of TC support have been successful in the current context.
<b>3. The support is harmonised and sustainability of benefits considered</b>	<b>3.1.</b> TC support from other donors in the sector has been mapped, and other main donors have been/are consulted on the possible upcoming TC support.
	<b>3.2.</b> Synergies and harmonisation options have been explored and where relevant actively pursued with partners and other donors.
	<b>3.3.</b> Proposals for stand-alone TC support are clearly justified, and strategies for further harmonisation and sustainability of benefits provided.
<b>4. Link to outputs and expected outcomes</b>	<b>4.1.</b> Outputs and/or outcomes are defined/monitored at the level of actual service delivery, regulation or investments in use, beyond immediate TC deliverables.
	<b>4.2.</b> The inputs from partners have been specified and are sufficient to indicate that ownership is strong enough to achieve and sustain the desired results.
	<b>4.3.</b> Executive roles of partners and TC roles are specified/fulfilled. If partners play little or no role, this is separately justified.
	<b>4.4.</b> Innovative forms of TC support have been considered/used; the size and intensity of TC inputs are appropriate to the partner's capacity to lead, manage and absorb support.
<b>5. The programme implementation arrangements are appropriate</b>	<b>5.1.</b> The programme implementation arrangements are designed and effectively based on the results to be achieved taking into account their dependency on inputs from other organisations.
	<b>5.2.</b> The managerial autonomy of the programme implementation arrangement gives adequate authority over programme resources given the purpose of the programme.
	<b>5.3.</b> Partners lead the programme adequately and there is clear accountability to domestic stakeholders.



## Monitoring, evaluation and quality assurance

This chapter explains:

- How to ensure that adequate monitoring takes place during implementation;
- That there are two focus areas: monitoring CD outputs; and mutual performance assessment;
- How to determine the appropriate role of the EC in monitoring;
- What to consider in evaluations of TC support;
- The total set of quality criteria and attributes (Quality Matrix) to help assess and assure quality of TC support.

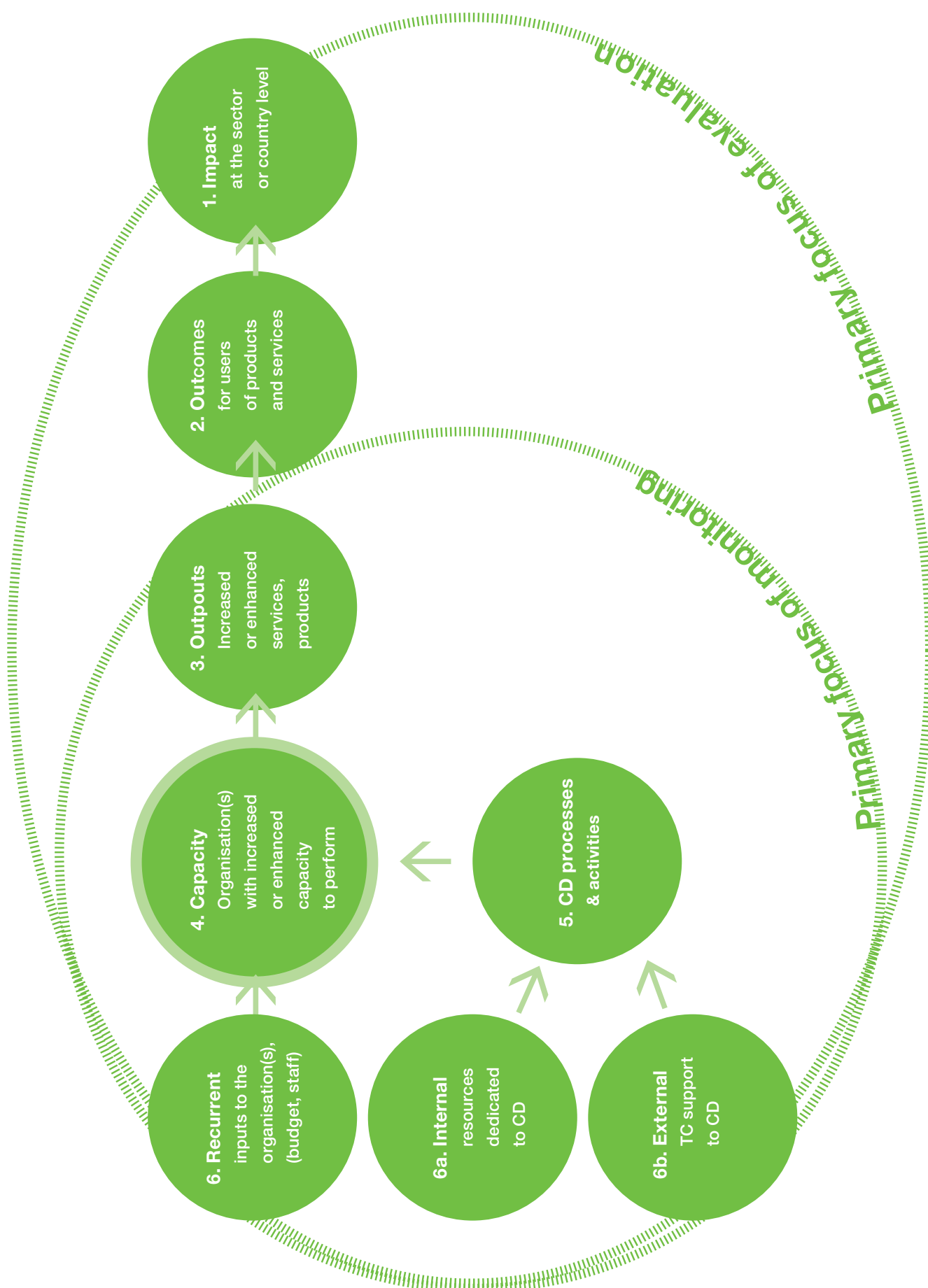
## 6.1 Monitoring the implementation of TC support

The principles underpinning the monitoring of TC-supported programmes are not different from the general principles for monitoring, which means that the partner(s) should have the primary responsibility for programme monitoring and accountability to domestic stakeholders. That said, there are some particular challenges related to the monitoring of TC-supported programmes and the performance of TC inputs. Long-term sustainability and capacity development require a systems approach to accountability and monitoring, where organisations are accountable “upwards” to boards, political bodies, etc; “downwards” to frontline staff; and laterally to clients/customers and organisations representing civil society/human rights interests. Getting this accountability framework right is part and parcel of CD. Therefore, the primary focus of the EC should be on whether and how these domestic monitoring and accountability systems work.

Monitoring of TC support should cover the six links in the logical chain discussed in chapter 4. Monitoring of the outcomes and impact levels in this logical model is only conducted intermittently to help make an informed judgement about the TC’s *contribution* to impact and outcomes. Monitoring at these levels is a core part of evaluations and will be briefly discussed in section 6.2 below. The figure on the next page illustrates the respective focus of monitoring and evaluation of TC supported programmes.

The particular features of monitoring related to TC support are discussed below. Two focus areas of monitoring are discussed: i) monitoring capacity enhancement and outputs; and ii) monitoring CD processes and TC, including through mutual assessment.

Figure 6: Focus of monitoring and evaluation of TC support



## Monitoring capacity and outputs

Changes in the capacity of an organisation or a system of organisations (e.g. in a sector) as a consequence of a CD intervention can be monitored at two levels:

- i. Outputs (such as the level of services, products and regulations delivered by the organisation or sector); and
- ii. Capacity: The changes in the capacity of the organisation or system of organisations

Both outputs and the capacity to produce them should be monitored when CD is the primary aim of the TC support. If the purpose of TC is to support implementation, the monitoring should focus on the expected outputs of the operations.

### Box 39: About indicators

Indicators for TC support, CD processes, capacity and outputs are as easy – and as difficult – to define as any other indicators. Tips include:

- ➔ a good basic design of processes and results is the foundation for good indicators – indicators cannot “save” a poor design.
- ➔ good design and good indicators require expertise and experience in the specific field.
- ➔ indicators by their nature simplify complex phenomena. Be aware that they may invite to the pursuit of simplistic targets rather than useful results.

### Monitoring outputs (e.g. services, products, regulatory acts)

Outputs are often monitored exclusively through “production data” from the organisation(s) responsible for the production. Such administrative data are important, but on their own they are not enough because they do not measure the quality, relevance and timely availability of the products as experienced by the consumers, clients or citizens. They should therefore be supplemented by regular *surveys of customer/client satisfaction*. Administrative data may show the number of teachers and students attending classes and levels of educational attainment, however it may not reveal why some schools are performing better than others.

The monitoring of outputs in itself does not fully indicate the extent and nature of capacity change within an organisation/system, but outputs are a useful first proxy indicator for capacity. However, the following should be noted:

- ➔ While particular aspects of an organisation’s capacity may improve, it usually takes time for these improvements in results to translate into better performance.
- ➔ At the same time, improvements in outputs may sometimes be due to factors which are not linked to any capacity development process.

### Monitoring changes in the capacity of an organisation

Changes can be measured and monitored through periodic self-assessment or external assessment of capacity. It is particularly useful if the periodic capacity assessment can be compared to a baseline which may have been the result of an initial capacity assessment. In some situations and for some organisations, it may be appropriate to conduct an external assessment that is peer-based and benchmarked against recognised standards (e.g. for the central bank, the auditor general or a reference veterinary laboratory).

Appropriate indicators or parameters will need to be selected that are acceptable and understood by stakeholders. This will help to ensure that monitoring addresses the need for learning as well as accountability.

A **mix of qualitative and quantitative indicators** is likely to be needed that capture both tangible and intangible dimensions of capacity.

- ➔ Examples of more tangible elements might include: use of new business processes, introduction of revised structure and job classification system, review of policy and legal framework, staff competency.
- ➔ Examples of intangible elements might include: quality of leadership and management, sense of loyalty and shared values among staff, motivational factors beyond pay, confidence and organisational legitimacy or resilience, quality of internal and external relationships including communication.

Monitoring the capacity of *systems of organisations* is more complex and demanding but would, in principle, look at the same factors as capacity monitoring of an individual organisation (e.g. division of labour, coordination, governance/management, accountability, production processes, and financial management).



While monitoring is primarily the responsibility of the partner, there are a number of sources that both the partner and the EC can draw on. They are listed in box 39.

#### Box 40: Data sources for monitoring of results, performance and capacity



- ➔ Administrative data (e.g. health and education system records and reports);
- ➔ Surveys and other data collection and analyses undertaken by central agencies such as national statistical offices or research institutes;
- ➔ Data collection and analysis undertaken by international/regional organisations and other donors (such as the World Bank, ADB, IMF, UN, DFID);
- ➔ Sector reviews organised in connection with SWApS;
- ➔ Monitoring by the EC's including the centrally managed Results-oriented Monitoring System;
- ➔ Mid-term reviews and ex-post evaluations.

#### Who does what?

- ➔ **The partner:** Monitoring is primarily the responsibility of partner organisations, supervisory bodies and, where relevant, civil society watchdogs and/or user associations. The monitoring serves to promote learning and helps to keep attention on the performance of the organisation(s) and on the CD processes which should strengthen this performance. Where necessary, monitoring can also serve to adjust capacity development processes in terms of activities, timing and inputs.
- ➔ **The EC:** The role of the EC is mostly to help ensure that results are monitored through administrative data and through appropriate user surveys; that capacity development is being monitored and that the monitoring results are fed back into adjustments of the CD programme and the TC support within that programme.



**Bridge to procedures:** On the role of the partner in the reporting ➔ see section 5.1 of annex 6

#### Monitoring CD processes and TC, including through mutual performance assessments

Mutual performance assessment may be perceived as sensitive and must be handled with care. Their use is not compulsory; it should be considered and discussed during the design phase of TC support.

CD and other advisory processes (such as coaching, development of procedures, on-the-job training, management development and learning) require significant inputs from the partner as well as from any TC support being provided. Therefore, success depends on the performance of both partners and TC inputs.

Monitoring the performance of individuals is a normal process in many organisations, but it is still relatively rare in public sector organisations in developing countries. In recent years, mutual performance assessments have gained prominence. These imply that managers assess the performance of staff, and staff assess the performance of managers. This same concept is also helpful for the performance assessment of partners and TA: they depend on each other for performance, and therefore have to assess each other. This can take the form of a regular performance dialogue, using an adequately structured process and formats to help guide the parties through the mutual assessment process.

The assessment of TA performance should be checked against the key performance areas of the TOR and as later detailed and modified in periodic work plans and/or performance agreements.

Annex 5 includes a format that can be adopted or adapted for such mutual performance assessments.

**Who does what?**

- ➔ **The partner and TC personnel:** Regular, systematic dialogue about mutual performance. The purpose is to optimise performance and thereby the achievement of results and objectives.
- ➔ **The partner and EC:** Regular dialogue about the summary of results of performance assessments and, where relevant, brokering of conflicts, adjustment of timeframes or inputs. The purpose for the EC is partly accountability for EC funds spent on TC, and partly to encourage the partner and the TC to work seriously on their working relationship. The EC can play the role here of an engaged, accompanying partner, remaining at arm's lengths from programme implementation, but not letting implementation get out of sight.

**Box 41: Assessing TA performance**

Assessing TA performance is a sensitive but necessary task. All too often, advisers are placed in organisations and after that there is little, if any, systematic supervision of their performance. Since their performance closely depends on their partners, the performance assessment of advisers cannot but be a mutual dialogue between the adviser and his/her direct client or manager in the organisation. Such performance assessments can be very useful to enhance the effectiveness of TC support as a whole.

Mutual assessments should focus on:

- ➔ strengths and weaknesses in how the adviser has performed his/her tasks as agreed in work plans;
- ➔ strengths and weaknesses in how the partners have provided information, support and access to others to enable the adviser to perform his/her duties;
- ➔ steps to be taken to overcome weaknesses and build on strengths.

**6.2 Evaluation of TC support**

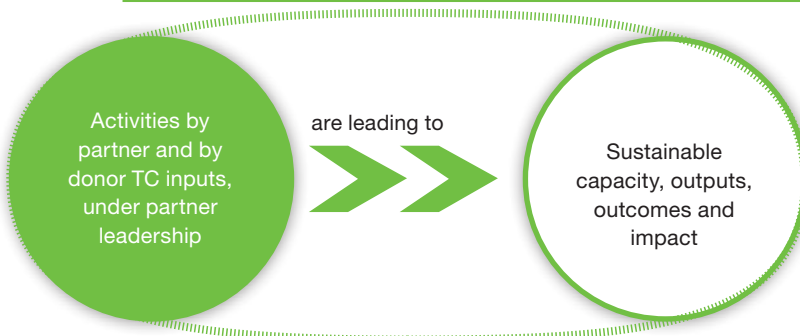
Evaluation goes beyond regular monitoring and focuses on assessing i) whether outcomes and impact have been achieved as expected, and ii) evaluating why certain results and certain impacts have or have not been achieved by the partner's programme.

Figures 7 and 8 illustrate a narrow – and too limited – hypothesis, and a broad hypothesis respectively, that should be focused on in TC evaluations:

**Figure 7: The limited hypothesis: donor support leads to impact**



**Figure 8: The broad hypothesis:**  
**partner inputs + donor support, in an enabling context, lead to outcomes and impact**



In order to help partners, staff in delegations (and/or EuropeAid) and other donors prepare Terms of Reference for joint evaluations a number of specific aspects regarding the evaluation of TC is listed below under the normal evaluation criteria of relevance, efficiency, effectiveness, impact and sustainability.

## Box 42: Evaluation questions for evaluations of TC-supported programmes (part 1)



### 1. Relevance

The appropriateness of the partner's programme objectives to the issues that it was supposed to address, and to the social, physical, institutional and policy environment within which it operated. This should include an assessment of the quality of the preparation and design of the programme in terms of process and content.

- 1.1.** Was ownership of the programme, and the demand for TC support for its implementation, clearly articulated in the design phase of the programme? Did the design relevantly specify wider outcomes, results, and CD outputs (if CD TC was provided), and were the combined inputs from the partner and donors necessary and sufficient to achieve the outputs and results?
- 1.2.** Were there any critical constraints that could have been identified and which prevented the operation achieving its objectives?
- 1.3.** Were the programme implementation arrangements relevantly specified, clearly defining the leading role of the partner, and specifying appropriate roles for the TC and for the EC Delegation and other donors?
- 1.4.** Were synergies and harmonisation options explored and actively pursued with partners and other donors? If stand-alone TC support from the EC was chosen, was it clearly justified?

### 2. Effectiveness

This aspect should evaluate the achievement of the capacity (for CD TC) and organisational outputs – services, products (all types of TC).

- 2.1.** Were the capacity and outputs, beyond the immediate deliverables of the TC and the partner, achieved as planned? Were other capacity results and service outputs achieved? Is there a demonstrable link between the activities of the partner and the TC that explains the capacity and the outputs achieved?
- 2.2.** Considering the capacity and outputs achieved, was the cost-effectiveness of the resources spent (both partner's and EC funds) reasonable?

### 3. Efficiency

Efficiency evaluation should look at the combined efficiency of the partner's inputs and the support from the EC and other donors, if relevant.

- 3.1.** Was the partner's input in terms of staff, managerial attention, information etc., done in a timely manner for the benefit of the programme as planned?
- 3.2.** Did the partner manage the programme implementation efficiently?
- 3.3.** Was TC support provided with the requisite quality, in a timely manner, and at a reasonable cost?
- 3.4.** Were the size and intensity of TC appropriate to the partner's capacity to lead, manage and absorb support? Was TC able to function efficiently?
- 3.5.** Did programme management and TC engage in mutual performance assessments? Did the EC Delegation actively ensure that this happened?
- 3.6.** Was the managerial autonomy of the programme adequate in terms of authority to modify programme resources flexibly when needed, considering the purpose of the programme?



## Box 42: Evaluation questions for evaluations of TC-supported programmes (part 2)

### 4. Impact

The impact evaluation assesses the contribution made by the capacity and outputs to achieving the programme goals and impact, and how assumptions have affected project achievements.

- 4.1.** What are the observable outcomes and impact of the programme, and how do they match the goals and impact specified in the programme document?
- 4.2.** Were there any unforeseen positive or negative outcomes or impact?
- 4.3.** Were the initial assumptions made largely sufficient and valid?
- 4.4.** Considering the scope of outcomes and impact, and the likely contribution of the partner, the EC and other donors, was the programme cost-effective at the impact level?

### 5. Sustainability

An assessment of the likelihood that the benefits of the programme will continue to have effect after external and internal funding has ended, with particular reference to the factors of ownership by beneficiaries, policy support, economic and financial considerations, socio-cultural aspects, gender equality, appropriate technology, environmental aspects, and institutional and management capacity.

- 5.1.** Is the capacity developed sustainable, and will the organisation(s) or the sector be able to continue to produce the relevant services and products for its citizens?
- 5.2.** Does the sustainability include a stronger commitment from relevant stakeholders to the continued delivery of services and products?
- 5.3.** Do the lessons learned from the programme point to opportunities for up-scaling, replication or adaptation so that broader results can be achieved without additional external support?

## 6.3 Quality Assurance

Quality assurance is carried out using a Quality Matrix which can be applied throughout the cycle of operations.

The Quality Matrix consolidates the key messages developed in the Backbone Strategy and presented in these guidelines. The matrix presents the set of quality criteria and attributes developed in chapters 3, 4 and 5. These criteria are complementary to the general quality criteria that apply to all EC support. They cover all four types of TC support.

Partners are ultimately responsible for the quality of their programmes. At the same time, and also with a view to assisting partners in ensuring quality, TC support is subject to quality assurance by the EC just as with other forms of EC assistance. Quality Assurance (QA) is the responsibility of both the Delegations and the Headquarters (or task managers for non devolved operations).

The EC Delegation has a lead responsibility on behalf of the EC for quality assurance during the design and implementation of EC support to partner programmes and projects. Delegation staff have the greatest expertise in their support operations and knowledge of the country context. They are the primary contact point with partner country officials and other private sector and civil society stakeholders. EuropeAid is accountable to the Council of the European Union and the European Parliament for the support financed and implemented through EC cooperation funds. EuropeAid also provides backstopping and facilitates exchanges on lessons learned and best practice throughout the project cycle.

