

## Borders within Europe, border deactivation, cross-border cooperation and institutions: The Iberian Raya case

### Fronteras intraeuropeas, desactivación fronteriza, cooperación transfronteriza e instituciones: El caso de La Raya ibérica

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#### Abstract

The present paper presents an application to the case of the European cross-border cooperation policy (CBC). Specifically, the CBC carried out at the Spanish-Portuguese border is reviewed from a functional perspective. To do this, a descriptive overview of the implementation process of Portuguese-Spanish CBC is made, showing the agents and institutions that have carried it out, in particular the working communities, and the results achieved throughout the process. Understanding by results: 1) what progress or recoils have been made in the deactivation of this secular border —that is, the border effect has been eliminated—, 2) what obstacles remain outstanding and 3) what are the future challenges.

Keywords: EU internal borders, border deactivation, cross-border cooperation, institutions.

#### Resumen

El presente trabajo plantea una aplicación al caso de la política europea de cooperación transfronteriza (CTF). Se revisa la CTF llevada a cabo en la frontera hispano-portuguesa desde una perspectiva funcional, mediante una descripción panorámica del proceso de implementación de CTF luso-hispana, de los agentes e instituciones que la han llevado a cabo, en particular las comunidades de trabajo, y de los resultados logrados a lo largo del proceso. Entendiendo por resultados: 1) qué avances o retrocesos se han realizado en la desactivación de esta frontera secular —es decir, se ha logrado eliminar el efecto frontera—, 2) qué obstáculos quedan pendientes y 3) cuáles son los desafíos del futuro. Las conclusiones muestran un panorama ambiguo por cuanto que se constatan grandes avances en los aspectos de infraestructura, de transporte, comunicación, inter-

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cambio y comercio; aunque todavía queden flecos pendientes y otros campos —culturales, antropológicos-sociológicos— donde los progresos son poco significativos o nulos.

Palabras clave: fronteras interiores europeas, desactivación fronteriza, cooperación transfronteriza, instituciones.

## Introduction: European integration and the cross-border approach

From a European perspective, the creation of the European Single Market (ESM) was the central axis of the European Economic Community at the time and is the central axis of the current European Union (EU). This common market and the subsequent European economic integration have been considered highly effective instruments for achieving stable and durable economic growth and increasing living standards in Europe.<sup>1</sup> Implementing the ESM entailed achieving high levels of economic integration among the different member states of the EU, which meant eliminating the different barriers and obstacles to integration. Hence, deactivating borders would become essential. For this reason, removing them has been one of the fundamental courses of action in the EU constitutive process.

This should come as no surprise, given that in Europe, since the Peace of Westphalia (1648),<sup>2</sup> the Treaty of the Pyrenees (1659),<sup>3</sup> and the Treaties of Utrecht and Rastatt (1713-1715),<sup>4</sup> the territory within the borders of a particular state constitutes its sovereign space and is subjected to the political-legal system of the State in question. For this reason, the existence of a border policy implies, among others, legal, political, economic, fiscal, customs, and linguistic ethno-cultural differences or discontinuity among neighboring territories (Calderón, 2015, p. 66) that belong to different States, each with their own normative, political, and economic-fiscal systems that end and begin at the border (Cairo & Lois, 2013; Foucher, 2007). Therefore, “a world of sovereign states is a world divided by border lines” (Taylor, 1994, p. 152).

Such discontinuity causes high *transaction costs* that may arise from both the enforceability of agreements and contracts beyond the border and existing linguistic

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<sup>1</sup> Not in vain, in the Versión Consolidada del Tratado Constitutivo de la Comunidad Europea (2002, art. 2, p. 40):

The community shall aim to promote, through the establishment of a common market and an economic and monetary union and through the implementation of the common policies or actions provided in articles 3 and 4, harmonious, balanced and sustainable development of economic activities in the community altogether, a high level of employment and social protection, equality between man and woman, a sustainable and non-inflationary growth, a great degree of competitiveness and the convergence of economic results, a high level of protection and the improvement of the quality of the environment, the raising of the level and the quality of life, economic and social cohesion and solidarity among the Member States.

<sup>2</sup> The Peace of Westphalia started a new order in Europe based on the concepts of national sovereignty and territorial integrity. These are the basis of the existence of Nation-States, opposing the feudal conception of territories and peoples as hereditary patrimony.

<sup>3</sup> This treaty accurately defines the border between the kingdoms of France and Spain following the line of the Pyrenees.

<sup>4</sup> The Treaties of Utrecht and Rastatt bring an end to the War of the Spanish Succession, generating a series of new states that are recognized by their borders.

and cultural differences, uncertainties regarding the type of change, and the different monetary systems, among others. Therefore, border discontinuity generates the so-called *border effect* (Chen, 2004; Evans, 2003; Gil-Pareja, Llorca-Vivero, Martínez-Serrano & Oliver, 2005; Minondo, 2007; Nitsch, 2000), which hinders and obstructs border exchanges (Rodrik, 2012).

The so-called *deadlock border*, through which state territory, infrastructure networks, and communications (highways, roads, railways, and energy networks) die in closed borders, is added to the transaction costs and border effect (Baigorri & Cortés, 1997; Calderón, 2010). Communications only have continuity through (discretionarily) open international border crossings created to that effect. Thus, territorial breakdowns arise in relation to both the rest of the state and the territories on the other side of the border because these areas are disassociated or poorly communicated with the two.

Within the context of the creation of the ESM, the border issue (and its corollaries: transaction costs, border effects, and border deadlocks) is addressed through an interactive approach that regards borders as “cross-border areas” (Dörrenbacher & Brücher, 2000; Gildersleeve, 1976), that is, as: areas of contact, connection, and cooperation between contiguous territories and communities (Anderson, O’Dowd & Wilson, 2003; Wackermann, 2003). This implied a substantial qualitative change in the treatment and management of Inter-European border areas, which up to that point were considered mere outer edges of the State. Everyday contact with “other” Europeans provided border territories with a distinctive social capital that allowed them to act as pro-ESM laboratories, thus promoting the integration process (Amilhat-Szary & Fourny, 2006; Anderson et al., 2003; Dupeyron, 2008; Harguindéguy, 2007; Houtum & Strüver, 2002; Kramsch & Hooper, 2004; Perkmann & Sum, 2002).