The full Quality Matrix is presented on the next page. In annex 4 the same matrix is presented in a grid format, to be used at operational level. This tool is intended to support structured attention on quality issue throughout the cycle. Its use within the formal oQSG process<sup>4</sup> is defined in the appropriate QSG procedures and instructions.

<sup>4</sup> Office Quality Support Groups are bodies which perform peer reviews of external assistance measures managed by EuropeAid during their identification and formulation. The oQSGs are involved in the preparatory stages of the project cycle, when external aid measures are designed. The oQSGs intervene at two points in the process:

- 1<sup>st</sup> step: at the end of the identification stage, when the oQSGs support quality by giving guidance for further preparatory work.
- 2<sup>nd</sup> step: at the end of the formulation stage, when the oQSGs assess the quality of the key documents before a financing decision is made.

## Box 43: Quality Criteria for Technical Cooperation



<b>1. Demand, adequate ownership and capacity of partners</b>	<b>1.1.</b> Key stakeholders have convincingly expressed commitment and demand for support which is commensurate to the size of the project. For CD support, the commitment of partners matches the scope of change.
	<b>1.2.</b> Partners have participated adequately in the design of TC support, beyond formally endorsing proposals.
<b>2. Fits the context and existing capacity</b>	<b>2.1.</b> There are no critical constraints in the context which would impede achieving the purpose of the TC supported programme.
	<b>2.2.</b> The existing capacity has been assessed, confirming that the TC support is adequate based on absorption capacity and CD objectives.
	<b>2.3.</b> Similar programmes and types of TC support have been successful in the current context.
<b>3. The support is harmonised and sustainability of benefits considered</b>	<b>3.1.</b> TC support from other donors in the sector has been mapped, and other main donors have been/are consulted on the possible upcoming TC support.
	<b>3.2.</b> Synergies and harmonisation options have been explored and where relevant actively pursued with partners and other donors.
	<b>3.3.</b> Proposals for stand-alone TC support are clearly justified, and strategies for further harmonisation and sustainability of benefits provided.
<b>4. Link to outputs and expected outcomes</b>	<b>4.1.</b> Outputs and/or outcomes are defined/monitored at the level of actual service delivery, regulation or investments in use, beyond immediate TC deliverables.
	<b>4.2.</b> The inputs from partners have been specified and are sufficient to indicate that ownership is strong enough to achieve and sustain the desired results.
	<b>4.3.</b> Executive roles of partners and TC roles are specified/fulfilled. If partners play little or no role, this is separately justified.
	<b>4.4.</b> Innovative forms of TC support have been considered/used; the size and intensity of TC inputs are appropriate to the partner's capacity to lead, manage and absorb support.
<b>5. The programme implementation arrangements are appropriate</b>	<b>5.1.</b> The programme implementation arrangements are designed and effectively based on the results to be achieved taking into account their dependency on inputs from other organisations.
	<b>5.2.</b> The managerial autonomy of the programme implementation arrangement gives adequate authority over programme resources given the purpose of the programme.
	<b>5.3.</b> Partners lead the programme adequately and there is clear accountability to domestic stakeholders.



## **Aid effectiveness commitments in the area of TC**

### **Annex 1**

The international community agreed on concrete commitments towards aid effectiveness laid down in two major agreements: the Paris Declaration (March 2005) and the Accra Agenda for Action (September 2008). At the level of the EU, agreement was reached on additional and even more ambitious commitments, captured in the EC Backbone Strategy on Technical Cooperation and Project Implementation Units (July 2008). The Backbone Strategy is a response to both the lessons of the past (notably the recommendations by the European Court of Auditors' Special Report on the effectiveness of technical assistance) as well as the new demands regards aid delivery in the context of the shift towards sector and programme based approaches.

Key excerpts from the international commitments with respect to technical cooperation and capacity development, as well as the key recommendations from the European Court of Auditors, are quoted below.



### Key excerpts from Paris Declaration on Aid Effectiveness (March 2005)

#### 21. Donors commit to:

Use country systems and procedures to the maximum extent possible. Where use of country systems is not feasible, establish additional safeguards and measures in ways that strengthen rather than undermine country systems and procedures (Indicator 5).

Avoid, to the maximum extent possible, creating dedicated structures for day-to-day management and implementation of aid-financed projects and programmes (Indicator 6).

Adopt harmonised performance assessment frameworks for country systems so as to avoid presenting partner countries with an excessive number of potentially conflicting targets.

Partner countries strengthen development capacity with support from donors.

22. The capacity to plan, manage, implement, and account for results of policies and programmes, is critical for achieving development objectives from analysis and dialogue through implementation, monitoring and evaluation. Capacity development is the responsibility of partner countries with donors playing a support role. It needs not only to be based on sound technical analysis, but also to be responsive to the broader social, political and economic environment, including the need to strengthen human resources.

#### 23. Partner countries commit to:

Integrate specific capacity strengthening objectives in national development strategies and pursue their implementation through country-led capacity development strategies where needed.

#### 24. Donors commit to:

Align their analytic and financial support with partners' capacity development objectives and strategies, make effective use of existing capacities and harmonise support for capacity development accordingly (Indicator 4).

#### Indicators:

Indicator 4: **Strengthen capacity by coordinated support**<sup>5</sup>: 50% of TC flows are implemented through coordinated programmes consistent with national development strategies by 2010

Indicator 6: **Strengthen capacity by avoiding parallel implementation structures**: Reduce by two-thirds the stock of parallel implementation PIUs by 2010

Indicator 9: **Use of common arrangements or procedures**: 66% of aid is provided in the form of programme-based approaches by 2010

5 EECD/DAC definition of coordinated Technical Cooperation is provided at the end of this Annex



## Key excerpts from Accra Agenda for Action - September 2008 (part 1)



### *Developing countries will strengthen their capacity to lead and manage development*

14. Without robust capacity-strong institutions, systems, and local expertise developing countries cannot fully own and manage their development processes. We agreed in the Paris Declaration that capacity development is the responsibility of developing countries, with donors playing a supportive role, and that technical co-operation is one means among others to develop capacity. Together, developing countries and donors will take the following actions to strengthen capacity development:

- i. Developing countries will systematically identify areas where there is a need to strengthen the capacity to perform and deliver services at all levels – national, sub-national, sectoral and thematic, and design strategies to address them. Donors will strengthen their own capacity and skills to be more responsive to developing countries' need.
- ii. Donors' support for CD will be demand-driven and designed to support country ownership. To this end, developing countries and donors will i) jointly select and manage technical co-operation and ii) promote the provision of TC by local and regional resources, including through South-South co-operation.
- iii. Developing countries and donors will work together at all levels to promote operational changes that make capacity development support more effective.

### *We will strengthen and use developing country systems to the maximum extent possible*

15. Successful development depends to a large extent on a government's capacity to implement its policies and manage public resources through its own institutions and systems. In the Paris Declaration, developing countries committed to strengthen their systems and donors committed to use those systems to the maximum extent possible. Evidence shows however that developing countries and donors are not on track to meet these commitments. Progress in improving the quality of country systems varies considerably among countries and even where there are good-quality country systems, donors often do not use them. Yet it is recognised that using country systems promotes their development. To strengthen and increase the use of country systems, we will take the following actions:

Donors agree to use country systems as the first option for aid programmes in support of activities managed by the public sector.

- i. Should donors choose to use another option and rely on aid delivery mechanisms outside country systems (including parallel PIUs) they will transparently state the rationale for this and they will review their positions at regular intervals. Where use of country systems is not feasible, donors will establish additional safeguards and measures in ways that strengthen rather than undermine country systems and procedures.
- ii. Developing countries and donors will jointly assess the quality of country systems in a country-led process using mutually agreed diagnostic tools. Where country systems require further strengthening, developing countries will lead in defining reform programmes and priorities. Donors will support these reforms and provide CD assistance.
- iii. Donors will immediately start working on and sharing transparent plans or undertaking their Paris commitments on using country systems in all forms of development assistance; provide staff guidance on how these systems can be used; and ensure that internal incentives encourage their use. They will finalise these plans as a matter of urgency.
- iv. Donors recollect and reaffirm their Paris Declaration commitment to provide 66% of aid as programme-based approaches. In addition, donors will aim to channel 50% or more of government-to-government assistance through country fiduciary systems, including by increasing the % of assistance provided through programme-based approaches.



## Key excerpts from Accra Agenda for Action (September 2008) (part 2)

### **We will adapt aid policies for countries in fragile situations**

21. In the Paris Declaration, we agreed that aid effectiveness principles apply equally to development co-operation in situations of fragility, including countries emerging from conflict, but that these principles need to be adapted to environments of weak ownership or capacity. Since then, Principles for Good International Engagement in Fragile States and Situations have been agreed. To further improve aid effectiveness in these environments, we will take the following actions:

- i. Donors will conduct joint assessments of governance and capacity and examine the causes of conflict, fragility and insecurity, engaging developing country authorities and other relevant stakeholders to the maximum extent possible.
- ii. At country level, donors and developing countries will work and agree on a set of realistic peace- and state-building objectives that address the root causes of conflict and fragility and help ensure the protection and participation of women. This process will be informed by international dialogue between partners and donors on these objectives as prerequisites for development.
- iii. Donors will provide demand-driven, tailored and co-ordinated capacity-development support for core state functions and for early and sustained recovery. They will work with developing countries to design interim measures that are appropriately sequenced and that lead to sustainable local institutions.
- iv. Donors will work on flexible, rapid and long-term funding modalities, on a pooled basis where appropriate, to i) bridge humanitarian, recovery and longer-term development phases, and ii) support stabilisation, inclusive peace building, and the building of capable, accountable and responsive states. In collaboration with developing countries, donors will foster partnerships with the UN System, international financial institutions and other donors.
- v. At country level and on a voluntary basis, donors and developing countries will monitor implementation of the Principles for Good International Engagement in Fragile States and Situations, and will share results as part of progress reports on implementing the Paris Declaration.



## OECD/DAC Definition of Coordinated technical cooperation

Coordinated technical cooperation means free-standing and embedded technical cooperation that respects the following principles. **Ownership** -- Partner countries exercise effective leadership over their capacity development programmes. **Alignment** -- Technical cooperation in support of capacity development is aligned with countries' development objectives and strategies. **Harmonisation** -- Where more than one donor is involved in supporting partner-led capacity development, donors coordinate their activities and contributions.

Donors are invited to review all their development activities with a view to determining how much technical cooperation was disbursed through coordinated programmes that meet **BOTH criteria** below:

1. Have relevant country authorities (government or non-government) communicated clear capacity development objectives as part of broader national or sector strategies? (Y/N)
2. Is the technical cooperation aligned with the countries' capacity development objectives? (Y/N)  
**AND at least ONE** of the criteria below:
3. Do relevant country authorities (government or non-government) have control over the technical cooperation? (Y/N)
4. If more than one donor is involved in supporting country programmes, are there arrangements involving the country authorities in place for coordinating the technical cooperation provided by different donors? (Y/N)

## **Court of Auditors' recommendations**

### **Annex 2**



## RECOMMENDATIONS - Court of Auditors' Special Report on TA (July 2007)

1. In its Country Strategy Papers, the Commission should make a comprehensive and structured analysis of existing institutional capacity weaknesses and of capacity development needs.
2. The Commission should develop guidelines on TA defining its role in the area of CD and providing a sound approach and tools to consider when and how to use it.
3. Design of CD projects should be improved, by facilitating effective ownership and leadership of the national part of the process, by better defining specific CD objectives and related TA requirements, by avoiding overly complex implementation structures, by being more realistic in terms of objectives to be achieved and by planning longer implementation periods.
4. The procedures governing the project preparation and start-up phase, including the procurement of TA, should be reviewed, in order to create more time for implementation, and more flexibility should be allowed during the inception phase to adjust the project design and/or the Terms of Reference for the TA to changes in circumstances.
5. The evaluation criteria in TA tenders should be reviewed, in order to better reflect the quality and previous experience of the experts and the consultancy company.
6. More options should be considered regarding procurement possibilities to allow the best possible choice of technical expertise, including expertise from public institutions and expertise available in the beneficiary country or the region.
7. In line with the Paris Declaration commitments, the Commission should increase its use of TA through coordinated programmes and apply, where possible, implementation arrangements which encourage local ownership.
8. TA performance by companies and experts should be assessed systematically and a management information system for recording, reporting and consulting on this performance should be developed.

# **The Cycle of operations for TC support**

**Annex 3**

The table on the following pages provides a summary of key action to be taken, useful questions - referred as *Guiding Questions* - to be addressed and the outputs to be produced at each main stage of the management cycle for TC support. Observe that in line with the Guidelines, the partner should take the lead and be actively involved in all stages, ideally producing the required documents necessary to solicit support from the EC.

In the case of TC components which are part of a broader programme, the analytical requirements remain much the same, however the steps in the quality assessment process will not necessarily coincide with the overall programme management cycle phases. (for instance a programme may reach the formulation phase although some aspects of the TC component are not yet fully designed).

The table is not exhaustive and in no way seeks to replace relevant official documents and instructions. See also annex 6 for relevant operational aspects and procedures related to TC support.

General points to emphasise about the management cycle for TC operations include:

- ➔ The core principle of supporting the lead role of the partner country throughout the management cycle;
- ➔ The key commitments of the EC to reduce the stock of parallel project implementation units and work towards sustainable implementation arrangements;
- ➔ The need to critically assess the need for TC, and to look at innovative ways in which any necessary TC can be provided;
- ➔ The need to help partners clearly identify and articulate the role of any proposed TC, and to assist partners in designing appropriate programme implementation arrangements which promote country ownership of the TC; and
- ➔ The key role of the Delegation in supporting quality assurance through application of the Quality Frame criteria during the identification and formulation phases.

## The management cycle for TC support

Phases	Actions to be taken	Guiding Questions	Output
1. Identification	<p>→ During identification, the following areas of assessment/work need to be addressed with full involvement of the partner country stakeholders and, where relevant, other donors (see chapter 3):</p> <ul style="list-style-type: none"> <li>• Assessment of partner demand for TC, based on full information on costs</li> <li>• Assessment of the context</li> <li>• Assessment of existing capacity of the organisation or sector system which is going to be supported</li> <li>• Explore options for harmonisation with other donors interventions</li> </ul> <p>→ Analyse options for TC support, together with non-traditional inputs (incl. South-South collaboration)</p> <p>→ Reach an agreement with the Government and relevant stakeholders as to whether or not TC support is appropriate, based on evidence of partner ownership and involvement</p> <p>→ Make sure that a first formulation of objectives and expected results of the proposed TC support is prepared by the partner, as necessary facilitated by EC staff</p> <p>→ Ensure that the resources that the partner has to mobilize and deliver are/will be specified in appropriate details</p> <p>→ Assist the partner in preparing, or as last resort prepare a first estimate of support required and related approx. cost</p> <p>→ Ensure a preliminary assessment of the most appropriate financing modality (EC procedures or Pool Funding)</p> <p>→ Prepare the Identification Fiche based on partner “programme documents”</p> <p>→ Agree how the partner will conduct the process of formulation including, where relevant, support from the delegation, a timetable for follow-up work and the terms of reference for needed additional expertise for the formulation</p> <p>→ Initiate quality assurance at Delegation level, checking against the Quality Matrix (chapter 3.5) and, where relevant, using the Quality Grid (annex 4)</p>	<p>→ What is the strength of the partner's demand?</p> <p>→ Is the TC support an adequate response given the institutional capacity?</p> <p>→ Is TC support relevant to context and have previous experiences of TC effectiveness taken into consideration?</p> <p>→ Has harmonization options been thoroughly explored?</p> <p>→ What form/types of TC providers may be appropriate?</p> <p>→ Is the support consistent with the Paris Declaration and EU commitments on the aid effectiveness agenda?</p> <p>→ What would be the tentative objectives, results, scope and content of the partners programme and the TC support, respectively?</p>	Identification Fiche (IF) and where relevant ToR for formulation submitted to QSG-1 for review

## The management cycle for TC support

Phases	Actions to be taken	Guiding Questions	Output
2. Formulation	<p>→ Update/confirm/complete the assessment undertaken during identification in collaboration with the partner(s)</p> <p>→ Assist partners in defining objectives, the “results chain”, and respective roles of TC providers in a manner acceptable to the EC, and ensure agreement with relevant stakeholders.</p> <p>→ Assist the partner as necessary in the full development of design/formulation (see chapter 4) including:</p> <ul style="list-style-type: none"> <li>• Define expected results (including CD results where CD is the primary aim) and critical activities by all partners</li> <li>• Define the implementation time line for key activities</li> <li>• Detail input requirements and associated costs from all partners - not just the EC funded ones</li> <li>• Where necessary, analyse options and detail the programme implementation arrangements</li> <li>• Detail monitoring, evaluation and audit requirements</li> <li>• Prepare drafts of required TOR for main TC functions</li> </ul> <p>→ Ensure an adequate quality assessment at country level, using the Quality Matrix (chapter 4.6 and chapter 6.3) and the QA grid (annex 4)</p> <p>→ Provide QSG with relevant documents and adequate information on TC, following QSG instructions</p> <p>→ Take into account QSG recommendation in the final design</p>	<p>→ Is the TC linked to a well-formulated partner programme with a convincing logic and results well specified?</p> <p>→ What is the most appropriate form/sources of TC?</p> <p>→ What is the results chain and how will TC contribute to results and outcomes?</p> <p>→ What is the expected implementation time-line, taking into account contextual factors, partner capacity and past experience?</p> <p>→ What are the required partner roles/responsibilities and inputs/resources, as well as those to be provided by donors?</p> <p>→ What are the appropriate project implementation arrangements?</p> <p>→ Is the budget allocation soundly justified in terms of the envisaged results?</p> <p>→ How will performance be monitored and evaluated?</p> <p>→ What is the sustainability strategy and how will risks be managed?</p>	<p>→ Action Fiche and complementary documents, including as appropriate Logical Framework Matrix and TAPs</p> <p>→ Completed Quality Assessment Grid</p>



## The management cycle for TC support

Phases	Actions to be taken	Guiding Questions	Output
3. Implementation & Monitoring	➔ Mobilization of resources:	➔ Is the programme achieving the desired results?	Monitoring and review reports.
	• EC resources, including required TC component are mobilized as planned;	➔ Is the TC support being managed effectively in terms of planning and use of resources?	Reports on mutual performance dialogue
	• Partner's resources	➔ Is the performance of TC to an acceptable standard, for partners and the EC?	Records of decisions on remedial action taken
	➔ Facilitate the partner's implementation of the programme in line with agreed scope (chapter 5) as needed.	➔ Should the EC intervene to take remedial actions, or agree on modifications to programme scope?	
	➔ Ensure that the partner is performing adequate monitoring of progress towards agreed objectives (chapter 6)	➔ Is the partner involved in the monitoring?	
	➔ Promote "responsabilization" of partner country stakeholders	➔ Are the TC providers accountable to PGs?	
	➔ Where relevant, ensure a process of mutual performance dialogue between TA personnel and the partner (annex 5)		
	➔ Participate in periodic, preferably joint reviews and assist the partner in revising the programme scope as required		
4. Evaluation	➔ Assess with government and partners the relevance, efficiency, effectiveness, impact and sustainability of the programme, the added value of the TC component, as well as the appropriateness of chosen implementation modalities (chapter 6)	➔ What has been/is being learned and what are the implications for future policy and programming?	Evaluation reports
	➔ Ensure that evaluations' conclusions and transferable lessons feed back into future policy making and programming by the EC and by partners	➔ See evaluation questions in chapter 6	



# Quality Assessment Grid

Annex 4

Programme: ..... Total amount: .....

Amount of the TC component: .....

<b>Purpose of TC component (more than one possible option)</b>	<b>YES/NO</b>
1. Capacity development of organisations and individuals	
2. Providing policy and/or expert advice (or other knowledge products) made available	
3. Strengthening implementation (of services, investments, regulatory activities)	
4. Preparation/facilitation of EC cooperation (or broader donor cooperation)	

<b>Quality attribute</b>	<b>Assessment</b>
<b>1. Fits the context</b>	
1.1. How does the context analysis confirm that TC is the appropriate aid response?	
1.2. Are there any critical constraints which could impede achieving the purpose of the TC supported programme? If yes, how are they addressed?	
1.3. Have similar programmes and types of TC support been successful in the current context?	
<b>2. There is clear commitment and adequate ownership from partners</b>	
2.1. How have key stakeholders convincingly expressed commitment and demand for support which is commensurate to the size of the project and, for CD interventions, to the scope of change?	
2.2. How have the partners participated in the design/ implementation of TC support, beyond formally endorsing proposals and other requirements?	
2.3. Have inputs from partners been specified? Are they mobilized as planned indicating that ownership is strong enough to achieve and sustain the desired results?	

<i>Quality attribute</i>	<i>Assessment</i>
<b>3. The support is harmonized and sustainability of benefits considered</b>	
<b>3.1.</b> Has the “mapping” of TC support from other donors in the sector been completed? Were the other main donors consulted on the possible upcoming TC support?	
<b>3.2.</b> What synergies and harmonisation options have been explored? Were they pursued with partners and other donors?	
<b>3.3.</b> Are any proposals for stand-alone TC support clearly justified? In this case what are the strategies for further harmonization and sustainability of benefits?	
<b>4. Link to results and expected outcomes are clear</b>	
<b>4.1.</b> How are results and/or outcomes defined/monitored at the level of actual service delivery, regulation or investments in use, beyond immediate TC deliverables?	
<b>4.2.</b> How are TC roles and executive roles of partners specified/fulfilled? If partners play no or a limited role, is this separately justified?	
<b>4.3.</b> What innovative forms of TC support have been considered? Are TC inputs balanced in size and intensity to the partner’s capacity to lead, manage and absorb support?	
<b>5. The “programme implementation arrangements” (PIA) are appropriate</b>	
<b>5.1.</b> How are the project implementation arrangements designed/effectively based on the results to be achieved, considering their dependency on inputs from partner organisations?	
<b>5.2.</b> How does the managerial autonomy of the PIA provide adequate authority over programme resources considering the purpose of the programme?	
<b>5.3.</b> In which way are partners in the lead? Has a clear accountability to domestic stakeholders been introduced?	



# **Format for Mutual Performance Dialogue**

## **Annex 5**

This format for mutual performance dialogue is intended for use between a longer term technical assistant/consultant/expert and his/her immediate supervisor in the partner organisation for which the consultant works. Depending on the situation, it can be used every month, quarter or every 6 months.

It is not for use between EC delegation staff and TA personnel unless the latter work exclusively for the delegation.

The objective of the format is to make the consultant's contribution effective. This demands that the consultant is performing well but it also requires that the client establishes an enabling environment for the consultant to access to information, support, dialogue and joint work with staff in the organisation, to clear endorsement of workplans, draft products etc. In short, "it takes two to tango" – and this format is a means to enable both parties finding the right set-up that lead to good performance and lasting impact.

The format is not intended for assessing performance of the consultant, or the partner, for the sake of assessing performance or for the sake of backing decisions that need formal underpinning, e.g. shortening the contract of a consultant whose performance is not acceptable. In the same vein, the format is not suited for conflict resolution. It is strictly aimed for situations where cooperation is flowing more or less "normally", and where structured dialogue can solve "normal" problems and enhance performance.

The format should be adapted to suit local needs and customs.

### ***How to use the format:***

The format can be filled out jointly during a meeting which should not have other issues on the agenda. Alternatively, the two parties can each fill in their part of the format, and then meet to discuss their respective assessments and enter joint comments. Comments could also include observations that the parties disagree.

### ***What to do with the format after the dialogue?***

The format should stay with the two parties of the dialogue, and be referred to the next time the assessment is made. Copies may be distributed to higher level managers in the client organisation and to the task manager in the EC delegation. The format can be used with different focus including as a tool to identify problematic issues to be addressed. EC task manager should, however, as a minimum, request confirmation that the mutual performance dialogue has taken place.

It can be part of the financing agreement that such mutual dialogue will take place at specified intervals.



## Mutual Performance Dialogue – Technical Assistance Personnel

Name of supervisor: .....

Name of adviser/consultant: .....

Period under assessment: .....

1: very much/very good

2: good/to some degree/fair

3: Not quite good enough/less than satisfactory

4: Unsatisfactory/no/poor

Issues	Supervisor's assessment				Consultant's assessment				Joint comments
	1	2	3	4	1	2	3	4	
<b>Plans, results and efficiency</b>									
1. A clear and agreed workplan has been followed									
2. Agreed results have been delivered on time in appropriate quality									
3. The TA has been efficient									
<b>Preconditions for performance</b>									
4. Necessary information for task accomplishment has been provided to the consultant, as well as access to informants in and outside the organisation									
5. Participating staff have been available as planned and agreed									
6. Participating staff have been supportive, engaged and have provided timely feedback when required									
<b>Management performance</b>									
7. The key supervisor/manager has provided effective overall directions for the work									
8. The key supervisor/manager has been available on request									
9. The key supervisor/manager has supervised the work of the consultant appropriately									

**Consultant performance**

10. The consultant has sought guidance and respected his/her advisory role									
11. The consultant has been adaptive and flexible									
12. The consultant has been proactive and proposed relevant ways of accomplishing the advisory tasks									

**Co-operation**

13. Problems have been addressed in a constructive manner									
14. Cooperation is considered satisfactory									
15. Possible problems from earlier periods have been addressed									

Additional comments – Supervisor/Manager:

Proposals for the next period:

Issues which should be brought to the attention of others:

Additional comments – Consultant/Adviser:

Proposals for the next period:

Issues which should be brought to the attention of others:

Date:

Supervisor

Consultant

Higher level management's possible comments and countersignature:

Received: .....

Copies to be distributed to:

**Short guide to EC  
rules and procedures  
– How to apply  
EC procedures to TC**

**Annex 6**

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# Introduction

The purpose of the present document is to assist the services of the Commission in adequately applying the financial and procedural rules of EC and EDF legal framework (Cotonou Agreement and Instruments for EC external cooperation, EC EC/EDF Financial Regulations, etc) to implement Technical Cooperation, taking due consideration of the objectives and key principles of the Paris Declaration as reflected in EC's Backbone Strategy on Technical Cooperation.

As any other public entity, the EC disposes of a set up of rules and procedures to ensure that public funds are utilised in full respect of the principles of transparency, non discrimination, equality of treatment, best value for money and sound financial management. These rules and procedures also take into consideration the share of competences between Member States, the different EC institutions and the services of the Commission. Most of these rules are established by the EC legislator (e.g. EU Member States/Council and European Parliament) and the Commission's services must abide by them.

Within the field of EC external actions, this set of rules and procedures is translated in the Practical Guide to contract procedures for EC external actions ("PRAG"), which in addition provides instructions from the Director-General on how these rules need to be applied. With the new changes in 2007 and 2008, these rules are simpler and more flexible, introducing new possibilities for the Commission's services to use a larger array of aid delivery methods, new sources of finance and new implementing partners in line with European and international commitments of the EC (e.g. Paris Declaration, European Consensus, Code of Conduct on Division of Labour).



**Useful link No 1:** The PRAG can be found at the following site:

[http://ec.europa.eu/europeaid/work/procedures/implementation/practical\\_guide/index\\_en.htm](http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/index_en.htm)

The present document represents an additional effort to explain EC procedures in a friendly manner for non specialists in contractual and financial matters, who often see rules and procedures as an obstacle rather than a facility to better implement their objectives. Rules and procedures are tools at the disposal of the Commission's services. Experience shows that rules and procedures would only become an obstacle when actions have been designed without having these tools in mind. On the contrary, if all possible legal choices (which have increased in 2007 and 2008) as well as their related procedures are duly borne in mind at an early stage, this will be one of the best guarantees to ensure a smooth implementation of the action.

The present document will further develop the sections of PRAG, as well as of other instructions from the Director-General of EuropeAid, relevant to Technical Cooperation. ***Note that, as a rule, there are no exceptional or specific procedures concerning Technical Cooperation and hence this type of activity is subject to the standard rules contained in the PRAG.*** Consequently, this document does not introduce **changes to EC procedures**, its main contribution would be to re-think when and how procedural issues should be taken on board by the Commission. **Both operational and financial/contractual services of the Commission should work together from the identification and formulation phase to adequately consider (and use) the large variety of contractual and procedural tools already at their disposal and thus obtain a more efficient and effective delivery of such aid.**

To that end, this document is structured following the procedural steps in the implementation of Technical Cooperation, namely:

- ➔ the identification and formulation phase, where the programme or action including Technical Cooperation (it may be a part or all of the action) is designed by the services of the Commission in consultation with the partner country, hereinafter referred to as "beneficiary country" (this term also applies to regional entities acting as authorising officers, mainly under EDF) and other donors. The design of the programme or action, in procedural terms, will particularly focus on deciding the sources of financing (EC and other donors), who will be in charge of managing the programme or action, as well as the main procedures and legal instruments to be used. In that phase the time line of the action or programme has to be adequately assessed to ensure a timely implementation;



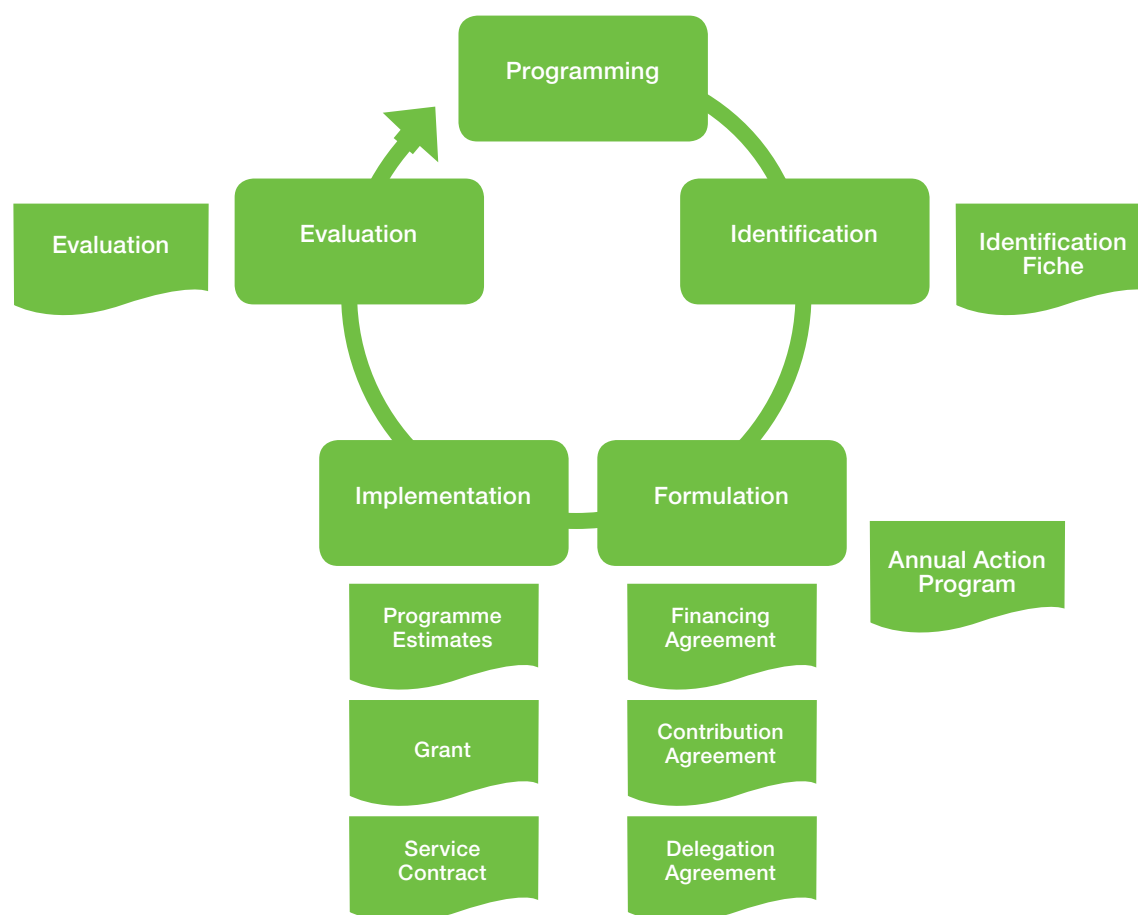
- the decision-making phase, where the Commission (College) decides on the main elements of the proposed action or programme including Technical Cooperation (*financing decision/Annual Action programme*) and the beneficiary country (or other implementing partners, such as national or international organisations) formally agree with such elements (*signature of the adequate agreements*);
- the implementation phase, where the chosen procedures are launched and the contracts are concluded by the contracting authority and executed by the contractor/grant beneficiary. In this process, as well as during the execution of the contracts, particular attention has to be paid to the involvement of the beneficiary country and the quality of the experts.

The above is completed by *Questions and Answers (Q&A), practical examples, links with useful legal documents/templates, check lists and graphics*.

The present document highlights the importance to ensure the ownership of the beneficiary country and the involvement of other donors in programmes or actions relating to Technical Cooperation, from the identification and formulation phase to the final steps of the implementation. To that end, where possible, coordination amongst donors and co-financing will be considered and the use of decentralised management with local procedures will be privileged. This will ensure amongst others the pursuit of key principles of the EC Backbone Strategy on Technical Cooperation such as demand-led approach, country-owned and managed process, working through harmonised and aligned actions, avoiding the use of parallel PIUs and promoting effective beneficiary-owned implementation arrangements. Also, the present Annex provides elements with which the Commission services may explore different and innovative options for the provision of Technical Cooperation (use of grant mode, new cases of negotiated procedures for service contracts/direct award of a grant, use of indirect centralised management).

Remember that any intervention of the EC has to fall under the scope of the relevant programming documents (strategy paper and multi-annual indicative programme).

Graphic 1: Overview of key EC documents





## **Chapter 1 - Identification and formulation phase: Procedural aspects to be considered**

This chapter explains:

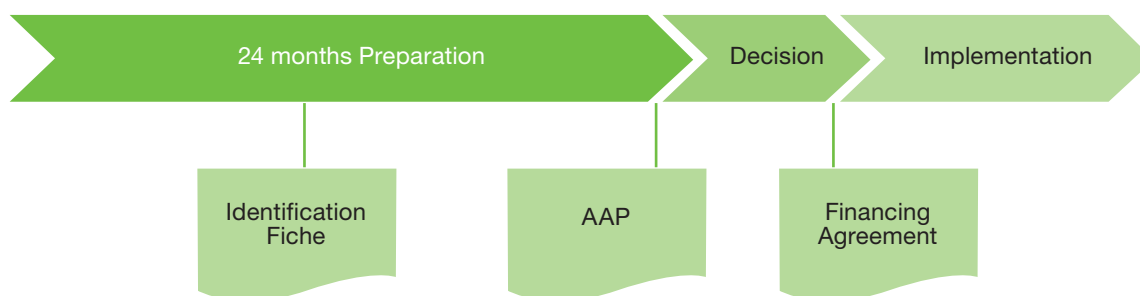
- The link between this annex, the guidelines, the Backbone Strategy on Technical Cooperation and PIUs and the EC's commitment to the Aid Effectiveness Agenda;
- The importance to start early in the design to consider both the project description and the management arrangement
- To consider EC procedures that facilitate the harmonisation of TC with others donors
- How procedures can support ownership of TC by the Partner country (= beneficiary country)
- That several contractual options exist to mobilise TC in other forms than "traditional expatriate" TA
- How to finance a preparatory study, such as a capacity assessment exercise

During identification and formulation, from the procedural and contractual point of view, the discussions with the beneficiary country and amongst donors on programmes or requirements of the beneficiary country with regards to Technical Cooperation will i.a. tackle the following key issues:

### Box 1: Procedures: three levels of consideration

1. who would finance what (in the case of **co-financing**)? (Section 1.1)
2. who would be in charge of managing the programme or action (possibility to use **delegated cooperation**)? (Section 1.2)
3. what type of Technical Cooperation activities are being designed (this may have important implications on the choice of appropriate **procedures and contractual form**)? (Section 1.3)

Issues such as co-financing with other donors and delegated cooperation, which can help achieving the key principles of the EC Backbone Strategy, as well as the aid delivery method and related procedures (budget support<sup>6</sup>, project approach using service contracts or grants), should be taken early into consideration during the identification and formulation phase of an action/programme. **The reflexion on the design of the action and its procedural aspects will be reflected in the identification fiche and options discussed with the QSG.**



**Time-wise, it is important that the preparatory phase (identification and formulation) is initiated by the Commission's services at least two years before the action will be implemented**, given the need to coordinate the action with the beneficiary country, potential co-donors and the required internal process within the Commission (approval by the QSG, adoption by the College of the financing decision/Annual Action Programme, signature of the relevant agreements, launching of the tender/grant procedures, signature of the contracts, etc). An early planning and design will also give more room for manoeuvre to the Contracting Authority to solve problems as they arise. The current legal and financial framework gives some flexibility: for instance, the financing decisions (usually in the form of Annual Action Programmes) may be adopted the year before the actual global commitment is required (See Section 2.1.1 of this Annex).

## 1.1 Coordination with beneficiary countries and other donors

The first step of the identification and formulation phase is, in addition to the dialogue with the beneficiary country (see in particular Chapters 2 and 3 of the present Guidelines), to systematically inform the donors about the preparation of all actions of Technical Cooperation. In this context, the possible use of joint co-financing amongst donors could be one of the key elements for cooperation and help achieving the objective of reducing parallel PIUs (See indicator 6 of the Paris Declaration in Section 5.1 of the present Guidelines).

Co-donors should not only be involved in the design of the beneficiary country's programme/action, they should also be consulted, where necessary, during the decision-making, preparation of the tender or grant award procedures and the implementation of the relevant contracts (monitoring, evaluation, etc – see section 7.1 of the Guidelines). For instance, they should systematically be consulted for the preparation of the terms of reference for a call for tenders for service contracts (see section 4.4 of the present Guidelines).

<sup>6</sup> Further information on this aid delivery method, which will not be discussed in the present annex but may also help to achieve the objectives of the EC Backbone Strategy, may be found at the following site (Useful link N°2): [http://ec.europa.eu/europeaid/what/economic-support/documents/guidelines\\_budget\\_support\\_en.pdf](http://ec.europa.eu/europeaid/what/economic-support/documents/guidelines_budget_support_en.pdf)

In most cases, at the level of the Commission services, the process for donor coordination follows a bottom-up approach: it is usually initiated at the field level by EC Delegations, which are in contact with the concerned authorities of the beneficiary country and *all* the donors present in that country/sector to discuss the requirements/programme concerning Technical Cooperation designed by the beneficiary country. This would lead to negotiations and implementation arrangements between the beneficiary country and all relevant donors. Headquarters should be duly informed of these negotiations, as they would later be involved during the decision making phase (section 2 below).

As a result of these negotiations, beneficiary countries and co-donors agree on how to implement the activities (usually in the form of a memorandum of understanding or “MoU”) to establish the principles governing the relation amongst them. These arrangements should normally contain elements such as provisions on governance and description/plan of the actions to be undertaken and their related budget as well as how they are approved and modified; in these discussions the type of contract to be used could be reflected (see sub-section 2.1.3 of this Annex). For further details, see Section 7.3 of the PRAG and Chapter 5 of the present Guidelines. Such non-binding arrangements must comply with the applicable EC financial rules and will be consistent with other documents that need to be signed and/or adopted by the Commission (see below).

## 1.2 Choice of the entity managing EC funds: management mode (method of implementation)

For the Commission, the choice under point 2) of box 1 above (who manages or implements the programme/action) determines the procedural and contractual ways in which the Commission will operate:

1. the management mode, which is to be established in the financing decision/ Annual Action Programme (“AAP”),
2. the type of agreement to be signed,
3. the procedures to be used for implementing the programme/action.