Transforming borders into driving forces of European integration was a challenge of historical caliber that far exceeded Europeanist voluntarism. Relations among European neighbors have never been easy, as demonstrated by a history full of conflicts that arose precisely in border markers. Additionally, the very complexity of border deactivation, by involving a multilevel<sup>5</sup> and (and bilateral) process, makes the de-bordering process an activity with a difficult and uncertain outcome.

To overcome this abyss, the European Commission proposed encouraging interaction between border areas using cross-border cooperation (CBC) as a basic instrument. It did so from a multivariate perspective (including institutional, economic, infrastructural, environmental, and cultural aspects as well as those related to income and living standards, among others) that fosters awareness and understanding of the “other”<sup>6</sup> (Association of European Border Regions-AEBR [Asociación de las Regiones Fronterizas Europeas-ARFE], 1997). Simultaneously, the European Regional Policy offered an entire catalog of economic incentives aimed at promoting socio-economic border development<sup>7</sup> (ARFE, 1997; Heredero & Olmedillas, 2009). It encouraged both public administrations (state, regional, and local) and civil society (citizens, universities, associations, foundations, and

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<sup>5</sup> By understanding the different dimensions that range from eliminating physical barriers to reducing or minimizing transaction costs, including empathy and acceptance of the “other.”

<sup>6</sup> This meant understanding the cultural, linguistic, and economic particularities of adjoining territories, thereby encouraging closeness and mutual knowledge to overcome prejudices and hostilities.

<sup>7</sup> Through the Structural Funds (art. 10 of the European Regional Development Fund [ERDF]) and specific programs such as Interreg in its successive editions: Interreg: I (1989-1993); Interreg IIA+PHARE/TACIS-CBC (1994-1999); Interreg III (2000-2006); Interreg IV (2007-2013); and Interreg V-A (2014-2020).

unions, among others) to change their behavior with respect to borders, stimuli without which one could hardly refer to the current *Europe without borders*.

To what extent have these Europeanist designs been realized? To what extent has this suggestive strategy based on CBC borne fruit? The answer to such complex issues exceeds the scope of this work because it would imply subsuming a heterogeneous set of situations among different intra-community borders. However, we can analyze the implementation of the European cross-border policy to a particular case: the Luso-Hispanic border, or the so-called Iberian Raya, a secular intra-European border that, being a large vertical plane, has separated the two major Iberian States for more than 700 years (Podadera & Calderón, 2014).

After defining the subject of study, one may ask in generic terms: how has CBC worked on the Luso-Hispanic border? What institutions have carried it out? More specifically, has the abundance of CBC initiatives observed in La Raya since 1991 linked to the presence of important economic stimulus helped eliminate or minimize the border effect and the deadlock border? Finally, have the transaction costs on the Luso-Hispanic border been substantially reduced?

The present study aims to answer these questions by analyzing the implementation of the cross-border European experience to a singular case: the Iberian Raya,<sup>8</sup> describing its implementation process, the CBC institutions that developed it (specifically the working communities), and its results. The focus of analysis is on the progress made (or lack thereof) regarding the deactivation of this secular border, the obstacles that remain, and the challenges for the future.

This text is a review article; hence, it addresses the analysis and systematization of published research on different matters that converge on the topic of CBC and its applications to the Spanish-Portuguese case<sup>9</sup>. For this reason, the quantitative aspects in this paper present a merely descriptive development.

To that end, following this introduction, the text has been structured in three sections: In the first, we review the relations between institutionality and CBC from three different perspectives, theoretical, instrumental, and European-empirical, stating the basic conceptual and theoretical coordinates. In the second, we present an evolutionary overview of Luso-Hispanic CBC institutionality, focusing on the evolution of working communities and groups and reviewing its origin, configuration, and evolution its organizational and functional characteristics. In the third section, we briefly review the results of almost 30 years of Luso-Hispanic CBC, considering its impact on the border issue (border effect, deadlock border, and transaction costs) and analyzing its onset, observed changes, advancement, progress, and remaining obstacles. Finally, we present the conclusions and implications.

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<sup>8</sup> For a further understanding of the Luso-Hispanic border, see Calderón (2015), Medina (2007), Cairo, Godinho and Pereiro (2009), Macorra (2005), and López (2005).

<sup>9</sup> In the CBC literature, the recent contributions of Medeiros (2010; 2015), Lois and Carballo (2015), Domínguez and Varela (2015), Fernández (2008), and Oliveras, Durà and Perkmann (2010) stand out. With regard to the impact of CBC, the contribution of Farinos and Payà (2005) is worthy of note.

## Institutionality and cross-border cooperation

If institutions are the answer to the dilemmas generated by collective action (North, 1990; Olson, 1965), then managing the complex border deactivation processes required having “institutions” that regulated the behavior of cross-border agents, encouraging CBC, on one hand, and direct processes, on the other hand, by providing them with continuity.

We can address the relations between CBC and institutions from three perspectives: instrumental, European-empirical, and theoretical. From an instrumental perspective, CBC represents a tool for overcoming the border issue whose main objective is to eliminate the trade-distorting barriers caused by the border effect (ARFE, 1997). By the end of Second World War, in shattered Europe, the need for greater effectiveness in the development of initiatives aimed at addressing border issue became evident. To that end, these initiatives had to be concerted (and, if possible, executed) bilaterally by public administrations and other actors on the border. For the first time, efforts were made to promote a development approach focused on the intensification of cross-border relations. Such interactions could have already existed spontaneously in some cases (Julio, 2012) in the form of mere exchanges between both parties; however, they were non-existent in other areas. In the latter, cooperation had to be stimulated and encouraged.

From an empirical-European perspective, CBC (and the institutions supporting it), represent a tool for the construction of the so-called “Europe without borders” and “Europe with Regions.” These are cardinal ideas that, with their ups and downs, have guided the European integration experience (Scott & Collins, 1997). In fact, according to the AEER, the ultimate goal of CBC lies in overcoming the negative consequences of the border effect. To that end, the creation of cross-border services, the reduction in intra-community borders to simple administrative boundaries, and, finally, in the long term, the transformation of peripheral border regions in central locations within the EU are proposed (ARFE, 1997, p. 6).

If the creation of a “Europe without borders” meant or implied some sort of territorial revolution, then its social bases had to be comprehensive; hence, the emphasis on the participation of all border agents, including national, regional, and local governments, organized civil societies, private actors, and non-governmental organizations. Given that they had a better understanding of the border issue at hand, these actors had to prominently feature in solving it through CBC. For this reason, in the European experience, CBC entails a sort of crossroads, an intersection where a multitude of individuals interact, creating relational maps.

Given that CBC was essential to creating a Europe without borders, this cooperation had to be encouraged. Thus, financial aid from the European Commission is a key factor in the creation of cross-border institutions (Boman, 2005; Perkmann, 2003). At this point, CBC institutions have a dual role: on one hand, they are the result of European incentive programs (by being created *ex professo* to develop them), and on the other hand, they are European cross-border policy “doers” because developing European CBC programs implies implementing such policies.

In the European experience, an entire series of organizations designed to manage CBC (with effective access to Interreg financial resources) is created. Among these paradigmatic institutions of the EU cross-border scenario, the so-called *working communities* (further explained for the Luso-Hispanic case in the next section), and the best known *Euroregions*,

stand out. The underlying reason possibly lies in the fact that their birth<sup>10</sup> was prior to the EU catalog of incentives and programs, embodying this spontaneous and historical cooperation characteristic of Europeans who, having different nationalities, shared a common European culture, a somewhat romantic vision but nonetheless effective.

Working communities and Euroregions institutionalized CBC, enabling its continuity (Boira, 2004; Gabbe, 2004). This does not mean that all are highlights, given that there are very disparate results of CBC projects,<sup>11</sup> resulting from the heterogeneity of existing border typologies in the EU and creating intensity differentials in border interactions (Council of Europe, 2006; 2009).

The great demonstration effect generated by the European CBC experience, whose echo has expanded to other continents, should not be ignored. The CBC initiatives in Latin American borders (Coletti, 2010; Rhi-Sausi & Conato, 2009) are a case in point.

From a theoretical perspective, CBC is one of the key areas of the so-called Border Studies. The rational choice approach and neoclassical economics<sup>12</sup> have studied this topic and share economic interaction as the focus of study. Additionally, institutionalism, neo-institutionalism, and political science have greatly contributed to the study of CBC, focusing on the role played by policies and institutions. Finally, CBC has been studied from a cultural and social constructivist perspective, whose founding notion considers borders, border regions, and identities to be socially constructed spaces, constantly remodeled by the changing perceptions of “us” and the “other” (Houtum, 2000).

Possibly, the most widely accepted definition of CBC is that offered by Perkmann (2003),<sup>13</sup> who focuses on the interactions among local-regional border administrations. The acceptance of Perkmann’s definition lies in the fact that it has great descriptive and explanatory power as well as large doses of reality. Moreover, according to Morata and Noferini (2014), to function, CBC requires a complex relational network in which both vertical-level flows (a product of the division of functions of different institutional levels<sup>14</sup> and the interaction between them) and horizontal-level flows (due to the participation of the various territorial actors and their interactions) converge.

This complexity requires so-called *multi-level governance* for proper channeling. Although it is a “mediagenic” and repeated concept (Bache, 1998; 2008), it does not cease to be complex (Marks & Hooghe, 2004) or uncontroversial. The underlying reason is that in addition to having notorious scientific shortcomings (Rosamond, 2010), it underestimates the real power of the State, which continues to be the “gate-keeper” for both policy definition and decision-making. In fact, it allows the participation of local authorities in areas that were previously of the exclusive competence of the State, even when such participation does not significantly affect the results of the action of state policy (Bache, 2008).

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<sup>10</sup> CBC implementation through Euroregions begins with the creation of the “Euregio Gronau-Enschede” (1958), on the initiative of the Municipalities of the Dutch-German border, followed by the creation of the “Regio Basiliensis” (1963) at the request of the economic and social agents of Basel (Switzerland), Mulhouse (France), and Freiburg (Germany).

<sup>11</sup> These projects cover a broad range of topics: spatial planning, economic development, transportation and infrastructure, tourism, environment, labor market, health, social services, culture, or rural development.

<sup>12</sup> Where borders are perceived as obstacles to economic efficiency.

<sup>13</sup> CBC is defined as a “collaboration between contiguous subnational authorities across national borders” (Perkmann, 2003, p. 157).

<sup>14</sup> Because local authorities lack legal capacity under international law, they cannot subscribe to international treaties, needing at all times the coverage of the Member State to which they belong.

## Luso-Hispanic cross-border institutions: Working communities and related agencies

### *The European policy context: Community and non-community instruments*

Luso-Hispanic cross-border institutions are rooted in the European cross-border regulatory framework. This is a peculiar framework because the key policy instruments that regulate CBC do not come from the EU and therefore do not correspond to EU law. In this sense, the European Outline convention on transfrontier cooperation between territorial communities or authorities (Convenio-Marco Europeo sobre cooperación transfronteriza entre comunidades o autoridades territoriales, 1980), also known as the Treaty of Madrid of 1980,<sup>15</sup> is an international treaty, promoted by the Council of Europe,<sup>16</sup> which defines the regulatory framework of CBC in Europe, establishing the concepts of “cross-border cooperation”<sup>17</sup> and “territorial communities or authorities”<sup>18</sup> (Ministry of Finance and Public Administration of the Kingdom of Spain [Ministerio de Hacienda y Administraciones Públicas del Reino de España-MINHAP], 2014).