The **management mode** (referred to as method of implementation in the Financial Regulations) establishes the entity (Commission, beneficiary country, national body of a Member State or a third country, international organisation) who will act as Contracting Authority (e.g. launching call for tenders/proposals and concluding service/grant contracts, financial management/payments, etc.). The management mode should be one of the elements to be discussed during the formulation phase.

- ➔ When the Commission manages the programme or action directly (headquarters or delegations), the management mode is **direct centralised management**. The rules of the Commission for implementing EC funds are followed (i.e. PRAG).
- ➔ The Commission may decide to delegate to an entity the management of tasks relating to the expenditure of EC funds (**delegated cooperation**), which needs to be an objective and transparent decision. The delegatee entity would then become responsible for launching calls and concluding contracts partly or wholly financed by the EC. It also may proceed to do payments to third parties on behalf of the EC. The procedures used by the delegatee may be different from those of the EC. As a rule, the use of these management modes and the use of procedures and systems different from those of the EC require an **ex ante** assessment by the Commission of these procedures and systems (or “pillars”), in order to ensure that these comply with international standards and thus are close to those applied by the Commission.

**Useful link No 3:** To proceed with this assessment, the concerned services of the Commission have at their disposal the terms of reference, available at:

[http://ec.europa.eu/europeaid/work/framework-contract/audit2006/tor\\_for\\_compliance\\_assessments\\_en.htm](http://ec.europa.eu/europeaid/work/framework-contract/audit2006/tor_for_compliance_assessments_en.htm)



This exercise can be performed directly by the Commission or through a service contract concluded with an audit firm (already the case for the review of the 4 and 6 pillars for international organisations and national bodies performed by or under the coordination of AIDCO/G2).

The possible options for delegated cooperation (see Chapter 7 of the PRAG) are the following:

### Box 2: Overview of Delegated Cooperation

Entity	Management mode	Legal instruments	Procedures
i. international organisation	Joint management	Contribution agreement	Procedures of the international organisation
ii. national (public or private) body of a donor country	Indirect centralised management	Delegation agreement	Choice between the EC rules or those of the delegated body
iii. beneficiary country	Decentralised management	Financing agreement	EC rules. Possibility to use rules of beneficiary country or other donor

In all cases above, in addition to the EC, other co-donors may directly provide their contributions to the entity indicated above, who would thus implement/manage a jointly co-financed action. The Commission may also receive funds from other donors to implement Technical Cooperation (for more details see section 7.4 of the PRAG).

The choice of the management mode is approved by the Commission (College) through the adoption of the relevant financing decision/Annual Action Programme.

**In order to ensure compliance with the principles of ownership by the beneficiary country and accountability vis-à-vis the co-donors, the preferred management mode for Technical Cooperation actions should be decentralised management, which will also help achieving the objective of reducing parallel PIUs (Indicator 6 of the Paris Declaration).**

The Commission could however consider taking advantage of the expertise in *managing* Technical Cooperation actions from a national body of a donor (it could be from the North or South, even a network of such entities)<sup>7</sup> or an international organisation; in that case indirect centralised or joint management could be envisaged instead.

<sup>7</sup> Note that the expertise of the national body refers to managing a programme (i.e. organising how the programme is to be implemented, launching tenders and signing contracts, financing projects) and not to implementing a service contract itself. If the expertise of a national body is in-house and it is implemented by such body under direct centralised or decentralised management, a service or grant contract with it should be considered instead of indirect centralised management, preferably under decentralised management (see sub-section 2.1.2 below). Indirect centralised management cannot be regarded as an alternative to conclude a negotiated procedure/direct award under centralised/decentralised management.

### 1.2.1 Decentralised Management

In case decentralised management is retained, this means in practise that Technical Cooperation is managed/implemented by the beneficiary country itself. The degree of delegation to a beneficiary country may vary:

- ➔ In most cases, EuropeAid currently applies **partial decentralisation**, by which the procedures to be used by the beneficiary country are those of the EC (i.e. those contained in the applicable EC financial rules as reflected in the PRAG) and the financial management of the EC funds remains within the Commission (i.e. payments to third parties under the contracts concluded by the beneficiary country, except, where applicable, under the thresholds provided for in the Practical Guide to procedures for programme-estimates<sup>8</sup>). Whenever this partial decentralisation is sought, there is no need for an *ex ante* assessment of the procedures.
- ➔ However, notably in the case of joint co-financing, and pursuant to the objectives of the Paris Declaration and the Guiding principles mentioned above, **substantial decentralisation** should be sought where possible. Substantial decentralisation means that the beneficiary country may be authorised to i) use its own procedures and/or ii) manage payments to its contractors/grant beneficiaries beyond the limits of the programme-estimates (i.e. substantial funds are transferred to the beneficiary country, which will manage them according to their rules). Substantial decentralised management requires completion of the *ex ante* assessment of the “5 pillars”.

In cases of co-financing, the co-donors may be interested in only one donor (usually the lead donor) supervising the execution of co-financed funds by the beneficiary country and, where applicable, carry out the payments to third parties. These tasks of supervision and payments that the Commission usually keeps “centralised” in cases of decentralised management are known as “**residual tasks**”. To that end, the EC financial rules foresee the possibility for the Commission to delegate residual tasks to national bodies of donors under indirect centralised management, who will proceed to supervising the co-financed action (and, where applicable pay contractors/grant beneficiaries) on behalf of the EC. To delegate such tasks, the Commission should conclude a Delegation agreement.<sup>9</sup>

### 1.2.2 Other management modes

- ➔ Under **indirect centralised management**, the Commission entrusts a national body the management of EC funds (e.g. launching call for tenders/proposals and concluding contracts with third parties); the Commission does not aim at financing or paying for activities implemented *in-house* by such national body. In the latter case, a service or grant contract should be used instead. It is not excluded that, under indirect centralised management, *a (non substantial) part of the action* be directly implemented in house by this body, but this cannot represent the main purpose (or bulk) of the action. On the contrary, under a grant, the bulk of the activities should be implemented by the grant beneficiary or its partners, and only a limited part of the action could be sub-contracted. Also, indirect centralised management should be used, save in exceptional cases, for important (mostly in terms of size) co-financed projects. As a rule, the use of indirect centralised management with a national body of a donor country is not an alternative to a service or grant contract.
- ➔ When the management of the project entailing Technical Cooperation is delegated to an international organisation, then **joint management** should be the management mode.

The agreements to implement these two management modes are always signed by the Commission.

**Further information on the principles and rules applicable to co-financing and delegated cooperation, as well as the contractual models to be used, is contained in Chapter 7 of the PRAG. Complementary information in particular Instruction Note on “Guidelines on joint co-financing with Member States and other bilateral donors” (No 24585 of 4.12.2008).**

<sup>8</sup> It should be underlined that the Practical guide to procedures for programme estimates concerns the financial management of decentralised actions (share of tasks between the different actions) but in no event relates to the tender or grant procedures to be applied, which are those defined by the EC financial rules (and as such reflected in the PRAG) or, those of the beneficiary country or another donor, as agreed.

See useful link [http://ec.europa.eu/europeaid/work/procedures/implementation/work\\_programmes/index\\_en.htm](http://ec.europa.eu/europeaid/work/procedures/implementation/work_programmes/index_en.htm)

<sup>9</sup> Cf. Articles 53c(1) and 54(2)(c) FR and 22(1) FR 10<sup>th</sup> EDF.



**Useful link No 4:** Instruction Note on “Guidelines on joint co-financing with Member States and other bilateral donors”, may be found on the following site:

[http://ec.europa.eu/europeaid/work/procedures/implementation/international\\_organisations/documents/guidance\\_annex\\_d24585.pdf](http://ec.europa.eu/europeaid/work/procedures/implementation/international_organisations/documents/guidance_annex_d24585.pdf)



### Q&A 1: Do you need the five pillars assessment when programme estimates are used but the thresholds for payments delegated to beneficiary country are increased?

We are in a case of partial decentralised management in which programme estimates apply and limits exist for the payments to be carried out by the beneficiary country (EC procedures apply). After discussions with the beneficiary country, it appears that they would like to have a more important responsibility concerning the payments to be executed. For that reason, the thresholds for programme estimates will be substantially increased so the bulk of the payments (e.g. to the contractor of a service contract, referred to as “Consultant”) will be made by the beneficiary country itself. Do the Commission’s services need to do the assessment of the pillars?

The financing decision included partial decentralisation and application of the standard thresholds for payments to be executed by the beneficiary country (under the regime of programme estimates), as in this case the thresholds will be increased, the level of decentralisation has to be considered as substantial and the relevant assessment of the pillars need to be carried out (and the initial financing decision needs to be modified).



### Q&A 2: Can the Commission’s services take into consideration documents relating to the assessment of the beneficiary country’s system made by other institutions (World Bank), or those carried out by the Commission for budget support to assess if decentralised management is possible?

YES, but it is not an automatic recognition.

It is not necessary to reinvent the wheel and the applicable legislation does not specify on what kind of documents the assurance of the responsible authorising officer should be based upon. When assessments of a country system have already been carried out clearly by another donor (or the Commission for the implementation of other aid delivery methods) and such assessments confirm that all or part of the conditions contained in our Financial Regulations are met, the responsible authorising officer, after analysing such information, could obtain total or partial reassurance of the compliance of one or more of the applicable conditions.

Note however that it is not a blind or automatic acceptance; the concerned services/authorising officer must:

- ➔ analyse the said documents, which come from a reliable source;
- ➔ confirm that the assessment contained in these documents: i) cover the same procedures/systems used by the entity to which tasks will be delegated by the Commission ii) totally or partially address one or more conditions for decentralised management foreseen in the applicable articles of the Financial Regulation and iii) provide the required level of evidence of compliance with one or more of these conditions.
- ➔ include a written statement in the file indicating that the above has been effectively carried out as well as explaining the evidence obtained from those documents.

Where the above documents/assessments fail to comply with the above, these could only be used as a complement to the specific assessment required by the Financial Regulation for decentralisation



### Q&A 3: Can a beneficiary country delegate EC tasks to an international organisation?



NO

During the dialogue with the beneficiary country, it was decided that a programme will be managed by that country under decentralised management through the signature of a financing agreement. Within this programme, the idea was to delegate an action on Technical Cooperation to an international organisation under joint management; meaning that the organisation would be in charge of contracting third parties and organising the whole implementation of the programme. Could the contribution agreement with that international organisation be signed by the beneficiary country and hence EC funds provided by that country to the international organisation?

The delegation of tasks under joint management (or under indirect centralised management) can only be agreed by the Commission (College); hence the signature of a contribution agreement under joint management (or delegation agreement under indirect centralised management) can only be signed by the Commission. The beneficiary country could sign a contribution agreement only when the agreement entails the award of a grant (i.e. no delegation of tasks under joint management), for which the rules on grants are applicable. This means in practise that the beneficiary country should launch a call for proposals to award grants, unless a direct award can be justified on the basis of article 168 of the Implementing Rules. It is reminded that, under these rules, the fact that the beneficiary ("grantee") is an international organisation does not per se justify a direct award as the conditions of article 168 must be respected.

### Q&A 4: Delegating residual tasks or the entire management of the action to a national body?



During the discussions of a programme on Technical Cooperation with the beneficiary country and other donors, it was agreed that only a national body of one of the donors would monitor the implementation made by the beneficiary country on behalf of other donors. The chosen national body declared that it would only be responsible for such monitoring but refused to be responsible for the implementation of the programme as such, which should remain the responsibility of the beneficiary country. All donors tended to agree. What management mode should the Commission use?

When a programme/action is delegated to a national body under indirect centralised management, the national body should be responsible for the entirety of the delegated programme/action, even if some parts of the programme/actions are implemented by a partner (for instance, the beneficiary country itself). In case no such responsibility is accepted by the national body in question, the services of the Commission could consider directly delegating the action/programme to the beneficiary country under decentralised management, after satisfactory result of the prior assessment, through the signature of a financing agreement, so the beneficiary country is directly accountable vis-à-vis the Commission. Then, the Commission could delegate the residual task relating to monitoring/control to the national body, as all other donors. In such case, the national body would only be responsible for these delegated tasks and not for the entire implementation of the action.



### Q&A 5: Can you just accept the proposal of a national body to use indirect centralised management?

NO!

A national body from one EU Member State has approached a Delegation and suggested that the Commission co-finances an action relating to Technical Cooperation. The beneficiary country does not oppose this. Can the Delegation just simply go ahead accepting this proposal, indicating indirect centralised management as management mode to the College (leading to the signature of a delegation agreement)?

The sector/field of intervention should have been covered by the programming documents of the Commission. Furthermore, the choice of the delegatee body should be also consulted with other donors present in the field, in particular EU Member States, to discuss this possibility and eventually invite them to participate. It may be the case that other national bodies from different Member States may also be active in that area of Technical Cooperation in the country and would also be interested in coordinating these activities with the Commission or being co-financed by the Commission. The choice of the Commission on the national body must be duly justified on objective and transparent grounds and all interested parties from EU Member States active in that field/country must be heard to avoid discrimination amongst EU Member States. In its choice, following a positive assessment of the six pillars, the Commission must also be able to substantiate that considerations on the economic aspects as well as effectiveness and efficiency, have been taken into consideration. The choice of a national body is in principle reflected in the financing decision/Annual Action Programme. This document is submitted to EU Member States through the relevant Committee (see Section 2.1.1 of this Annex), who may request clarification/justification of the choice of the Commission. The Commission shall also inform annually the legislative authority of the use of this management mode and the bodies selected.

## 1.3 Technical and procedural considerations to be taken into account during the identification and formulation phases

It is of the utmost importance that the beneficiary country and the Commission gain a clear idea during the discussions on the design of the Technical Cooperation, on what sort of legal and procedural instruments should be used by the Contracting Authority (usually the beneficiary country itself, but also the Commission, a national body of a donor or an international organisation), and in particular which aid delivery method and/or forms and procedures of contracting should be used to achieve the best results.

While under decentralised management, it is the beneficiary country who leads the process, under other management modes (particularly direct centralised management), the beneficiary country needs to be involved in the design of the requirements (e.g. drafting of the terms of reference for a service contract or guidelines to grant applicants— see Section 3.2 of this Annex).

### 1.3.1 Preparatory activities and preliminary considerations

During the identification and formulation phase, it may often be necessary to carry out studies (a type of service contract) or other preparatory activities which may be funded by the Commission. Funding could be provided through an EC-funded programme which allows for such type of activity to take place e.g. a technical cooperation facility (TCF under EDF) which is often put in place at country and/or regional level to allow funding of future studies (the studies do not necessarily have to be identified already when the programme is financed). Another possibility could be existing actions or programmes in the envisaged sector (such as: Support to the health sector in country X etc.), where the possibility of funding studies is envisaged. Finally, there are also primary commitments which may have been decided under direct centralised management and which are managed centrally by EuropeAid. These may provide a useful source and should be investigated with the relevant services at EuropeAid. Have in mind also that the financing of the preparatory activities by the beneficiary country or other donors could be an alternative option to investigate, that complies with TC reform principles.

Where the Technical Cooperation is to be decentralised, the Commission and the beneficiary country (and, where applicable, other donors) may consider whether, instead of *outsourcing* this cooperation through service and grant contracts, the beneficiary country could implement the action itself, through the relevant programme estimate (direct or indirect decentralised operations). Also, if the beneficiary country may have the capacity to do so, other methods of implementation/aid delivery methods could be considered (sector budget support).

### Practical case 1: Technical cooperation implemented by the beneficiary itself



A project in country X aimed to develop the training capacities of a university through several extension centres located in different islands. The head of the adult learning department was responsible for the overall project implementation and the university recently created a planning department, responsible for approving new training programmes according to the demands. The partners were concerned about avoiding double structures and about ensuring the integration of the project management team (the PIU) inside the existing institutions. Their choice was to take advantage of the existing adult learning department to centralise the overall direction of the project, together with the government and the EC. On the other side, the university's planning department was responsible, as the project management team, for coordinating grant procedures, service contracts with external consultants, integrating the business community within the project and reporting to the head of the project. This structure allowed to ensure the ownership to the university and to avoid the creation of new offices outside the existing university departments.

### 1.3.2 Design of the Technical Cooperation as a service

Technical Cooperation is usually designed as a **service** to be provided by a contractor, referred to hereinafter as “Consultant” (hence, a service contract would be concluded by the Contracting Authority – see Section 3 of the PRAG). The Contracting Authority produces detailed terms of reference indicating in detail the services it requires; the tenders respond with an offer. The Contracting Authority pays in full the price of the service provided by the contractor (carried out by a team of experts) and acquires the results of it.

### Q&A 6: Should I use a global price or a fee-based service contract?



Section 3.1 of the PRAG gives the definition for both types of contracts.

1) Global price is a lump-sum contract which is typically used for example for studies and design. The specificity of such contracts is the character of the output (usually clearly defined deliverables like a report or drawings) and that from the Contracting Authority's point of view, it is not really important with what means and resources the Consultant reaches the end product (i.e. it does not matter if a given expert actually works 10 days or 15 days, as long as the deliverables are provided in conformity with the terms of reference). Payments are based on the approval of these deliverables.

Note that it is in principle not possible to formally (or informally) add any additional breakdown to a global price contract, e.g minimum input of experts or breakdown of costs (unless, e.g where some deliverables are optional and therefore would require a breakdown of price per deliverable). Note that any modification of the template would require prior approval from the relevant services of the Commission where EC procedures are followed. Since Framework contracts are service contracts, global price can be used, however the inputs need to be estimated, notably the category and number of working days; the offer gives also a detailed breakdown.

Ex: Global price Service contract in country X to design a road (ex: geological studies) or a study about the economic and social impact anti-personnel mines (ex: arrange seminars, draft a report).

2) Fee based contracts are mainly used where the knowledge transfer and support for the project implementation are the key elements (transfer of knowledge in the form of advice, to manage or supervise a project, coaching etc.) and it is therefore of importance to get as much input from the experts as possible. Payments are made on the basis of the number of days worked.

Ex: Fee based contract in country X: Technical assistance. Technical advice for planning, organization and supervision of the activities of the program. Contribute with administrative, preparatory and complementary tasks.

Deciding which of the two types of contracts is more appropriate depends on the specific case and not only whether it is a study or an advisory service.

### Box 3: Fee based or Global price contracts?



<i>Global price contracts</i>	<i>Fee-based contracts</i>
<b>Pros</b>	
<p>Simplifies the management of the contract (for both Contracting Authority and Consultant) as it is not necessary to record or check input or exact costs (no expenditure verification).</p> <p>No addenda or increase of costs if the estimated inputs change, e.g. increase of man/days has no impact in the contracted price and hence the increased costs are borne by the Consultant.</p>	<p>Contracting Authority maintains control of exact input and costs incurred. Possible modifications can be more easily assessed since there is a budget breakdown.</p>
<b>Cons</b>	
<p>Less control of exact input or exact costs (fees and incidental expenditure such as missions). Difficult to make amendments to the contract (e.g. additional services). If deliverables are not sufficiently detailed in the ToR, possible misunderstandings and difference in expectations between contracting parties.</p>	<p>Where deliverables are involved, may be less effective as Consultant tends to be more focused on the input of resources (requests for using extra days) than the quality of the deliverable.</p> <p>More administrative burden (addendum) and possibly more costs to be borne by the Commission, when the inputs need to be changed even when the outputs are not modified (changes for travels or working days/number of persons).</p>

### 1.3.3 Design of the Technical Cooperation as financial support to a third party (grants)

Alternatives to service contracts could be sought to achieve similar goals, such as **providing financial support to actions implemented by third parties (grants)**. In that case, the legal instrument to be signed by the Contracting Authority would be a grant contract (or contribution agreement with an international organisation – See Section 6.9 of the PRAG). The Contracting Authority expresses its wish to provide financial support to actions which pursue an EC policy objective. The grant applicant responds with a proposed action which it (usually) co-finances. There are some exceptions to the co-financing rule (see section 6.2.9 of the PRAG) save where forbidden by the basic act (i.e. the regulation which finances the project). One of the exceptions is where it is in the interest of the Community to be a sole donor to an action, and in particular to ensure visibility of a Community action. Note that the grounds for such cases must be provided already in the financing decision of the Commission<sup>10</sup>. The project is elaborated by the applicant and the result of this action remains its property. A modality of grants which currently exists under the ENPI is twinning actions. For instance, the Contracting Authority could consider co-financing an action submitted by a third party (e.g. a national public body from a Member State or an NGO) to implement a programme of exchange of officials (see Section 4.3 of the present Guidelines). Note that the templates for grants (from Guidelines to contract model, including the evaluation grid) may need to be adapted to the requirements of the specific action given the elements linked to Technical Cooperation.