Despite being a great advance, the Treaty of Madrid presented a series of constraints that impeded CBC functioning in Europe. On one hand, it required the prior inclusion of bilateral or multilateral international treaties that developed and specified the provisions of the European Outline Convention (Convenio-Marco Europeo, 1980). On the other hand, it did not allow the participation of Member States (as such), only that of territorial, local, and regional administrations. Finally, it limited cooperation among contiguous or adjacent border entities, always among Member States of the Council of Europe.

More than three decades after the publication of the European Outline Convention (Convenio-Marco Europeo, 1980), the Council of Europe has attempted to gradually update it through additional protocols. Additional Protocol No.1 (Additional Protocol to the European Outline Convention, 1995) has noted that cooperation should be performed by entities that share a common border, as an essential requirement of CBC, although it does not specify its thematic content. In addition, it enables the creation of CBC agencies. In turn, Additional Protocol No.2 (Protocol No. 2 to the European Outline Convention,

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<sup>15</sup> The Treaty has been in effect since December 22, 1981. It was signed by Spain on October 1, 1986, and ratified on July 10, 1990. To date, 40 out of 47 Member States of the Council of Europe have signed the European Outline Convention, and 38 have ratified it.

<sup>16</sup> The Council of Europe (1949), through the cooperation of the European states, promotes the configuration of a common political and legal space in Europe based on the values of democracy, human rights, and rule of law. Of the organizations that pursue the ideal of European integration, this organization is the oldest.

<sup>17</sup> Defined in art. 2 as “any concerted action designed to reinforce and foster neighborly relations between territorial communities or authorities within the jurisdiction of two or more Contracting Parties and the conclusion of any agreement and arrangement necessary for this purpose” (European Outline Convention [Convenio-Marco Europeo], 1990, art. 2.1, p. 30271).

<sup>18</sup> It defines territorial communities or authorities as “bodies exercising local and regional functions and regarded as such under the domestic law of each State” (European Outline Convention [Convenio-Marco Europeo], 1990, art. 2.2, p. 30271).

1998) incorporates so-called *territorial cooperation*,<sup>19</sup> whereas No. 3 (Protocol No. 3 to the European Outline Convention, 2009) aims to facilitate the creation of *Euroregional co-operation groupings* (Beltrán, 2007).

Regulation (EC) n° 1082 (Reglamento [CE] n° 1082, 2006) on the European Grouping of Territorial Cooperation (EGTC) is an instrument of community law in the field of CBC that gives rise to the aforementioned form of cooperation. This entity is endowed with legal personhood, thus overcoming the constraints of the Treaty of Madrid (Convenio-Marco Europeo, 1980) noted above.<sup>20</sup> Additionally, it enables more flexible forms of cooperation, adapted to current global circumstances, extending the boundaries of traditional CBC and encompassing new modalities such as so-called *territorial cooperation* or transnational and interregional cooperation (MINHAP, 2014).

The EGTC reform in 2013<sup>21</sup> perfects the instrument to expand its thematic fields (incorporating strategic planning and the management of regional and local issues) and enables the participation of members of third-party countries that are neighbors of a member state and so-called overseas countries and territories (OTC).<sup>22</sup>

### ***Protocols for cross-border cooperation and working communities: Origin and configuration***

Unlike other community borders, where the Euroregion has had a leading role, in Luso-Hispanic CBC, the most significant institution has undoubtedly been the so-called *working community* (wc). In La Raya, wcs have channeled the economic incentives provided by the EU. For this reason, these institutions have become strategic entities in the operational deployment of Luso-Hispanic CBC, despite the functional limitations arising from their “political” nature, their informal character, and their lack of legal personhood (Ponte, 2001).

Luso-Hispanic wc derive from the Transfrontier Cooperation Protocols (TCPS) included in the Treaty of Madrid. These are agreements between Portuguese regional border authorities (that is, Regional Coordination Commissions)<sup>23</sup> and their Hispanic counterparts (the Spanish Autonomous Communities [SACS] bordering Portugal).<sup>24</sup>

<sup>19</sup> Defined as “any concerted action designed to establish relations between territorial communities or authorities of two or more Contracting Parties, other than relations of cross-border co-operation of neighboring authorities, including the conclusion of co-operation agreements with territorial communities or authorities of other States” (Protocol No. 2 to the European Outline Convention, 1998, art. 1).

<sup>20</sup> Thus, EGTC can be formed either by Member States or by regional authorities, local authorities and bodies governed by public law, belonging to at least two Member States of the EU.

<sup>21</sup> By Regulation (EU) No. 1302 (Reglamento (UE) n° 1302, 2013) of the European Parliament and of the Council amending Regulation (EC) No. 1082/2006 of 5/07/2006 on European Grouping of Territorial Cooperation OJEU no. L 210, 31.07.2006, pp. 19-24.

<sup>22</sup> Listed in Annex II to the Treaty on the Functioning of the European Union (TFEU).

<sup>23</sup> That is, the *Regions* from north to south: Northern Portugal, the Central Region of Portugal, the Alentejo Region, and the Algarve Region.

<sup>24</sup> That is, the SACS on the border with Portugal, from north to south: Galicia, Castile and León, Extremadura, and Andalusia.

Although the TCPS constitute specific agreements that are non-normative in character<sup>25</sup> (Caballero, 2009; Ponte, 2001), they pose a mutual commitment<sup>26</sup> on the part of the signatory regions to advance CBC.

The Luso-Hispanic wcs have oriented their activity to the selection and follow-up of projects within the framework of community programs and initiatives, such as INTERREG, in its various phases. They encourage interactions between both sides of the border from a multilevel perspective: from regional and local administrations, universities, and centers of study and research to business, professional, and youth associations. To perform these activities, Luso-Hispanic wcs have adopted a more or less standardized organic-functional structure and specific management instruments, among which the so-called Office of Cross-Border Initiatives (CIO) stands out.

The lack of legal personhood of Luso-Hispanic wcs causes an entire series of problems that, given the importance of their work, must be faced. In fact, Luso-Hispanic cross-border agents will constantly ask for clarification regarding this ambiguous legal situation to implement CBC more effectively and efficiently (Ponte & Pueyo, 2006, p. 151). Similarly, given the different regulations and structures of the territorial administrations in both Iberian countries (resulting from different interpretations of the State)<sup>27</sup> and the enormous power differential between the SACS and their Portuguese counterparts, an urgent harmonization has been essential.

In response to such issues, Spain and Portugal<sup>28</sup> created the Treaty of Valencia (Tratado de Valencia, 2004)<sup>29</sup> to provide legal coverage to communities and working groups, establishing both the law applicable to the PTF and the regulation applicable to CBC institutions, distinguishing between agencies with legal personhood (such as Public Law Associations, and Intermunicipal Businesses in Portugal or the consortia in Spain) and agencies without legal personhood (wcs and working groups).

This distinction is important because it assigns specific functional areas: agencies without legal personhood are restricted in their thematic scope.<sup>30</sup> Conversely, agencies with legal personhood may have different goals, including “public works, the common management of equipment or public services, and actions that allow them to benefit from European funds” (MINHAP, 2014, p. 5).

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<sup>25</sup> Therefore, the TCPS are mere declarations of intent between the signatory parties, simple “gentlemen’s agreements” that do not modify the prior competence regimes of each region. The regime is defined by Spanish or Portuguese Law.

<sup>26</sup> Laying the groundwork that would enable the establishment of CBC bodies and institutions that are functional, stable, and oriented toward the development and implementation of programs and projects of common interest.

<sup>27</sup> A very centralized interpretation, in the case of Portugal, whereas there is a decentralization paradigm in the Spanish case.

<sup>28</sup> The Treaty of Valencia (Tratado de Valencia, 2004) was preceded by the Treaty of Friendship and Cooperation between Spain and Portugal (1977), signed simultaneously with the incorporation of Spain into the Council of Europe, to strengthen the bonds of friendship and solidarity between these countries.

<sup>29</sup> Bilateral Treaty between the Kingdom of Spain and the Portuguese Republic on CBC between territorial entities and instances signed in Valencia on December 3, 2002, and entering into effect on January 30, 2004.

<sup>30</sup> That is, the “study of issues of mutual interest,” the “creation and implementation of cooperation proposals,” the “preparation of studies, plans, programs, and projects,” the “encouragement of relations between agents of this type of cooperation,” and the “execution of tasks envisioned for these structures” in the Interreg Program (MINHAP, 2014, p. 5).

The legal coverage of the actions of the communities and working groups until the entry into force of the Treaty of Valencia (Tratado de Valencia, 2004) would necessarily entail the adaptation of the TCPS existing prior to the new regulation, which will be realized through adaptation agreements.<sup>31</sup>

### *Organizational, administrative, and functional aspects of Luso-Hispanic working communities*

The creation of the Galicia-Northern Portugal Working Community on October 31, 1991, begins the institutionalization process of the emerging Luso-Hispanic CBC. By being the first, the Galicia-Northern Portugal WC was configured as a model, for better or worse, for the remaining communities (Ponte & Pueyo, 2006). Briefly describing its management bodies—the Presidency, the Council, the Committee of Coordination and the Sectoral Commissions— may be of benefit because they have been replicated in the remaining WCs with certain variants. The Presidency<sup>32</sup> was run by the presidents of the respective member regions and alternated every two years. The Council, the plenary deliberative body, meets semiannually to give continuity to CBC activities, establishing the WC's "program of action" and its rules of functioning. The Council comprises the official delegations of the Autonomous Community of Galicia and the Coordinating Commission of the Northern Region of Portugal. When possible, the representatives of sub-regional cross-border communities and the coordinators of the sectoral commissions participate in these institutions.

In turn, the Coordinating Committee coordinates the sectoral commissions and the functioning of the secretariat and monitors the "program of action" and the elaboration of the "work programs" of the WC (Ponte & Pueyo, 2006).

Finally, the joint Sectoral Commissions (10) are in charge of matters of common interest to both parties: regional and local administrations; agriculture, the environment, natural resources, and land management; culture, heritage, and tourism; local development; economic stimulation; education, training, and employment; scientific research and universities; fisheries; health and social affairs; and transport (Ponte & Pueyo, 2006).

A specific characteristic of the Extremadura-Alentejo and Extremadura-Centro working groups is that the functions of the Council and of the Committee of Coordination are in charge of the working group itself, acting as the body responsible for the coordination and planning of CBC. They attend to meetings chaired by senior policy makers in CBC at least twice a year. The working group is composed of the regional leaders of each of the specific or technical commissions (the so-called "sectoral" section in the WC) (*Office of Cross Border Initiatives [El Gabinete de Iniciativas Transfronterizas]*, n.d.).

The WCs of Castile and Leon-Norte of Portugal and Castile and Leon-Centro Region (and by extension, the two Andalusian communities) follow a standard organizational

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<sup>31</sup> For example, the Cross-Border Cooperation Agreement for the Adaptation of the Cooperation Protocol between the Community of Castile and León and the Coordinating Commission of the Central Region of Portugal from March 3, 1995, to the Treaty of Valencia signed on November 18, 2008.

<sup>32</sup> This figure showed the representation of the agency, convened and presided over the Council, and ratified its decisions.

chart: the Plenary Council (the “parliament” of the working community), in charge of establishing and approving both the overall action program (proposed by the President) and the biannual general report of activities, regulating the functioning of the sectoral committees and other subsidiary bodies, etc. (Board of Castile and León [Junta de Castilla y León], n.d.).

The Directing Council (a sort of “executive government”) is responsible for coordinating the activities of the Community, ensuring the continuity of its work, and drawing up the programs of action and the biannual report of activities. In addition, this institution monitors, evaluates, and controls the activities of the action plan adopted by the Plenary Council and performs the tasks entrusted to it by that body. It also directs the functioning of the secretariat (CIO) (Board of Castile and León [Junta de Castilla y León], n.d.). Finally, the board of directors trust the Sectoral Committees with the study and analysis of cross-border issues in relevant fields and the elaboration of solution proposals.