<sup>10</sup> Article 169 of the Financial Regulation applicable to the general budget of the EC and article 253 of its implementing rules (apply by analogy to EDF)

## Practical case 2: Case in which a grant should not have been used



Example of a case where the action should have been contracted as a service contract - or, possibly, as an action to be implemented under a different management mode if the conditions were met (i.e. indirect centralised management):

In response to a call for proposals, a proposal was submitted to the EC services in order to carry out an action in the field of food safety. The grant applicant was an inter-professional association working at international level in the agriculture field. A grant was awarded.

Afterwards, a close analysis of this contract revealed that the action financed should have been contracted differently (e.g. via a service contract).

The elements for such a conclusion were based on the following:

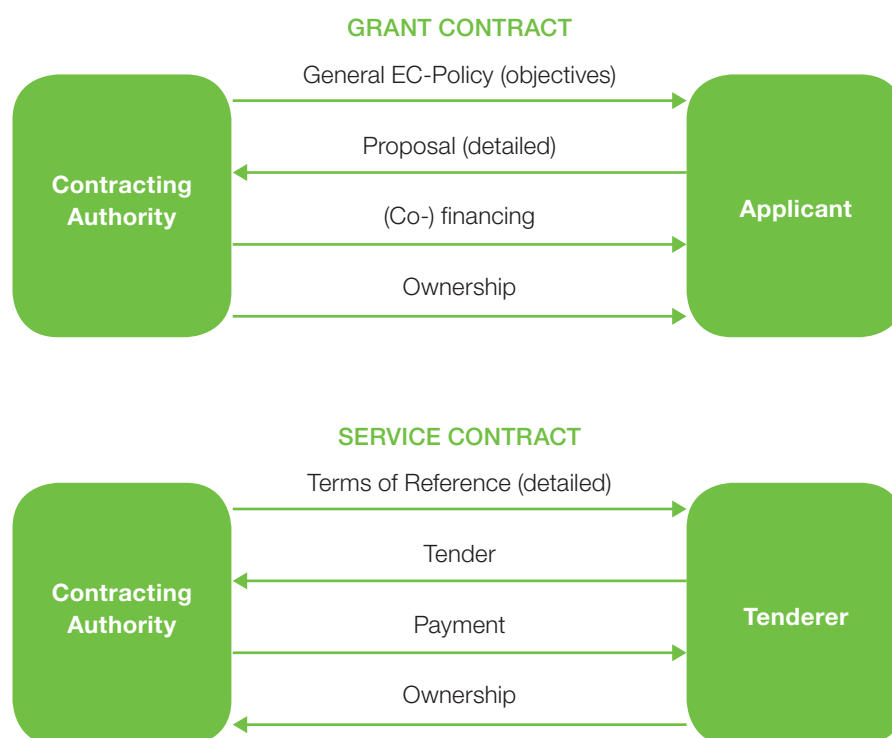
- ➔ the grant contract foresaw that the grant beneficiary would act as an intermediary only;
- ➔ the action was financed 100% by EC funds and no co-financing was foreseen by the grant beneficiary;
- ➔ although a call for proposal had been published, the grant beneficiary proposed was the only organisation which had replied to the call (it is thus likely that the guidelines were very precise, closer to a terms of reference, limiting the possibility for applicants to propose “their” solution to achieve the objectives sought by the EC);
- ➔ the guidelines of the call for proposal asked the candidates to submit the CVs of the experts working in the proposed action and the appreciation of these CVs was part of the evaluation of the grant proposal.

The choice between grant/service is of key importance, as the philosophy and legal consequences of the choice varies from a service contract to a grant. For instance:

Under a **service contract**, the Contracting Authority has *full* control of the design and implementation of the contract (from the specification phase, where the Contracting Authority defines in detail what it is required and hence *proposes to tenderers what needs to be done*, to the ownership of the result, which it acquires against the payment of a price).

Under a **grant contract**, the Contracting Authority sets the objectives it wants to attain and, on that basis, chooses to (co-)finance the project *proposed by the applicant*. The grant beneficiary remains the owner of the project and its results.

In light of the elements of each of these categories of contract, this choice of the category of contract has an impact on the overall design of the action and hence discussions on the contractual aspects of this action should be taken into consideration from an early stage. It is not possible, at the moment of launching a call, to simply “label” an action having the characteristic of a service as a grant in order to apply the rules and procedures for grants, or vice-versa.



### Practical case 3: Twinning arrangements

In the framework of ENPI, twinning projects bring together public sector expertise from EU Member States and beneficiary countries with the aim of enhancing co-operative activities. They must yield concrete operational results for the beneficiary country under the terms of the Association Agreement between that country and the EU. Twinning projects are chosen and contracted following a call for proposal in which only EU Member States (or MS bodies) may participate.

Practical examples can be found on EuropeAid's external website; call for proposals for the Mediterranean region in which for most countries a decentralised approach is followed. One example is EuropeAid/126668/C/ACT/EG "Twinning Project for the National Telecommunication Regulatory Authority in Egypt".



**Useful link No 5:** Useful information, procedures and templates can be found in the Twinning Manual (version 2007, to be updated) on the following link:

[http://ec.europa.eu/europeaid/where/neighbourhood/overview/twinning\\_en.htm](http://ec.europa.eu/europeaid/where/neighbourhood/overview/twinning_en.htm)

## Q&A 7: Working with public administrations (part 1)



Due to the requirements of the beneficiary country and/or the action, it is sometimes objectively useful or even necessary to work with a public administration of an EU Member State (for instance, need to exchange public officials, where the activities should be carried out by a national police force, a national judicial authority or a national Court of Auditors from one or more Member States). What options does the Commission have in legal and procedural terms?

### 1) What would be the role of this public administration?

- ➔ Organise the action (launching call for tenders/proposals so third parties would actually provide the Technical Cooperation) or
- ➔ Implement directly on its own the majority of the action.

In the first case, the Commission would delegate its tasks – this means that indirect centralised management would be used. Indirect centralised management should be in general only used in case of co-financing, for the management of big actions or programmes.

In the second case, it appears that the most adequate legal instrument would be the conclusion of a grant or service contract with that public administration. Such contract could be signed by the Commission (centralised management) or by the beneficiary country (decentralised management).

### 2) Service or grant?

As indicated under section 1.3, service and grant contracts have different characteristics which need to be weighted when designing the action as a grant or a service and thereby the most appropriate type of contract. One should notably find out whether the type of public administration envisaged can provide services, as some public administrations or institutions cannot, by law, participate in tenders and/or conclude procurement contracts. In that case, the possibility to work with such entities under a service contract would be discarded from the outset. If that is the case, the action should be designed as a grant (under direct centralised –signature of grant contract by the Commission- or decentralised management –signature by the beneficiary country-).

For whatever reasons a grant contract is chosen, the principles governing grants must be followed (see section 6.2 of the PRAG), such as the co-financing requirement. In specific cases, some of these principles may be waived: for instance, an action implemented under a financing agreement may be financed in full only if this proves essential for it to be carried out; in such case the authorising officer must provide justification in the award decision relating to the action in question.

It is also possible to waive the co-financing requirement where it is in the interest of the Community to be the sole donor of an action (visibility reasons). If this is the case, grounds must be provided already in the financing decision.

Note that twinning arrangements are grants and thus the rules on grants are applicable, with the special considerations mentioned in the aforementioned Twinning Manual.

In order to respect the non-profit rule that applies in case of grants, special attention must be paid to salary costs of personnel of public administrations of EU Member States (or other donor countries). Following the Implementing Rules of the Financial Regulation<sup>11</sup>, salary costs of personnel of national administrations may be considered as eligible costs to the extent that they relate to the cost of activities which the relevant public authority would not carry out if it did not undertake the project concerned, since these costs are already funded by the budget of the Member State (or regional or local authorities) in the framework of their normal activities.

Whatever contract is chosen, following a risk assessment made by the responsible authorising officer, public administrations may be exempted from certain of the usual requirements, notably financial guarantees. Note that, in most cases, the templates included in the PRAG already include explicitly these waivers for public bodies.

<sup>11</sup> Article 172a §2 (e) of the Implementing Rules on EC Financial Regulation

## Q&A 7: Working with public administrations (part 2)

### 3) What procedures may be used?

The selection of an entity under indirect centralised management does not necessarily require a call; but, as any other management mode, may represent a political choice from the Commission (College) requiring due justification. Note that EC law is quite demanding with regards to the choice of delegatee bodies: for instance, this decision should be objective and justified and would require a previous dialogue with all EU Member States active in the region/area and in the sector. This could be done, for instance, through a meeting (reflected in subsequent minutes) or an informal call for interest. This should be reflected in the financing decision/AAP (see section 1.2 of this Annex).

In the other two cases (grant or service contract under centralised or decentralised management), the principle would be a call for tenders or proposals, where the terms of reference/guidelines would establish the required scope and describing in objective terms the requirements of the potential tenderers/applicants.

However, if the case of Technical Cooperation to be implemented by a public administration of an EU Member State, falls under the exceptional circumstances provided for in articles 168 and 242 of the Implementing Rules, a negotiated procedure or the direct award of a grant may be used subject to prior approval by the responsible authority (see Section 3.2 of this Annex).

### Box 4: The different roles that a national body could have

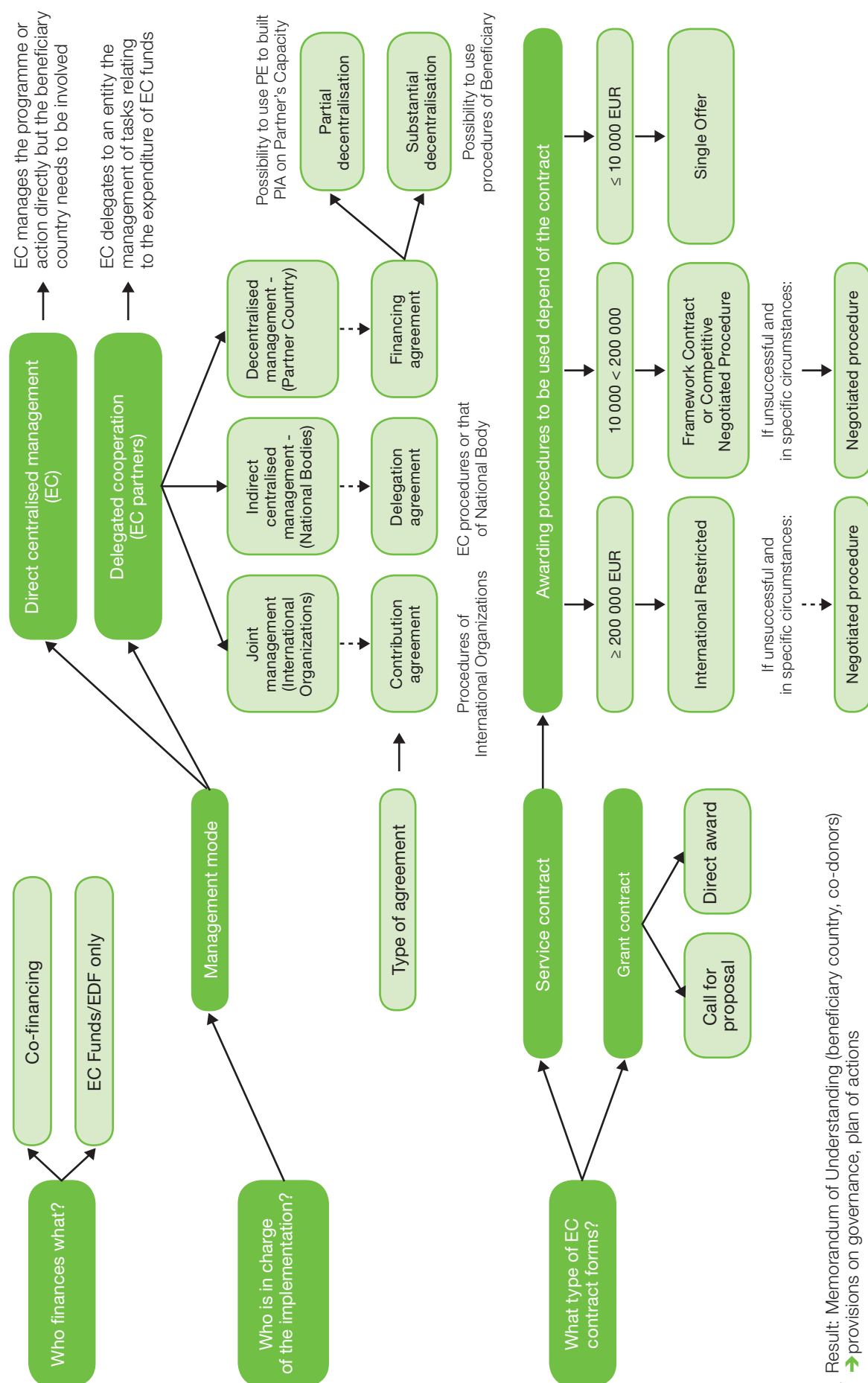
	Type of agreement		
	Service contract	Grant contract	Delegation agreement
<b>Function</b>	Contractor	Beneficiary of a grant	Contracting authority
<b>Main tasks</b>	Implementing activities	Implementing activities	Contracting, supervising and managing contracts (including payments)
<b>Payment</b>	Receive payment for services rendered	Receive a grant for implemented activities	Transfer of EC funds (Manage and execute the payment to third parties).
<b>Effect on TC</b>	Facilitate peer to peer	Facilitate peer to peer	Better harmonisation of TC



## checklist 1: what does the commission need to do during the identification and formulation phase?

N°	Question	Result	Comments
1	Has the different possibilities offered by the choice of the management mode and the contractual form (service or grants) to design the most adequate programme arrangement implementation been explored with the beneficiary country and other donors.		
2	Has a dialogue between the EC Delegation (and eventually headquarters), beneficiary country and all donors involved in the sector/country where Technical Cooperation need to be implemented taken place, in accordance with the principles contained in the present Guidelines? Have we addressed the required topics with the other donors and the beneficiary country? Has headquarters been informed in due time? Would the negotiations lead to the signature of a MoU, complying with EC rules and policies, at a later stage?		
3	Which is the management mode chosen (any other method than decentralised management needs to be duly justified)? In the case of delegated cooperation, what is the entity (beneficiary country, international organisation, national body of a donor country) chosen to manage the (co-financed) Technical Cooperation? On what objective and transparent grounds has this body been chosen?		
4	Has the required ex-ante assessment of the procedures to be used by the chosen entity been carried out? (If not, the necessary actions need to be taken for this assessment before adoption of the financing decision/Annual Action Programme).		
5	In case of decentralised management, is the degree of decentralisation decided in accordance with the result of the ex-ante assessment? Is it possible for the beneficiary country to use its own procedures? Does the Commission need to delegate to a co-donor (a national body compliant with the criteria for indirect centralised management) the residual tasks?		
6	In case of indirect centralised management, can the action be implemented through a service contract or a grant (in such case, this management mode should not be used)? Has the choice of the delegatee body been objective, transparent and respectful of the principles of economy, efficiency and effectiveness, and without discriminating between EU Member States? Have all parties involved been consulted, including other donors active in the field/sector and the beneficiary country? Is the Commission in a position to justify the choice in front of all other EU Member States?		

Graphic 2: Key procedural aspects to be considered during identification and formulation



## **Chapter 2 - Decision-making phase: Adoption of the financing decision and conclusion of financing – and other agreements**

This chapter explains:

- The importance to well define the time line for the preparation, decision and implementation of the action
- What are the different steps of the decision process and what information is needed for the approval of the Annual Action Programme
- Why to make a careful assessment of the partner's managing capacity;
- What must be fixed and what is flexible in the Financing Agreement in regard to TC support

Any financial and legal commitment from EC budget or EDF made by the responsible authorising officer must be preceded by a financing decision/AAP adopted by the Commission (College), which defines the essential elements of the action(s) to be implemented in a given country or area. In most cases, this decision is followed by an agreement with the beneficiary country setting up the main legal, financial and operational elements of the action to be implemented. There are no special or particular rules on decision-making with respect to Technical Cooperation.



**Useful link No 6:** The models of financing decision/AAP and financing agreement may be found at the following site:

[http://www.cc.cec/dgintranet/europeaid/contracts\\_finances/fin\\_and\\_cont\\_rules/financing\\_decisions\\_and\\_agreements/index\\_en.htm](http://www.cc.cec/dgintranet/europeaid/contracts_finances/fin_and_cont_rules/financing_decisions_and_agreements/index_en.htm)

## 2.1 Financing decision/Annual Action Programme (AAP)

### 2.1.1 Timeline and principles



A timely start-up is particularly important for Technical Cooperation. Hence, preparation and anticipation is an essential element of a successful implementation of Technical Cooperation.

The procedure for the approval of the AAP generally takes at least 4 to 6 months (QSG, Inter Service Consultation, commitment and written procedure), plus the time required to sign the relevant agreement(s) (e.g. signature of a financing agreement varies depending on the beneficiary country) and to have the implementation contracts signed (a call may last from 6 to 10 months or more). It is thus crucial to initiate the process as soon as possible to ensure a timely start-up of the action.

With regards to actions financed by the EC budget, pursuant to the instructions of DG BUDG, the procedure of approval of financing decision/AAP could be launched and adopted by the College before the budgetary year in which the project is to be initiated, but not earlier than the approval of the preliminary draft budget (usually around spring/early summer) – nevertheless, the global budgetary commitment can only be physically registered in CRIS during the year N (i.e. the year of the concerned budget). This means that the AAP for 2010 could be adopted e.g. in September 2009. The related global commitments, however, would only be registered at the beginning of 2010.

Other issues to be taken into consideration:

- ➔ Where, for one of the actions in the AAP, the Commission will receive assigned revenues from other donors, the AAP will contain a clause empowering the Director-General to sign the transfer agreement on behalf of the Commission – already foreseen in the existing template of AAP.
- ➔ The minimal content of the financing decision/AAP is governed by EC financial rules and applicable basic act and is reflected in the existing templates for AAPs (cf. article 90 of the Implementing Rules of the EC Financial Regulation as well as the relevant provisions of DCI, ENPI, Regulation implementing the 10<sup>th</sup> EDF, etc).
- ➔ Note that activities relating to Technical Cooperation may represent an entire action/programme (normally translated in a fiche of the AAP). It may also be a simple component within an action/programme which does not primarily concern Technical Cooperation.

## 2.1.2 Management modes and co-financing

The decision on the management mode is adopted by the Commission (College). As a consequence, the proposed management mode must be indicated in the appropriate fiche of the financial proposal, which will later become part of the financing decision/AAP.

In cases of delegated cooperation, the name of the delegated entity acting as Contracting Authority (beneficiary country, international organisation, national body of a donor country), will be specified in the decision, except in the very limited cases where it is not yet known<sup>13</sup>. The decision will also reflect the procedures to be used by the said entity. Where indirect centralised or substantial decentralised management is the proposed management mode, the corresponding fiche of the AAP will contain the appendix indicating the outcome of the **ex-ante** assessment. In cases of indirect centralised management, reasons for the choice of the national body showing compliance with the principles mentioned in Section 1.2 of this Annex will be specified.

The management mode is an essential element of the AAP. Any change of the management mode after the adoption of the AAP (for instance, from decentralised to centralised –budget support- or joint management) will require an amendment of the AAP (and hence approval by the College)<sup>14</sup>. It is reminded that different management modes can be combined in the same action (e.g. a part of the action decentralised and another part of the action under joint management to an international organisation).

Finally, if other donors co-finance actions with the Commission and, to that end, transfer funds to the EC budget/ EDF, this should be specified in the financing decision/AAP (the co-donor should, previously to the launching of the approval of the AAP by the College, have signed the relevant transfer agreement).

### Practical case 4: Changing management modes



In the context of a project to support the public health and nutrition sector in country X, the initially chosen management mode was decentralised management to the beneficiary country requiring an ex ante assessment under article 56 FR.

For exceptional reasons, no ex-ante assessment with the conditions of art. 56.2 FR was concluded prior to the adoption of the financing decision and a “fall-back” management mode had to be foreseen in the financing decision/AAP. The relevant Action Fiche of the AAP clearly stated that: “In order to apply the decentralised framework, a positive assessment shall be formalised before the adoption by the Commission of the present financing decision by the relevant Authorising Officer (AO) on the basis of an external audit report to be finalised by an external consultant by the end of August 2008. Should the results of this audit be insufficient to allow the relevant AO to make a positive assessment of the internal procedures of the Health Ministry, EuropeAid shall restrict in the Financing agreement with the Government from country X the delegated tasks to the minimum, maintaining as principle the ex-ante control of the Commission for contracting and payments.” When the assessment was finally concluded it turned out to be negative. The management mode was then changed accordingly to centralised management, without any amendment of the financing decision.

In the current case, the financing decision still gave sufficient flexibility for this change to be undertaken without an amendment procedure. Thus, in order to provide clear flexibility to the responsible authorising officer, if at the moment of the drafting of the financial decision, the ex-ante assessment is not yet achieved, that should be pointed out in the financial decision as a condition for the adoption of the foreseen degree of decentralisation.

<sup>13</sup> In those cases, the criteria for the choice will be specified.

<sup>14</sup> In certain exceptional cases, when the final method of implementation is uncertain at the moment of launching the approval of the AAP for objective reasons beyond the control of the concerned services of the Commission services, the draft AAP includes a “fall back” method of implementation. This practise has been usually accepted by DG BUDG and the Legal Service whenever the “fall back” method of implementation entails *less risks* or *marge of appreciation* than the method proposed as the first option (for instance, from decentralised to centralised management, but not the other way around).

### 2.1.3 Contractual form

The Contracting Authority specified in the AAP would then conclude the necessary contracts to implement the Technical Cooperation.

- ➔ In **direct centralised and decentralised management**, the financing decision/AAP indicates the proposed type of contract(s) for Technical Cooperation (service, grants, etc) to be used by the entity managing the EC funds, as well as the estimated budget and calendar.
- ➔ Where, for objective reasons which are outside the control of the Commission, the choice of the type of contract is not yet clear at the moment of drafting the financing decision/AAP, such decision should at least contain the results that need to be achieved and the contractual options (and eventually conditions for the choice of the form of the contract at a later stage, including essential elements as budget, timetable, etc). This would provide sufficient flexibility to the responsible authorising officer without needing to amend the financing decision.
- ➔ In **indirect centralised and joint management**, it is in principle not necessary to specify in the AAP the type of contract that will be used by the national body or international organisation to implement the Technical Cooperation.

## 2.2 Financing agreements and other agreements

### 2.2.1 Financing Agreement (FA)

Once the AAP has been adopted, the Commission (at the level of the concerned Director) signs a financing agreement with the beneficiary country (note that some actions do not require the signature of this agreement, e.g. thematic programmes, or of amendments to the agreement for the cases under 2.2.2 of this Annex). The Agreement needs to be signed in N+1 (i.e. before 31 December of the following year of the adoption of the AAP/ budgetary commitment).

The basic structure of the financing agreement is: Special Conditions, General Conditions and Technical and Administrative Provisions (TAPs). The TAPs contain the main rules on governance and organisational set-up of the action, as well as detailed indications of budget, calendar, etc, which is based on the relevant financing decision/AAP. The TAPs should be precise enough to provide the general operational framework; but not too detailed to allow sufficient flexibility for the implementation of the action(s) and to avoid changes during the duration of the Financial Agreement.

**Any amendment to the financing agreement (including the TAPs) must be in writing and in the form of an addendum.** However, Articles 22 (Decentralised EC Budget) and 21 (EDF) of the General Conditions allow some flexibility for technical adjustments which do not affect the objectives and results of the project/programme and alterations in matters of detail which do not affect the technical solution adopted, and with no reallocation of funds. In such cases, the beneficiary country shall inform the Commission in writing of the amendment and its justification as soon as possible. Note that some restrictions apply in case of EDF (adjustments should be made within the limits of the amount foreseen for contingencies and, under 8<sup>th</sup> and 9<sup>th</sup> EDF, every extension of period requires a rider).

The change of the log frame may benefit from the flexibility mentioned above, when it is just a technical adjustment. As a rule, it could be possible to apply the same flexibility to the budget contained in a financing agreement under decentralised management as it is applied for the AAP (e.g. 20% of the total of the AAP, provided that there is no increase of the maximum budget – EDF has special rules as mentioned above). Adding or deleting activities (e.g. budgetary lines) should normally be considered an essential change. Specific rules on the extension of the operational implementation phase or closure phase are provided for in Article 4 (4) and (5) of these General Conditions.

Note that some changes to the financing agreement would require the previous amendment of the financing decision/AAP, when they substantially alter the nature of the action (change of management mode, for instance).

### Q&A 8: Do we need an addendum to the FA if we change the management mode?

YES

Changes of the management mode are a substantial change and hence would require an addendum (for instance from centralised to decentralised management or from decentralised to joint management). As mentioned in point 2.1.2, unless foreseen in the financing decision, they also require the amendment of the financing decision. Changing the aid delivery method would also be a substantial change (e.g. from budget support to project approach).



In regard of the duration of a financing agreement, the total period of execution of a financing agreement is composed of (1) an operational implementation phase and (2) a closure phase.

It is reminded that the operational implementation phase indicated in the relevant fiche of the AAP/financing decision is indicative and this in accordance with the existing templates.

The operational implementation phase of a project can be delayed for a number of justified reasons (for example weather conditions, a political situation, a dispute with a contractor or with an administration, replacement of experts, technical problems, etc). In this case, the operational implementation period and consequently the total period of execution of the initial financing agreement can be extended by the signature of a rider (in case of substantial change requiring formal amendment of the financing agreement) or by exchange of letters; there is no need for a new financing decision amending the initial AAP/financing decision as long as the requested extension does not substantially alter the nature of the action.

Another option is to extend the operational implementation phase and to shorten the closure phase (from 24 months to for example 18 or 12 months – not allowed under EDF), so the total period of execution of the financing agreement remains the same. This is also to be done through the signature of a rider or by exchange of letters, under the conditions mentioned in the previous paragraph.

### Practical case 5: Substantial changes requiring an addendum

In a project dealing with water sanitation systems of an ACP country, a national body part of the Ministry of Infrastructures was foreseen within direct decentralised operations to carry out the implementation of the activities through Programme Estimates. The ACP country, some time after the Financing Agreement had been signed, asked the EC to change the management modes. Instead of entrusting the body within the said Ministry, the NAO proposed to launch a restricted tender procedure in order to recruit a company for the carry out of the activities through indirect decentralised operations. Since the text of the FA detailed the type of contract to be used, this request had to be considered as a change of the technical solutions foreseen in the decision taken by the EC and therefore a rider for substantial technical modification was introduced in the circuit.



## 2.2.2 Other agreements

Where management modes entailing delegation of tasks other than decentralised management are involved, it is necessary to sign the relevant agreements: delegation agreement where tasks are delegated to national bodies under indirect centralised management and contribution agreement where tasks are delegated to international organisations under joint management

The agreements above are always signed by the Commission and not by the beneficiary country, and this in parallel or soon after the signature of the financing agreement (if the signature of the latter document is required – see below).



**Useful link No 7:** Agreements can be found in the annexes to the PRAG (annexes F1 to F5):

[http://ec.europa.eu/europeaid/work/procedures/implementation/international\\_organisations/index\\_en.htm](http://ec.europa.eu/europeaid/work/procedures/implementation/international_organisations/index_en.htm)

Parallel to or immediately before the signature of a delegation or contribution agreement, a financing agreement:

- i. **will** be signed with the beneficiary country for the same action where, in addition to those delegated to an international organisation and/or national body of a donor country, the beneficiary country is entrusted with other budget-implementing tasks related to the same action (i.e. action is implemented through two or more management modes). This is for instance the case of delegation of residual tasks by indirect centralised management in the context of decentralised management; or
- ii. **may** be signed, where the entirety of an action is delegated to the national body or international organisation and the beneficiary country has no budget-implementing tasks, but the beneficiary country and the Commission consider that a financing agreement is nevertheless necessary to accompany its implementation (this is particularly necessary for instance, for “Recipient-executed” trust funds managed by the World Bank Group). It also reflects the need to involve the beneficiary country in the action even if it has no implementing/managing role (note that external aid is always implemented on behalf of the beneficiary countries, regardless the management mode).



## Checklist 2: What needs to be taken into consideration during the decision-making phase?

N°	Question	Score	Notes for own use
1	Calendar: Has a timeline been prepared, where the time needed for the program maturation has been taken into consideration? Has the decision-making phase been prepared with sufficient anticipation to avoid delays or using the suspensive clause in a non appropriate manner (see section 3.1)?		
2	Has the management mode been decided (following ex-ante assessment where applicable)? Have the Commission services and partners discussed the most appropriate arrangement to implement the required Technical Cooperation (contractual type, requirements, tools, etc)? Is this duly reflected in the draft financing decision/AAP?		
3	What agreements do I need to sign before entering the implementation phase (MoU, transfer, financing agreement, delegation and/or contribution agreement; etc.)? Are they consistent and compliant with EC requirements and rules?		
4	Does the financing agreement, and TAPs in particular, duly reflect the overall operational and managerial set up of the action? Is it sufficiently precise but also flexible to guarantee a smooth implementation?		
5	During the implementation phase, does the level of details of the TAP entail program adaptation without addendum to the FA?		



## **Chapter 3 - Phase using EC procedures (I): initial steps**

This chapter explains:

- When can we launch a tender or call for proposal
- The importance to plan ahead in order to have documents of quality
- How to use the suspensive clause
- The procedures to be used to award a service or grant contract for TC
- The conditions under which a contract can be directly signed to mobilise national public administration expertise

### 3.1 Time line/use of the suspensive clause

The contracting of the activities described in the financing decision and agreement should be started (i.e. launch of tenders and call for proposals and/or signature of contracts and agreements) **as soon as** the last of these two legal acts have entered into force. Nevertheless, the launching of tenders/call for proposals may take place before, **where justified** (see Section 2.4.13 of the PRAG) and provided that a suspensive clause is explicitly mentioned in the tender documentation/guidelines for applicants. Furthermore, in case the launching takes place before the adoption of the financing decision, the use of the suspensive clause needs to be duly **reasoned** in the financing decision/AAP. In all cases, the use of the suspensive clause is subject to prior approval by the competent authority, as indicated in the Instruction Note on Derogations.



**Useful link No 8:** The Instruction Note on Derogation can be find:

[http://www.cc.cec/dgintranet/europeaid/contracts\\_finances/fin\\_and\\_cont\\_rules/other\\_issues/index\\_en.htm](http://www.cc.cec/dgintranet/europeaid/contracts_finances/fin_and_cont_rules/other_issues/index_en.htm)

We should distinguish the following cases:

- ➔ Under **EDF**, article 19b of Annex IV of the Cotonou Agreement states that, in order to ensure an early start-up of the action, “the ACP States may, in all duly substantiated cases and in agreement with the Commission, issue invitations to tender for all type of contracts with a suspension clause, once project appraisal is completed but before the financing decision is taken. Such a provision must be mentioned in the financing proposal”. The application of this clause under EDF is subject to a specific note.
- ➔ In **other cases**, the use of the suspensive clause is as a rule linked to objective circumstances which are external to the Commission (e.g. in principle a default in the planning or in the internal decision-making within the Commission services would not be sufficient to justify its use). Delays caused by external circumstances can be taken into account to use the clause:
  - The signature of a financing agreement by the beneficiary country is an external element and hence launching calls before its signature, but after the adoption of a financing decision, may be justified in most cases.
  - The use of a suspensive clause before the adoption of a financing decision remains exceptional and its use must be adequately reasoned (in the derogation request and the financing decision/AAP).



**Useful link No 9:** Useful link No 9: For further guidance, see PRAG and note of the Legal Service in the following link:

[http://www.cc.cec/dgintranet/europeaid/contract/important\\_messages/documents/suspensive\\_clause\\_before\\_the\\_adoption\\_of\\_a\\_financing\\_decision\\_note\\_sj\\_en.pdf](http://www.cc.cec/dgintranet/europeaid/contract/important_messages/documents/suspensive_clause_before_the_adoption_of_a_financing_decision_note_sj_en.pdf)

Contracts can only be signed after the financing decision has been adopted **and**, if required, the financing agreement has been concluded.

Under centralised (direct and indirect) as well as decentralised management where a financing agreement is signed with the beneficiary country, **all contracts implementing the agreement should be signed within a D+3 period (i.e. three years from the signature of the financing agreement), except audit and evaluation contracts<sup>15</sup>**. Under EC Budget, this rule is expressed in absolute terms and hence no derogation can be granted<sup>16</sup>.

<sup>15</sup> Contracts under centralised management with no financing agreement should be concluded in the N+1 period, being N the date of adoption of the financing decision (direct centralised) or the date of entry into force of the delegation agreement (indirect centralised)

<sup>16</sup> Cf. article 166 of the EC Financing Regulation.

## Q&A 9: How can I make sure to have a timely implementation of an action? Some tips



- ➔ **Planning ahead is key!** Any planning should take into consideration the procedural deadlines and anticipate possible difficulties during the implementation.
- ➔ To advance as much as possible with the decision-making phase, take advantage of the flexibility to have a financing decision/AAP approved well in advance, in particular in the year N-1 (after the adoption of the Provisional Budget, which usually takes place before the summer break).
- ➔ The launching of calls with suspensive clause before the adoption of the relevant financing decision/AAP remains exceptional under actions financed by the EC general budget (EDF has its own rules, as explained above). If the exceptional circumstances exist, it would then be possible to use it. For instance, the late approval of the relevant legal basis (instruments for EC external aid) by EU Member States (Council) and the European Parliament was an exceptional circumstance beyond the Commission services' control. But remember that its use shall be duly justified and reasoned (both in the prior approval request and in the financing decision/AAP).

## 3.2 Choice of the award procedure under EC rules

The rules on the procedures to be followed are described in sections 2.4 (procurement procedures), 3.2 and 3.3. (procedures for services) and 6.3 (award procedures for grants) of the PRAG. These rules need to be applied by the Contracting Authority, *except where this entity is authorised to use its own rules*.

### 3.2.1 Service contracts

For service contracts, the choice of the procedure depends on the estimated value of the contract<sup>17</sup>, as provided for in article 241(1) of the Implementing Rules of the EC Financial Regulation:

- i. For contracts above or equal to 200 000 EUR: international restricted procedure.
- ii. For contracts above 10 000 EUR and below 200 000 EUR – framework contract or competitive negotiated procedure (i.e. no publication but at least three tenderers shall be invited).
- iii. For contracts below or equal to 10 000 EUR – negotiated procedure with a single offer.

The framework contract ("FWC") is not only a contract but also a procedure through which specific (service) contracts are awarded. For contracts between 10 000 and 200 000 EUR, the FWC must be used. Only when the use of a FWC is impossible or a previous consultation has been unsuccessful, can the relevant Contracting Authority use the competitive negotiated procedure<sup>18</sup>. The use of the FWC is impossible for instance when no lot covers the service to be provided or, simply, its use is impossible in the sense of the next paragraph (the Contracting Authority has no access to the FWC). The argument that experts under the framework contract may be too expensive is not valid. If the competitive negotiated procedure is unsuccessful, then the negotiated procedure with a single offer may be used. These rules are established at the level of the EC financial rules and hence no derogation can be granted.

<sup>17</sup> These thresholds are different to the thresholds on the Practical guide to programme-estimates, which refers to thresholds for decentralised payments (cf. footnote No. 4 above).

<sup>18</sup> Under new art 19c of Annex IV of Cotonou Agreement, the procedures for service contracts and award of grant are harmonised and hence the articles of the Implementing Rules of the EC Financial Regulation are applicable. For contracts governed by the previous version of Annex IV of the Cotonou Agreement, the General Regulation is still applicable. The General Regulation requires the use of the Framework Agreement for service contracts between 5 000 EUR and 200 000, whose specific contracts are thus signed by the Commission (the Commission remains the Contracting Authority – direct centralised management).

Under the current FWC, beneficiary countries cannot act as Contracting Authority with some limited exceptions (IPA countries) and thus these cannot sign specific contracts awarded under a FWC. The use of the FWC by a beneficiary country is thus *impossible* in the sense of the previous paragraph. As a consequence, for service contracts between 10 000 and 200 000 EUR, the beneficiary countries may decide to either use the competitive negotiated procedure or agree that the Commission will award such contracts through the use of the FWC. In the latter case, the relevant financing decision and agreement may explicitly foresee that service contracts within the aforementioned threshold will be awarded and signed by the Commission under direct centralised management. In the absence of such clause, the beneficiary country could, on a case-by-case basis, decline to use its right to act as Contracting Authority for a specific service contract and request the Commission to award a contract under the FWC procedure.

Exceptionally, in specific circumstances, *regardless of the estimated amount of the contract*, it is possible to use a negotiated procedure with a single offer (see section 3.2.3.1 of the PRAG)<sup>19</sup>. Amongst these circumstances (e.g. urgency, previous unsuccessful competitive procedure), one may be particularly relevant for certain areas of Technical Cooperation:

*“where the services are entrusted to public sector bodies or to non-profit institutions or associations and relate to activities of an institutional nature or designed to provide assistance to peoples in the social field”* (Art 242 1(b) IR).

**The conditions to apply this case of negotiated procedure are twofold:**

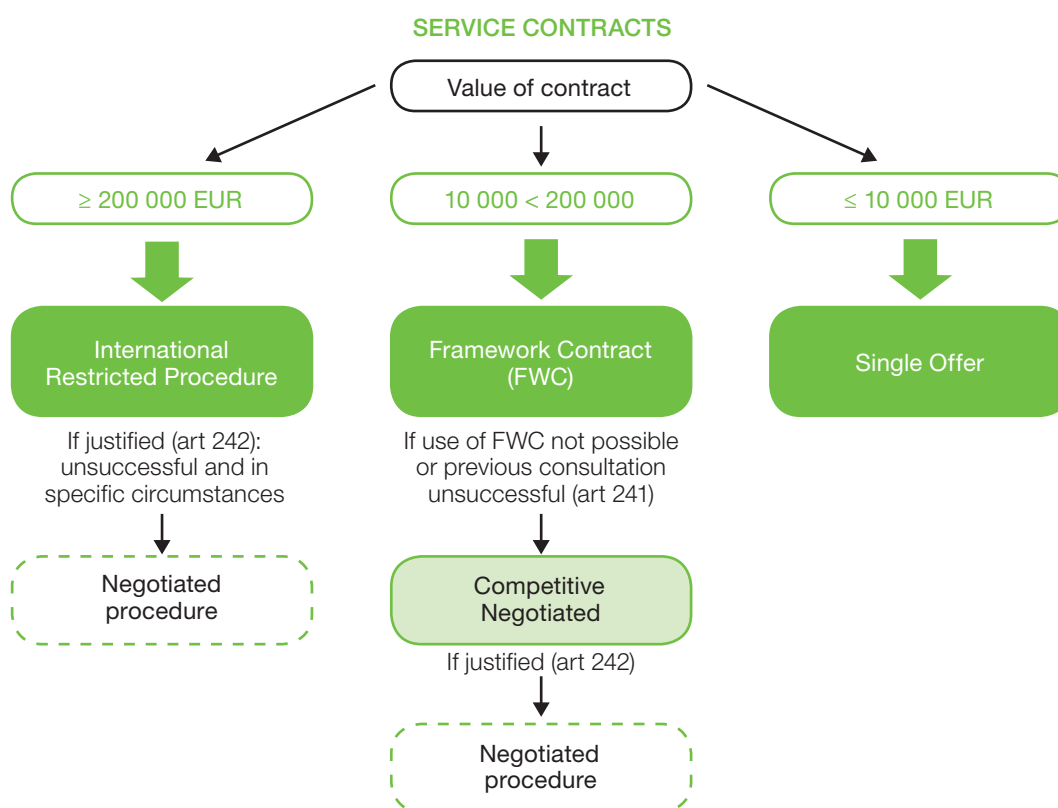
- ➔ the first concerns the nature of the potential contractor: public body (such as a Ministry or public agency of an EU Member State or third country) or a non-profit institution or association (any charitable institution or NGOs – this should be checked by seeing the Statutes and other legal documents);
- ➔ the second refers to the nature of the service to be provided. Technical Cooperation could be particularly concerned by the “institutional nature” of certain activities such as capacity-development, notably in those cases where they relate to typical functions of the public sector and/or where it may be very difficult or even impossible to find appropriate expertise in the private sector. In specific cases technical cooperation may of course also take place in the context of “assistance in the social field”.