The importance of the CIO is evident because these technical-administrative bodies aim to ensure stable information flows and permanent contact between the various institutions that shape the WCS, managing the activities and the day-to-day of CBC. The Extremadura-Alentejo group was the first working group to introduce the figure of the CIO. In fact, their good results led to the creation of the Extremadura-Centro Region CIO, spreading it to the remaining Iberian WCS (*Office of Cross Border Initiatives [El Gabinete de Iniciativas Transfronterizas]*, n.d.).

In addition to its secretariat, the various CIOs have stood out in their various fields for being great facilitators and catalysts of CBC, stimulating all types of relations and projects between the two sides of the Raya, supporting the implementation of courses, workshops, and seminars, cross-border meetings on varied topics (professional, technical, commercial, entertainment, and trade shows), and editing and disseminating publications, among others. In addition, the CIOs have managed their own projects to stimulate territorial cooperation, not only at the cross-border level but also at the interregional level (*Office of Cross Border Initiatives of Castile and León [Gabinete de Iniciativas Transfronterizas de Castilla y León]*, 2014).

### ***The evolution of the Luso-Hispanic model of CBC: From working communities to Euregio***

The evolution of the “traditional” Luso-Hispanic CBC model, organized around working communities and groups, presents two very well defined evolutionary lines. On one hand, there is a trend continuing the format based on the Protocols of Cooperation (successively adapted to the Treaty of Valencia [Tratado de Valencia], 2004), embodied in the so-called Tripartite Working Communities. On the other hand, we find the unconventional innovative trend embodied in the European Grouping of Territorial Cooperation called “Galicia-Northern Portugal” (GNP-EGTC), which constitutes a substantial change, given that it is based on European Regulation 1082 (Reglamento [CE] n° 1082, 2006) and has its

own legal and independent status. Additionally, this institution has its own administrative capacity:<sup>33</sup> designing, projecting, and submitting programs and projects to the relevant community and running them independently, without the need for such programs to be validated or supervised by the Spanish or Portuguese governments.

The first line is chosen by the Luso-Hispanic regional entities in the south-central half (that is the Spanish Autonomous Communities of Andalusia and Extremadura and the Portuguese *Comissão de Coordenação e Desenvolvimento Regional* CCDR counterparts, Alentejo, Centro, and Algarve), interested in deepening their CBC relations, given the good results obtained<sup>34</sup> with the traditional model of cooperation. Nonetheless, they simplify the model, rationalizing its organizational structures, procedures, and budget allocations. To that end, a single (tripartite) cooperation convention is signed, reducing the four pre-existing Communities into only two. Both CBC *Tripartite Agreements* give rise to the “Alentejo-Algarve-Andalusia” (EUROAAA) and “Alentejo-Centro-Extremadura” (EUROACE) Euroregions. In both cases, they are institutions without legal personhood whose legal form is that of a “working community” (regulated by the Treaty of Valencia [Tratado de Valencia], 2004).

With regard to the innovative line, the already existing intense cross-border relations recommended strengthening the existing institutions. Therefore, they created the “Galicia-Northern Portugal” EGTC, whose objective is to facilitate and promote territorial cooperation (cross-border, transnational, and interregional cooperation) among its members, with the sole purpose of strengthening economic and social cohesion. The new Galicia-Northern Portugal Euroregion presents a complex structure. On one hand, the Galicia-Northern Portugal Working Community is still configured as a political body functioning as an organic link between the GNP-EGTC and the highest regional policies. On the other hand, the GNP-EGTC, “implements” cross-border programs (Cancela, 2011). The nexus between them is the *High Council*, composed of the general coordinators of the WC of the *Government of Galicia* and the *Northern Coordination and Regional Development Commission* (CCDR-N by initials in Portuguese).

## Border deactivation versus non-deactivation of the Luso-Hispanic border

Has the abundance of CBC initiatives implemented since 1991 helped eliminate or minimize the *border effect* and *deadlock border*? Moreover, ultimately, have the transaction costs on the Luso-Hispanic border been substantially reduced? The heterogeneity and variation along La Raya do not permit us to provide an unequivocal answer; thus, we must

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<sup>33</sup> Thus, it can “bid, recruit and conduct public work, expropriate, make contracts, manage equipment and operate services of general interest” (Cancela, 2011, p. 12).

<sup>34</sup> The new infrastructures have greatly improved the permeability of La Raya. Additionally, the commercial transactions and relationships between companies are increasing constantly, and the cultural knowledge of the “other” seems to have improved by increasing the teaching of Portuguese in Extremadura and Andalusia and of Spanish in Algarve, Alentejo, and the Central region.

return to the recommendations<sup>35</sup> suggested by the AEBR for the entire area, in the 1990s, to attempt to understand the ups and downs of the deactivation process.

These recommendations focused on deficiencies regarding infrastructure and equipment. The emphasis on such features seems to have led to a reactive response with a pronounced bias toward “road networks” and construction by Luso-Hispanic cross-border institutions either in the design or in the implementation of Community programs in the Iberian Raya.

In accordance with such suggestions, major advances can be found in terms of road infrastructure as well as large transport and communication networks along the entire length of La Raya. This notorious improvement in road infrastructure has boosted the volume of cross-border traffic (flows of goods, persons, vehicles, investments, etc.) through main border roads,<sup>36</sup> as shown in Table 1. Evidently, the incorporation of both Iberian countries into the Schengen area,<sup>37</sup> (1995), with the subsequent elimination of controls and customs, has resulted in a great commercial expansion.

Because half of the roads with greater traffic are located in the Galician stretch of La Raya, between Minho (Portugal) and Galicia (Spain), the intensity of cross-border interactions in this stretch of the border becomes evident.

In addition, traffic is very heavy in both the Badajoz-Elvas axis (on the stretch between Extremadura and Alentejo) and the Ayamonte-Vila Real de Santo Antonio axis, located in the southern stretch of the border (between Algarve, Portugal, and Andalusia, Spain).

Given the road infrastructure differential between 1991 and today, it is only logical to conclude that there is a sort of consensus for improving transport and communications in the Iberian Raya (Caballero, 2009; Gutiérrez, Pérez & Mora, 2010; Martín, 2012; Medina, 2007; Rosell, 2012). However, there are dissenting voices in this regard: for certain authors, the influence of the Structural Funds and their consequences for roads and infrastructure have been overestimated (at least, in the first phases), given that their existence, although beneficial, entails considerable conservation and maintenance costs (Cobo, 1999). For them, their impact is relatively weak in the border region (Caballero, 2009) due to their structural weaknesses.

For other authors, although the development is evident, it seems much more oriented toward the “macro” Portugal/Spain state-connection than toward the “micro” Iberian border connection (Márquez, 2012). This situation has led to dual spatial dynamics, given that the concentration of infrastructure on the five major roads<sup>38</sup> noted above (Table 1) and in the transport network connected to these has caused the rest of the border area to have obvious shortcomings regarding road and transportation services (Gutiérrez et al., 2010, p. 144).

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<sup>35</sup> In the border regions of Portugal and Spain, poor infrastructure and a lack of cross-border communication are still obstacles. Due to structural underdevelopment and its peripheral location, it is still very difficult to exploit the advantages of the enlarged internal market of the EU, including cross-border trade, the cross-border labor market, or the beneficial conditions to attract new investors (ARFE, 1997, p. 18).

<sup>36</sup> Only six main axes concentrate 81% of the volume of the Luso-Hispanic cross-border traffic: Tui (Puente nuevo)/Valença do Minho (25%), Tui (Puente viejo)/Valença do Minho (8%), Verín/Vilaverde Raia (7%), Fuentes de Oñoro/Vilar Formoso (11%), Badajoz/Caia-Elvas (14%), and Ayamonte/Monte Francisco-Vila Real de S. Antonio (16%). These are typically freeways or divided highways (dual former “national” roads).

<sup>37</sup> Although Portugal and Spain adhered to the Treaty of Schengen in 1991, the implementation of the Agreement did not come into effect until March 1995.

<sup>38</sup> This concentration occurs in both major cross-border axes and large urban centers crossed or bound by such axes.

**Table1:** Road traffic intensity in Luso-Hispanic border areas

Main Road	Typology	Traffic	
		Portugal	Spain
Galicia-Northern Portugal section			
Tui (Puente Nuevo) Spain/Valença do Minho (Portugal)	A-55/IP-1A	14.725	15.511
Tui (Puente viejo)/Valença do Minho	N-550/EN-13		4.903
Arbo/Melgaço	PO-405 PO-400b		1.279
Ponte Barxas/San Gregórico	OU-801 (OU-410)		1.433
Verín/Vilaverde Raia	N-532/EN-103 (IP-3)	4.094	4.555
Castile-León/Centro Region of Portugal			
Tuy San Martín de Pedroso/Quintanilla	N-122/EN-218-1 (IP-4)	1.377	1.564
La Fregeneda/Barca de Alva	CL-517/ER-221		1.070
Fuentes de Oñoro/Vilar Formoso	N-620/IP-5	7.739	6.676
Extremadura/CentroerRegion of Portugal – Alentejo section			
Valverde del Fresno/Penamacor	EX-205		1.287
Valencia de Alcántara/Marvao	N-521/EN-246-1		1.043
Badajoz/Caia (Elvas)	N-V/IP-7 A	9.426	8.669
Olivenza/Ajuda	EX-105 /		958
Villanueva del Fresno/Leonardo (Mourao)	EX-107/ EN-256		1.419
Andalusia-Algarve-Alentejo			
Rosal de la Frontera/Vila V. Ficalho	N-433/EN-260 (IP-8)		1.587
Ayamonte/Monte Francisco (Vila Real de Santo António)	A-49/IP-1 A /	6.788	9.706

Source: Own elaboration, data from Díaz (2007, pp. 299-300).

A side effect of the concentration of infrastructures and equipment is the strengthening of the asymmetrical distribution of the population. Thus, the population in La Raya tends to concentrate on the best located and equipped sites to have a higher quality of life (better employment expectations, education, etc.). Moreover, this trend tends to weaken the population of the poorly communicated rural areas, worsening the demographic decline and the aging process already in place (Lois & Carballo, 2015; Podadera & Calderón, 2014).

The intensification of global flows appears to be directly correlated with the increase in Luso-Hispanic business, investment, and financial interactions. Therefore, contacts and the business presence are multiplied by both the Spanish and the Portuguese, on either side of the border, resulting in double figures and volumes of imports and exports (Alonso, 2009; Lucio & Barrios, 2002; Medeiros, 2010, 2015; Pires & Teixeira, 2002, 2003).

The increase in trade between border regions is particularly significant, especially that between Galicia and the Northern Region (Díaz, 2007) and in the Badajoz/Elvas-Campo Maior axis. This traffic represents 60% of exports and 50% of imports in Badajoz. In the southern stretch of the border, the trade between Andalusia and its Portuguese counterparts on the border, Algarve and Alentejo, has made Portugal the second export destination of Andalusia<sup>39</sup> (Gómez & Méndez, 2012).

Although the exponential increase (in historical terms) in investments, capital flows, and people noted above could make us think that the former Luso-Hispanic economic-commercial customs border no longer exists, significant assets such as electrical, telephonic, energy, and financial networks as well as medical and social services and health care services continue to die at the border (Gutiérrez et al., 2010; Medina, 2007).