This case of negotiated procedure opens additional possibilities to the Commission to work, for instance, with public institutions from the North and/or South in a flexible and rapid manner, having in mind in all events the principles of non discrimination, objectivity, transparency and sound financial management. For instance, in case of contracting with a public body of an EU Member State, the negotiated procedure could be started with the launching of an informal call for expression of interests to all EU Member States. Note that the applicable EC rules contain special provisions and rules for public entities (see Q&A 7).

The use of the negotiated procedure with one single offer (or more) requires prior approval of the competent authority; in case of EuropeAid, it is the responsible Director or Head of Delegation. The request of this prior approval will indicate the circumstances and reasoning justifying the use of a negotiated procedure and how the above-mentioned principles have been taken into consideration. The use of a negotiated procedure should be duly reported to the Director General (more details on prior approvals, see link to the Instructions Note on Derogations in Section 3.1 of this Annex). Furthermore, the negotiations should be duly recorded in a negotiation report (see Annex a10 of the PRAG).

<sup>19</sup> Where one of the circumstances provided for in article 242 of the Implementing Rules of the EC Financial Rules exists.

Graphic 3: Overview of procedures to award a service contract



### Practical case 6: Use of the negotiated procedure

#### Case a)

For the preparation of actions of technical cooperation in security-related areas, it was considered necessary to make recourse to experts in relevant public administrations of EU Member States. Given the institutional nature of the envisaged activities (capacity-building measures for law enforcement and judicial authorities of the beneficiary countries), the negotiated procedure was used to contract public bodies for carrying out the requested services. In order to respect the principles of objectivity, transparency and non-discrimination in the selection of the public bodies to be contracted, the Commission services launched an informal call for expression of interests to all EU Member States (art 242.1 b).

#### Case b)

Within the framework of a regional programme, it was envisaged the setting up and the strengthening of potable water conveyance systems.

The aim of this technical assistance was to carry out the monitoring of several small photovoltaic solar pumping systems. This study aimed to make a series of field measurements with a view to better identify and evaluate some of the main parameters such as temperature, daily irradiation and irradiance used for the design of photovoltaic systems.

It was therefore planned to entrust the aforementioned study to a local research institute through a negotiated procedure. The justification for this negotiated procedure, following point 3.2.3.1.b) of the PRAG, was based on the fact that:

this scientific institution is a public body with the suitable technical equipment, the proved technical competences and a proven experience in the field of the solar photovoltaic systems;

the object of this study is of an institutional nature and the corresponding project aims to provide assistance to the people in the social field.



### 3.2.2 Grants

Grants are awarded following a call for proposals, by which the Contracting Authority announces in the Guidelines to the applicants the objectives it wants to obtain and select the proposals which better comply with these objectives. The procedures may be “open” or “restricted” (i.e. two-step procedure) – see Section 6.3 of PRAG.

It is possible to limit the eligibility of applicants on the basis of the **objectives** of the call (e.g. limit the call to academic entities in certain countries if, for instance, the objective of the call is to foster the exchange of expertise amongst such entities in a given region – for instance, the EU and the region in question), even if this objective criteria has consequences of limiting the rules of nationality and the type of organisations which can submit a proposal.

There are some exceptions to the rule of the call for proposals (see section 6.3.2 of the PRAG)<sup>20</sup>. These include cases such as crisis situations, emergencies, monopoly, etc. Since 2006, a new case of direct award has been added by the EC legislator, which may be of particular interest for grants related to Technical Cooperation:

*“Actions with specific characteristics that require a particular type of body on account of its technical competence, its high degree of specialisation or its administrative power, on condition that the actions concerned do not fall within the scope of a call for proposals”.*

**The key criteria to apply this case of direct award are:**

- ➔ The **adequacy** of the technical or administrative competence of the entity in question with regard to the **action to be implemented**. Note that this would not require monopoly, just the well-proven competence would suffice, (e.g. judicial services when competence in law enforcement is needed; national audit bodies when special competence on e.g. public administration audit is needed, etc).
- ➔ The proposed action may not fall within the scope of a call for proposals launched at the same time;
- ➔ The reasons for its use must be substantiated in the award decision.

This case of direct award also opens additional possibilities to, for instance, actions to be implemented by administrations or highly specialised entities from the North and/or South in a flexible and rapid manner, having in mind in all events the principles of non discrimination, objectivity, transparency and sound financial management. For instance, in case of contracting with a public body of an EU Member State, the direct award could be preceded by an informal call for expression of interests to all EU Member States.

The use of a direct award of a grant requires prior approval of the competent authority; in case of EuropeAid, it is the responsible Director or Head of Delegation. The request of this prior approval will indicate the circumstances and reasoning justifying the direct award and how the above-mentioned principles have been taken into consideration (for more details on prior approvals, see link to the Instructions Note on Derogations in Section 3.1 of this Annex).

Note that as a general rule, the Commission cannot finance 100% of an action, since co-financing is a principle required by the applicable EC and EDF financial regulations. There are some exceptions to this rule (see section 6.2.9 of the PRAG), e.g. if it is essential for the action to be carried out. Whereas one of these exceptions has to be foreseen already in the financing decision of the Commission (interest of the Commission, e.g. visibility reasons), the others may be justified in the award decision by the responsible authorising officer.

Under decentralised management, the direct award of grants to local community-based organisations or other local organisations of the country of the beneficiary is possible. Each of these grants cannot exceed 10.000 EUR. For additional conditions, see Section 6.5 of PRAG.

20 Cf. article 168 of the Implementing Rules of the EC Financial Regulation.



## Practical case 7: Use of grants to contract TC



### Case a)

For the implementation of a technical cooperation action in the area of fight against drugs, it was considered appropriate to contract with EU Member States administrations, due to their specialised personnel and comparative advantage in working with beneficiary institutions in such specific and highly sensitive areas of assistance. Given the intention to support an action whose implementing details are proposed by a third party (i.e. the Commission does not impose its terms of reference but only objectives, together with the beneficiary country), and also with a view to ensuring that all potentially interested public administrations would be able to apply, the action was designed from the formulation phase as a grant contract. A direct award was justified on the basis of the technical competence and high degree of specialisation required for this type of action (art. 168.1 f) IR). In order to respect the principles of objectivity, transparency and non-discrimination in the selection of the public body to be contracted, the Commission services launched an informal call for expression of interests to all EU Member States. A derogation to the co-financing rule was justified in the financing decision because the Commission, for reasons of visibility, was interested to be the sole donor of the action (art. 253.1 e) IR).

### Case b)

The objective of an action was to establish a tool to enhance cooperation between European and local enterprises in a city of country X in order to improve links between businesses and science and technology stakeholders involving business, industry and public bodies from the EU and that country. Some of the activities were to establish common technology networks or to assist in the development of joint new technologies.

In order to implement this action, two options were considered in the beginning: service contract or grant contract. It was decided to design this action as a grant and thus leave to the applicants to propose the most suitable tool to meet the aforementioned objectives. Also, the proposed means which would develop these objectives (= the outcome of the action) should remain independent (not owned by the EC). For these reasons, the selected option was the award of a grant contract following a call for proposals. Following the open of the call for proposals, the grant contract was awarded to company Y which has developed a European Business and Technology Centre (EBTC).



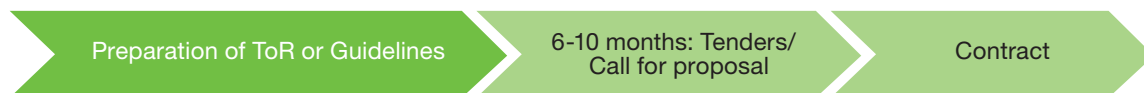
## **Chapter 4 - Implementation phase using EC procedures (II): award of contracts**

This chapter explains:

- That time is needed to develop a tender/proposal of quality
- To well identify the competencies needed to execute the TC, this in accordance with the Partner's institutional context
- How different methods of assessment can be used to assess the quality of the expertise proposed
- The importance to involve the Partner in the awarding process whatever is the management mode

## 4.1 Preparation of the award procedure

### 4.1.1 Timelines and deadlines



As mentioned above, a call for tenders/proposals may last from 6 to 10 months. Other procedures are substantially shorter: framework contracts may take not more than one month and the negotiated procedures from one to 3 months, on average.

There are minimum deadlines for the submission of applications/offers (i.e. for restricted procedures: 30 days for submission of applications and 50 for submission of offers; under the framework contract it is 14 days for submission of offers; there are no specific rules for negotiated procedures). Establishing shorter deadlines requires a derogation from the competent authority (see Instructions Note on Derogations mentioned in Section 3.1 of this Annex) – See Section 3.3 of PRAG.

Deadlines must take into consideration *inter alia* the complexity of the contract to be awarded; so the quality of tenders is ensured. Hence, it is recommended to increase the minimum deadline indicated above *in proportion to the complexity of the envisaged contract*, in light for instance of the highly-specialised technical requirements or the difficulty to find appropriate experts and for example when the tender is launched during typical holiday periods (July/August or December). It is particularly the case for the Framework contract, where the minimum of 14 days should only be used when under time pressure, instead it is good practice to give longer deadlines to framework Consultants to submit their offer, so as to increase the chances of identifying good experts. The proposed deadline of the call should be taken into consideration in the overall timeline of the programme mentioned in Section 1 and 2.1.1 of this Annex.

### 4.1.2 Preparation of documents for the procedure

It is of the utmost importance that, where the action relating to Technical Cooperation is not decentralised, the beneficiary country be involved in all the preparatory steps and, as a standard practise, give its approval to the tender dossier including the requirements and selection/award criteria (see Section 2.6 of PRAG). This may be applied by analogy to a grant aiming at providing Technical Cooperation.

Note that, where the action is decentralised, the beneficiary country may first require prior technical assistance in order to prepare the tender documents to be used, in particular the terms of reference or Guidelines.

In all cases, other key stakeholders (for instance, other co-donors) should also be involved during the preparation of the tender (e.g. discussion of the requirements, best ways to achieve the objectives, etc).

In the preparation of the documentation (terms of reference, invitation to tender, procurement notice, guidelines for applicants, etc) for the award procedures, the Contracting Authority should pay particular attention to the following elements:

- ➔ Using **local expertise** (not necessarily local experts) is important to pursue the aid effectiveness commitment and the principles of the EC Backbone Strategy. Note that, in order to guarantee respect of the rules of nationality and the principle of equal treatment and non discrimination, local expertise does not refer to the nationality or place of residence of the entity/experts but to the expertise acquired by them in the required country/region throughout the years.
- ➔ Contracting Authorities are encouraged to include local expertise as a requirement in the terms of reference for service contracts as long as this is expressed in objective terms. Where **objectively** necessary for the implementation of the service/action, it may be required that the contractor have to rely on a local partner network. The terms of reference should clearly indicate whether the requirement relating to local expertise is an **absolute** technical award criterion (without which the tender will be rejected) or it is just a simple **preference** (See subpoint 3.3.10.3, part 1, of PRAG). It is important that, when the local experience is an absolute criterion for the evaluation of the technical proposal, the minimum requirements (number of years of experience, etc) should be realistic and, where possible, broad enough to allow sufficient competition (see point 6.1.1. of Annex b8 of PRAG – Terms of Reference). The above without prejudice to the preferential rules under EDF (article 26 of Annex IV of the Cotonou Agreement).

- The Terms of Reference should include minimum requirements on **past professional experience of the entity/experts**. To that end, the CVs of key experts are attached to the tender, as well as the documents substantiating the relevant experience (except for the FWC consultations since the submission period is short but they can be asked for in case of doubts by the evaluators). These documents would indicate whether the entity/experts have been active in a specific field.
- When **objectively** justified for the objective of the action to be implemented, the Contracting Authority may require the **involvement of public authorities** from the donor community and/or from the beneficiary countries in the provision of Technical Cooperation. In that case, the Terms of Reference or Guidelines would indicate how this requirement is linked to the objectives of the project/action and detail the level of required involvement (for instance, it may be required that they would be the only eligible tenderers or applicants, or that they should participate in a consortium with the lead tenderer/applicant, or simply they could be **associated** to the tender/application). It should also indicate whether this requirement is an absolute technical award criterion (without which the tender/proposal will be rejected) or not (See sub-point 3.3.10.3, part 1, and section 6.4.3 of PRAG). For more information on working with public authorities, see Sections 1.2 and 3.2 of this Annex.
- Unless otherwise indicated in the procurement notice/guidelines for applicants, both **legal entities** and **natural persons (individuals)** may submit a tender or a proposal. Note that the PRAG provides examples of selection criteria for companies and for cases where tenders from individuals are expected for a service contract (see Annex B2 of the PRAG – Procurement notice).

### Q&A 10: How to encourage natural persons to participate in a procedure? Some tips



- Individual persons would rather participate in a procedure when the amount of the contract to be awarded is not too high and the tasks do not require a sophisticated infrastructure/backstopping organisation. The selection criteria, and the terms of reference, should reflect this and should avoid requirements which are excessive or disproportionate in relation to the tasks actually needed.
  - The legal status of the potential tenderer can never be a criterion for the choice of the procedure.
  - The procedures foreseen in the EC financial rules, reflected in the PRAG, must always be followed (e.g. if the use of the framework contract is possible for contracts below 200.000 EUR, it shall be used).
  - The most likely procedure where natural persons would be inclined to participate is a service contract below 200.000 EUR awarded under “competitive negotiated procedure”. Publication/announcement could be done, for instance, in the local press instead of using a predefined list of potential persons. This publication would ensure transparency and wider competition (and therefore better price).
  - Eligibility of this procedure could not be limited to natural persons. Note that the arguments by which prices submitted by a natural person would be cheaper is not valid since it is actually the market – through competition- who should establish what tender offers best value for money. Nationality criteria have to be respected at all times.
  - Insert selection criteria for natural persons (together with the criteria for legal persons). The selection criteria could be different in light of the different nature of these persons, but never discriminatory (for instance, extremely simple for natural persons and disproportionately burdensome for legal persons). The award criteria should be the same regardless of the legal structure of the tenderer (natural or legal person) and based on profile/CV of the expert.
  - Respect the requirements regarding the evaluation committee, evaluation procedure and evaluation report as mentioned in PRAG for service contracts.
  - It has to be considered if advance payments should be done, as the provision of a bank guarantee for pre-financing is usually not applicable for the competitive negotiated procedure (only mandatory if pre-financing > 150.000 EUR).
- Other issues to be considered when drafting the tender documentations (for service contracts), which are explained in the Section 3.5 of this Annex:
- It should be mentioned in the terms of reference that the beneficiary country shall approve the **reports** (See Annex B8 of the PRAG, Section 7.2 –Terms of Reference-);
  - Reference to the **interviews** to key experts shall be specified in the Invitation to Tender (See Annex B8 of the PRAG – Instructions to Tenderers-).



## Q&A 11: How to prepare a tender dossier, particularly the ToR? Some tips (part 1)

See instruction text in the template ToR (fee-based contracts & global price) in annex B8 of the PRAG.

### Global price contracts

Although the ToRs may specify the expertise required and may indicate the quantity of resources that are expected to be involved, in this type of contract, unlike the fee-based contracts, it is up to the Consultant to judge and quantify resources to employ (except for FWC where the ToR's should always give an estimation of the inputs). Therefore, the risks and responsibilities involved with estimating the resources needed for the required services are borne more by the Consultant than by the Contracting Authority (although the Contracting Authority will still have to make a reasonable estimation of costs in order to allocate sufficient funds).

In global price contracts, it is essential that the ToRs provide a sufficient level of detail on the expected outputs (deliverables) and quality, based on objective criteria, e.g. which aspects does the mission have to tackle; which questions must it answer; which stakeholders should be involved; with what process (number of workshops, interviews etc); what will be the structure and content of the report (number of pages, annexes etc). When the deliverables are not sufficiently clear, there can easily be some misunderstanding between the contracting parties, e.g. the Consultant may consider the deliverables finalised while the Contracting Authority may expect more work and results.

Note that global price contracts may also be used under the Framework contract procedure. For the FWC, it is foreseen that CRIS will automatically select by default "lump sum" for studies and "fee based" for advisory/implementation tasks. You may find clarifications on difference of approach between global price and fee-based contracts in Q&A 6.

### Award criteria

It is reminded that it is of key importance to formulate award criteria (requirements) for the experts in your Terms of Reference that can be easily and objectively assessed (not only on papers, but also through interviews). The criteria should be drafted in a manner which will give as much flexibility as possible, notably to avoid having to cancel tenders for example because one out of four experts does not fulfil all requirements. If interviews are envisaged, you need to ensure that the criteria will allow you to adapt the scores as may be required. Example: if the only requirements stated in the ToR for a given expert were a university degree and 3 years of relevant experience, you will have difficulties to justify a lowering of the scores of the experts on the basis of poor language or communication skills discovered during the interview.

It is therefore good practise when drafting criteria to make a distinction between requirements that are "absolutely necessary to have" and "would be nice to have"; such as "the expert must have a bachelor degree, preferably in law, economics or administration"; "the expert must speak French fluently and preferably fluent Portuguese"; "the expert must have successfully managed at least 2 projects of a similar value", or "the expert must have excellent communication skills. Experience from giving training would be an advantage". In that way, it will be possible to accept as compliant an expert that possess the first, obligatory part of the criteria and anyone who has the "preferably" and "advantage" will simply be given a higher score.

For these reasons, and to avoid discrimination and excessive demands, formulations which could be disproportionate should be avoided: "the expert must have a master's degree in agricultural economics" (is such master really necessary or could we use a more open criterion?); "the expert must have 15 years of experience in sector X in country Y" (do you actually need that the whole period of experience be in that particular country? Experience in the EU/in the field or even in a neighbouring country/region would not be sufficient?); "the expert must have previous experience from EC-financed projects" (this may be discriminatory; you are excluding new experts which may have relevant experience).

In certain cases, instead of evaluating each key expert individually, it could be more appropriate to describe the requirements of the team of key experts as a whole (note however that this would require prior approval from the relevant services of the Commission to the necessary modifications to the templates (ToR, evaluation grid etc), if EC procedures are used). In the latter case, the Consultant is given more flexibility and autonomy on the choice of experts, and it is usually more appropriate for global-price contracts. For instance, a study may require two experts with a specific profile (public health or transport sector reform expertise, etc), and speaking good English and French. It may be sufficient that the team as a whole speaks the two languages (one may speak good English, the other good French), and not that each expert speaks both languages.

## Q&A 11: How to prepare a tender dossier, particularly the ToR? Some tips (part 2)



Below is a concrete example that has been used for identification studies of road projects:

### **Option A:** the number and profile of each expert is provided

The mission will be composed of [n] experts with the following profiles and qualifications:

#### Common requirements:

- ➔ minimum experience in [country/region] of [n] years;
- ➔ full working knowledge of [language], and of [other language(s)];
- ➔ excellent communication skills;
- ➔ computer literate.

#### Special requirements:

- ➔ [The expert/at least 1 of the experts] proposed should have practical experience in the preparation and moderation of participatory workshops
- ➔ [The expert/at least 1 of the experts] proposed should have solid knowledge of, and practical experience with [specific sector such as social analysis and planning].
- ➔ [The expert/at least 1 of the experts] should have hands-on experience with financial & economic feasibility studies of projects.

Expert 1: [Example]: team leader, transport economist/project planner & analyst, university education, extensive and relevant experience [minimum [n] years), in identification and feasibility studies, design and implementation of road projects; with consolidated knowledge of economic & financial feasibility analysis techniques

Expert 2: [Example]: highway engineer, university education, extensive and relevant experience (minimum [n] years) in road engineering design, with specific knowledge of road construction techniques and technical specification for roads

### **Option B:** only the fields of expertise (functions) required for the study are provided, leaving to the consultant to indicate in his offer a team that covers all the fields of expertise required.

The mission will be composed of [1 or 2, max. 3] key experts with the following profiles and qualifications:

#### Common/special requirements:

- ➔ minimum experience in [country/region] of [n] years (years of experience may vary per expert irrespective of their position on the team)
- ➔ full working knowledge of [language], and of [other language(s)];
- ➔ excellent communication skills;
- ➔ extensive and relevant experience (minimum [n] years), in identification and feasibility studies, design and implementation of road projects, with consolidated knowledge of economic & financial feasibility analysis techniques.
- ➔ extensive and relevant experience (minimum [n] years) in road engineering design, with specific knowledge of road construction techniques and technical specifications for roads.



**Useful link No 10:** Note that there are a number of standard Terms of Reference which are already available and can provide useful inspiration, such as:

- ➔ Identification and formulation missions for road projects (see Transport Thematic Network)
- ➔ TA for the Supervision of road projects (see Transport Thematic Network)
- ➔ Environmental Impact Assessments for road projects (see Transport Thematic Network)
- ➔ Institutional Assessment Capacity Development study
- ➔ Technical audits for road projects (see Transport Thematic Network)
- ➔ Public Expenditure and Financial Accountability Assessment (see intranet AIDCO E1)
- ➔ Audit of Internal Control Systems (see intranet AIDCO E1)
- ➔ Targeted Budget Support (see intranet AIDCO E1)
- ➔ Environmental Impact Assessments  
(see under intranet AIDCO E6 the annex to the Environmental Handbook)



Do not hesitate to contact the Thematic Units in Directorate E that may provide a more recent update on templates and good examples to look at.

## 4.2 Steps in the evaluation process

### 4.2.1 Evaluation Committee

For services to be awarded under centralised management, including the FWC procedure, the beneficiary country will be, as a standard practise, *invited* to participate in the evaluation process as a voting member for the two phases of the procedure (short-listing of candidates and evaluation of tenders).

Principles to be borne in mind when inviting beneficiary countries to the Evaluation Committee:

- ➔ The implications of the participation of the beneficiary country in terms of calendar and costs should be taken into consideration in advance during the planning of the tender procedure.
- ➔ Unless the beneficiary country decides to pay for these costs, the costs of the participation of the representative of the beneficiary country may be supported by the Commission through the global allocation/ from the action/programme concerned and may include transport, hotel and daily allowance. For the FWC, the evaluation is not required to be *in camera* and the evaluation including the beneficiary can be made by exchange of e-mails.
- ➔ All other conditions applicable to a member of a Committee mentioned in the Instruction Note should be respected (e.g. in particular the requirements on command of the language of the procedure, confidentiality, impartiality, etc).
- ➔ Note that in some cases, the participation of beneficiary countries would in practise be very difficult (for instance, regional programmes, however the relevant regional organisation, where it exists, could be invited).

For calls for proposals, the participation of the beneficiary country is not foreseen by the mentioned Note. However, the Commission may still decide to invite the beneficiary country where it is deemed appropriate and where the ownership of the TC components by the beneficiary country is central.



**Useful link No 11:** For more information on the composition and role of the Evaluation Committee, please check the relevant Instruction Note at the following site:  
[http://www.cc.cec/dgintranet/europeaid/contracts\\_finances/fin\\_and\\_cont\\_rules/other\\_issues/index\\_en.htm](http://www.cc.cec/dgintranet/europeaid/contracts_finances/fin_and_cont_rules/other_issues/index_en.htm)



#### 4.2.2 Assessment of experts: checks and interview of experts

- ➔ The Evaluation Committee should as standard practise proceed **to check the past experience of key experts** (including checking references of employers or Contracting Authorities included in the CVs) in order to confirm the information provided in the CV with regard to the award criteria (e.g. that the services provided in the past were successfully completed). Whenever the Commission has put in place a data base on the performance of experts, such database may be used by the Evaluation Committee to confirm the information included in the CV of the key expert.

The Contracting Authority (and first, the evaluators) must ensure at all times an objective evaluation of the tenders/proposals and the principles of equality of treatment and non discrimination must be respected. For that reason, these contacts will only be used to confirm the accuracy of the information provided by the expert relating to his past experience and will not be used to introduce subjective elements in the evaluation of the experts/tender.

When as a consequence of these checks, it is proven that the CV does not reflect reality and hence these may affect the evaluation of the key expert by the Committee, e.g. by deducting points for the concerned award criterion, evidence that these checks have been carried out and its result must be duly substantiated (e.g. minutes of phone conversations and exchange of letters or e-mails; evaluations in database) and reflected in the report of the Evaluation Committee.

- ➔ **Interviews of key experts** are a standard practice (preferably by phone or videoconference) “whenever the expert proposed has no relevant experience on EC projects in the same language area, as evidenced by the CV”. Interviews need to take place in cases where a contact with the key expert may give a better understanding of the qualifications, for instance where the communication or linguistic skills are important and these elements cannot be well appreciated just on the basis of a paper CV.

After the written provisional conclusions but before concluding the technical evaluation, the Evaluation Committee should, in line with the above, interview the key experts proposed in technically compliant tenders. This must be specified in the invitation to tender. Interviews should be duly prepared by the Committee and notified to the tenderer in question at least ten days in advance (see point 3.310 of PRAG and Annex b8 – Instructions to Tenderers (Annex II)-).

The interviews are particularly relevant for Technical Cooperation, where the quality of the key expert is essential for the successful completion of the service to be provided. On the other hand, interviews are costly and may cause considerable delays in the procedure. For that reason, if interviews are required, the use of telephone or videoconferences should be privileged.

Equality of treatment should be considered at all times. For instance when deciding on whom to call for interviews (the choice of the candidates to be interviewed should be based on objective criteria such as the score of the selected tenders, or the category of key expert that need to be interviewed).

Systematic interviews are not foreseen under the current contractual provisions of the FWC but specific modalities will be introduced for the next FWC Beneficiary 2009.



### Q&A 12: How can I organise a successful round of interviews? Some tips

- ➔ Interviews with experts should be well prepared and planned!
- ➔ Tenderers with a provisional average score of 80 points or more may be invited. It may also be prudent to invite those tenderers who are just below the limit of 80.
- ➔ The Evaluation Committee should prepare in advance a list of questions; the same questions should be asked in each interview.
- ➔ All the members of the Evaluation Committee should be present during the interviews, including the Chairperson.
- ➔ Interviews must be minuted in an appropriate way (notably in case of complaints/appeals) and attached to the evaluation report.
- ➔ The interviews can have an impact on the score given to a tenderer but only on the basis of the announced award criteria (positive or negative) (example: it turns out that the expert has poor communication skills; it is only possible to reduce the score if it was indicated in the requirements that this expert must have good communication skills). In principle, only points related to the key expert interviewed could be modified (not the points for organisation & methodology). The changes should be properly reflected and explained in the evaluation report).

#### 4.2.3 Approval of experts in centralised management

When the EC is the Contracting Authority, if the beneficiary country is not invited to the evaluation committee as voting member and where appropriate, the latter must be notified of the name of the proposed tenderer. **The approval of the key experts or of the experts retained for a FWC consultation must be sought from the beneficiary country before the award decision.** Note that the request for approval of the key experts is not a request for approval of the European Commission's evaluation as such. If the beneficiary country objects to the expert(s), it must give objective reasons for the rejection (e.g. information which would alter the conclusion of the Evaluation Committee – false information in the CV, conflict of interest, etc) and these reasons need to be assessed by the authorising officer before taking the award decision.

In case the authorising officer accepts the rejection, the second best offer may be chosen, if any. In this situation, the beneficiary country again has to be consulted. If there is no second best offer or in case of an accepted second rejection, the tender has to be cancelled.

The approval shall also be obtained for any replacement key expert proposed by the Consultant. The beneficiary country may not withhold its approval unless it submits duly substantiated and justified objections to the proposed experts in writing to the Delegation of the European Commission.

If the beneficiary country fails to issue or to reject its approval within 15 days of the date of the request for approval for the key experts, the expert is deemed to be approved. For the FWC procedure, the approval must be given before the notification of the results to the consulted framework Consultants, which takes place 14 days after the offers submission deadline.

The beneficiary country may only request the replacement of an expert if duly substantiated and justified objections are given in writing (see section 3.3.13 of the PRAG).

If the beneficiary country has been invited but did not attend, it no longer has the right to object the proposed expert under the EC procedural rules.

For replacement of experts in general, see section 5.2.

### Practical case 8: Participation of the beneficiary country in the evaluation



For the TACIS Nuclear Safety programme, it is a common practise to invite a representative of the beneficiary country as an evaluator in the evaluation committee. Sometimes an interpreter/translator also has to be foreseen as the command of the English language is not always well enough. In this case, the Commission usually pays for the participation of one representative per country, the translation costs have to be borne by the country concerned. These participation costs include travel costs and per diems. Financing of these costs is done through the global allocation and a contract has been concluded to this end with one of the framework Consultants.

### Q&A 13: Some tips relating to the participation of the beneficiary country



- ➔ So as not to jeopardise the timing of the evaluation, it is advisable to have a stand-by voting member, in the case the beneficiary representative would not be available at the last moment.
- ➔ Check in advance that the representative of the beneficiary country has a good understanding of the language of the procedure. Otherwise the services of an interpreter/translator may be required (this is important as well as when it comes to deciding who is financing the participation of the beneficiary (see practical case No 8). If known in advance, it could be useful to increase the number of copies required from the tenderers, in case a copy for the translator/interpreter is needed.

### Practical case 9: Rejection of the expert by the beneficiary country



In country X (the beneficiary country), a tender was launched for carrying out studies in the field of health.

The EC delegation rejected the first tender as the key expert was a civil servant from the Ministry of Health (beneficiary of the study), being, therefore, in conflict of interest.

Then, the second best tender was proposed. The beneficiary rejected this tender as the key expert proposed was a civil servant in the same field in a local administration and would fall as well in conflict of interest. Third best tender was then selected.



## **Chapter 5 - Implementation phase using EC procedures (III): execution of contracts**

This chapter explains:

- How to involve the Partner in the TC monitoring process
- What in a contract is fixed and what can be modify
- Key issues in regard of the termination of a contract

## 5.1 Approval of reports by the beneficiary country in centralised management

**To enhance the involvement and ownership of the beneficiary country, it should be involved in the approval of reports** (i.e. all the reports defined in Annex B8 of the PRAG, Sections 4.2 and 7.2 (Terms of Reference). The procedure for this should be outlined in the Terms of Reference (see Section 7.2 of the said annex to PRAG) so that the Consultant is aware from the outset.

Special attention should be paid to the time limit to be agreed with the beneficiary country for the approval, since documents and reports are deemed to be approved unless the Commission has not expressly informed the Consultant of any comments within 45 days of receipt of the report (60 days for the final report)<sup>21</sup>. In the absence of comments or approval by the beneficiary country within the set deadline, it should be made clear to the latter that the reports are deemed approved.

## 5.2 Contract changes: terms of reference, replacement of key expert

After the technical assistance contract has been concluded, needs might arise to make certain amendments. The general principles governing modifications to contracts are laid down in the PRAG, Section 2.10. If certain changes are envisaged from the outset, e.g. activities under phase II of the contract depends to a certain extent on the outcome of phase I, this should be clearly indicated in the Terms of Reference so that the Consultant knows there will be adaptations during the implementation.

It is important to bear in mind that no modification to the contract may fundamentally alter the project or modify the award conditions prevailing at the time the contract was awarded, like for example the minimum requirements for key experts. For non-key experts (composition, profiles and input), there is more flexibility since their CVs are not part of the contract and they did not have an impact on the award of the contract.

As concerns experts, those may be replaced either<sup>22</sup>:

- ➔ at the request of the Contracting Authority: on the basis of a written and justified request if the expert concerned is considered inefficient or does not perform his/her duties, or
- ➔ at the request of the Consultant: in the case of death, illness, accident, resignation etc. of the expert

In case of replacements, the Consultant must propose a new expert within 15 days which has at least the equivalent qualifications and experience. If the Consultant does not comply with this obligation, a penalty of up to 10% of the remaining fees for the concerned expert may be imposed.

If the Consultant cannot provide a replacement which has the same qualifications and/or experience, the Contracting Authority may either terminate the contract if contract performance is jeopardised or accept the replacement with a reduced fee rate that matches the qualifications and experience of this expert. This is in addition to the 10% mentioned above.

A replacement of a key expert at the request of the Consultant after the award decision but before contract signature will in principle not be possible. In the case where a tenderer has deliberately concealed that a key expert will not be available at project start, the Contracting Authority may decide to cancel the award and exclude the tenderer in question (also from other contracts financed by the EC in accordance with section 2.3.4 of the PRAG). The contract will then be offered to the runner up, unless it is decided to restart the tender procedure.

Any additional costs for the replacement of the expert (e.g travel and relocation costs, insurances etc) have to be borne by the Consultant.

Recurrent replacements of key experts are a major problem. Since these experts have been considered crucial for the successful implementation of the project and the award of the contracts has to a large extent been based on the key experts proposed, their replacement must be discouraged as far as possible. **Therefore, proof and reasons for the leave of the key expert must be carefully examined bearing in mind that the expert has signed the Statement of Exclusivity and Availability when the tender was submitted. The replacing expert's qualifications/experiences should also be rigorously examined and compromises should be avoided. There must be no hesitation to impose the penalties/reduction in fees allowed by the contract.**

<sup>21</sup> Article 27 of the general conditions for service contracts financed by the EC

<sup>22</sup> Article 17 of the general conditions for service contracts financed by the EC

### Q&A 14: What if the Consultant is asking for an extension of the implementation period?



Examine carefully the justification provided! Remember that this period was announced in the tender documents and the Consultant has committed to it. By extending the deadline, you are in fact changing a key condition of the tender and it could be considered unfair competition. Where justified, you may therefore consider applying the liquidated damages foreseen in the contract<sup>22</sup>, in the case there is a delay in the implementation of the tasks.

## 5.3 Termination of a contract

The performance of the contract needs to be closely monitored to ensure good quality of the services and the achievement of the contract objectives. The Contracting Authority should respond as soon as there is a detection of problems, since a late intervention will usually be at the detriment of the project and at which time it will be more difficult to find appropriate solutions.

The Contracting Authority may however terminate the contract<sup>23</sup>, for instance when the Consultant fails to carry out the services substantially in accordance with the contract,

In the case of breach of contract, the Contracting Authority has the choice:

- to ask for damages, and/or
- to terminate the contract.

In case of serious breach of contract, the Commission may, depending on the seriousness of the misconduct and after having duly given the Consultant the opportunity to present his observations, exclude the Consultant from EC-financed contracts for up to 10 years and/or impose administrative and financial penalties<sup>24</sup>. Note that such a decision is subject to an administrative procedure (followed by a Commission decision), therefore it is normally only used in serious cases.

The Contracting Authority needs to justify why the contract is terminated. The service contract specifies some of the justifications that can be used<sup>25</sup>, which relates to an act or omission of an obligation by the contractor (for instance, breach of the contract, conviction of the contractor of professional misconduct or involvement in criminal activities, bankruptcy, etc). In such cases, after terminating the contract, the Contracting Authority may subsequently conclude a contract with a third party who will implement the contract in the place and at the cost of the Consultant. In this case, it is likely that a negotiated procedure could be used in light of the circumstances (ref PRAG 3.2.3.1, 3.2.12.1-2).

The Contracting Authority could invoke other cases where necessary. However, when the termination is not the contractor's fault, or it is caused by e.g. *force majeure*, the contractor can request a compensation for losses, in addition to sums owing to it for work already performed.

### Q&A 15: Can I terminate the contract because the performance is not adequate?



YES

The contract may be terminated pursuant to article 36 of the General Conditions of the service contract, giving a 7-day notice, explaining the reasons for termination.

<sup>23</sup> Articles 34, 36 of the general conditions for service contracts financed by the EC

<sup>24</sup> Articles 96 of the EC Financial Regulation and 99 of the Financial Regulation of the 10th EDF.

<sup>25</sup> Article 36.3 of the General Conditions of the service contract financed by the EC.



### Practical case 10: Rejection of an expert by the Commission

This practical case concerns a service contract which has been awarded and signed by the EC (centralised management) after an international restricted tender. Immediately after the signature of the service contract, it appeared that the key expert was no longer available (the reality was that he did not want to come to the country concerned as there had been a bomb attempt). What did the EC do?

- ➔ in conformity with the contractual clauses of the contract we asked for the replacement of the key expert (with at least the same profile);
- ➔ a replacement was proposed by the company who was not found adequate;
- ➔ the contract was terminated by the Commission (see point 3.3.14 of PRAG);
- ➔ a new service contract was signed with the second company on the list (whose offer was still valid) following the restricted tender procedure

In case no other company is selected following the tender procedure, the only option is to cancel the contract and to restart the procedure if the contracting deadline permits this.



Graphic 4: Procedural steps to implement TC under a Financing Agreement

	Best practice: not later than 2 years before implementation	Not later than 1 year before implementation	N	N+1	D	D+1	D+2	D+3
<b>Preparatory Phase</b>	Coordination with beneficiary country, donors... identification/ formulation  Adoption of the preliminary draft budget in spring/early summer → Start procedure of AAP approval: QSG, inter service consultation  →							
<b>Decision-making Phase</b>	Commitment, written procedure (AAP approval takes 4 to 6 months) → Financing Decision/AAP (approval by College), Budgetary Commitment (approval by Authorising Officer)							
<b>Implementation Phase</b>	Start at the signature of the Financing Agreement by the beneficiary country → If justified: start tender/grant procedure under suspension clause before FA is signed  Start tender/grant procedures under a FA → Signature of implementing contracts till the end of D+3  Implementation of action under a contract (contract award can take up to 7-8 months)							

## Checklist 3: What needs to be kept in mind during the implementation phase?

N°	Question	Result	Notes for own use
1	Have the time-line for the call/contractual procedures been adequately planned in advance (see graphic above)? In case of calendar problems regarding the implementation of a call, can I use the suspensive clause in accordance with the EC financial rules?		
2	Have the concerned services chosen adequately the procedure (in light of the thresholds) and considered what would be the most appropriate deadline to be given to potential tenderers/applicants? Regardless the thresholds, are there any of the circumstances justifying the use of a negotiated procedure/direct award of a grant (where these exceptional procedures are considered, are the services able to provide objective reasoning for its use and has a prior approval been requested)?		
3	Have the concerned services prepared the documentation in line with the requirements of the beneficiary country and having in mind the discussions amongst donors? Have the beneficiaries been involved and given their approval? Is it adequately tailor-made to respond to the said requirements (not too restrictive to allow competition, but not too large to allow participation of entities which objectively would not respond to these requirements?)		
4	Does the tender dossier contain the relevant provisions on use of local expertise, assessment of past experience of key experts and ways to prove it? Does it reflect the need to involve the beneficiary country, in case of centralised management? Does it provide instructions on interviews of key experts? Have I respected transversal considerations (such as EuropeAid Green Plan)?		
5	In cases of centralised management, has the Commission invited the beneficiary country to the Evaluation Committee and adequate measures have been given to its representative to be able to participate? (e.g. financial support)? If not, in case the beneficiary country objects to a key expert, does it provide objective reasoning for the Commission to reject the proposed tender without affecting the principles of the evaluation procedure – equality of treatment, non discrimination, etc-?		
6	Do I follow the contractual rules in case of replacement of key experts? If such replacement is necessary, does it have an impact on the contract justifying liquidated damages or even termination of the contract? Do I consider necessary to impose penalties?		







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