With regard to transaction costs, there are still restrictions on free transit, both in the administrative field (administrative constraints to the transport of goods, vehicle registrations, etc.), and in the fiscal spheres (income tax statements, payment of taxes, etc.). Additionally, marked differences between Spanish and Portuguese administrative structures still persist in the administrative-institutional field. In fact, they are aggravated by the different spatial planning of the territories (Gutiérrez et al., 2010, p. 145), such that, for example, a Spanish *municipality* does not match a Portuguese *concelho*.<sup>40</sup> Similarly, the Spanish *provinces* do not correspond to the Portuguese *regions*, nor is the level of competence of the Hispanic Autonomous Communities equivalent to the Portuguese *regions*. Nonetheless, the border population does not regard these barriers as truly significant (Gutiérrez et al., 2010).

It should be noted that at a statistical level, the homogenization required to determine the various statistical variables does not exist (Gutiérrez et al., 2010, p. 145). In addition, homogenizing (or at least coordinating) the different legislative and juridical systems would be necessary because the current disparate rules hinder Luso-Hispanic joint and collaborative action (Gutiérrez et al., 2010, p. 146).

The social, cultural, and identitarian border seems to remain immutable and to resist time, whether as a “*sense of separate and even distant identity*” (Medina, 2007, p. 142) or in an intangible yet present manner in the mind of the vast majority of the countries’ inhabitants (Alonso, 2009; Antunes, 2008; Gualda, 2009; Gutiérrez et al., 2010), thus becoming a symptom that shows that the Luso-Hispanic border represents a symbolic and clear “social construction.”

## Conclusions

Since 1991, a process of border deactivation has occurred in the Luso-Hispanic Raya, in line with its condition of internal community border. This process has been performed following the instructions of European integration (via ESM) and its actuarial processes: the elimination of physical controls, barriers, and customs to enable free transit,

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<sup>39</sup> Approximately 1 500 Andalusian companies export their products to Portugal, which is unprecedented in historical terms. Similarly, Portuguese entrepreneurs are very much present in Andalusia, having logistical centers in Seville.

<sup>40</sup> Created on the basis of the *freguesias* or parishes that comprise it.

the development of CBC, and the implementation of programs and Structural Funds, particularly the Interreg.

The implementation of these mechanisms (and of their enormous financial resources) has encouraged investment processes and the accumulation of capital (particularly in infrastructure and equipment), functioning as facilitators in a space that until recently had a socio-economic profile close to that which is typical of structural underdevelopment.

With regard to border deactivation, the minimization of transaction costs is a proven fact, owing to free transit, the elimination of customs, controls, and barriers, and the significant progress made in road infrastructure and in cross-border transportation and communication networks. These are determinant factors (and constraints) of the remarkable expansion observed in the traffic of goods, services, and people. Moreover, they become evident through the exponential increase in international Luso-Hispanic trade, particularly regarding the growth in business interactions in certain border regions.

Despite the progress made, there are still some important administrative, logistical, and regulatory obstacles that hinder the complete removal of the border effect on the Iberian Peninsula. Therefore, if the question to answer were ‘can the *border effect* derived from the existence of borders be deactivated?’, then the response in the case of La Raya (and in many other EU internal borders) would be ‘yes’, with certain exceptions, because despite the great progress made, there are still some fields in which there is ample room for improvement.

In this process, CBC and its institutions, with their advantages and disadvantages, have played a fundamental role in the territorial channeling of financial resources. Thus, the influence of CBC in the political, administrative, and social landscape of the Iberian Raya is undeniable. CBC institutions, particularly the WCs and their CIOS, have created a new strand of relations, interactions, and common interests that were previously non-existent. Thus, they have laid the groundwork for future and encouraging joint ventures (Medeiros, 2015). This is shown by initiatives such as the RESOE,<sup>41</sup> the RIET,<sup>42</sup> and the *Eixo Atlántico do Noroeste Peninsular*,<sup>43</sup> which are cross-border networks (which may well be the subject of further work) that were unimaginable a couple of decades ago.

There is much room for improvement, given that this “top-to-bottom” cooperation (driven by regional authorities) may possibly be too “institutional” (in some ways even “bureaucratic”) and be born of EU funds and grants (Calderón, 2010; Márquez, 2012; Medina, 2007). In addition, it has been implemented unilaterally or, if preferred, in a manner that is not actually in line with the cross-border ideal, with national duplication of agencies. Moreover, priority has been given to infrastructure and communications, ignoring relevant social or cultural aspects (Cabero 2004, 2008; Caramelo, 2007). Finally, this cooperation is “fragile,” given its almost extreme dependence on the Structural Funds.

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<sup>41</sup> The so-called Regions of Southwest Europe (RESOE), a macro region composed of the (CCAA) SPANISH AUTONOMOUS REGIONS including Galicia, Castile and León, Asturias, and the Portuguese region of Northern Portugal, with the objective of constituting a strategic space that fosters economic development and territorial rebalancing.

<sup>42</sup> The so-called Iberian Network of Cross-Border Cooperation Entities (RIET), composed of organizations working in Luso-Hispanic CBC. They define this cooperation as “any joint work between Spain and Portugal,” considering cooperation as a determinant in the local and regional development of border territories.

<sup>43</sup> This entity currently includes more than 30 cities of the GNP Euroregion.

The de-bordering progress has created a “utilitarian” invisibility of the old border, given that travelers will not find barriers on their way, customs that require documentation, or police officers to control border traffic. Only some posters are reminiscent of the transit from Spain to Portugal and vice versa. It may be thought that the ancient Iberian Raya has disappeared. However, the old border is still there, present, alive in the mind of the vast majority of its inhabitants through their cultural, linguistic, emotional, and identitarian dimensions and in the feeling of belonging to a national community that is distinct and different from the others. Therefore, if the question to respond to were ‘can borders be suppressed?’, then the response in the case of the old Luso-Hispanic border (and, possibly, in that of many other intra-European borders) would be ‘no’. They may not be visible, but they cannot be removed as though they had never existed, and this contradiction remains hidden in Europe despite the ESM and the European integration process.

If intra-community borders are borders in transition, no regrowth in nationalism (a temptation that is very present in Europe today) and a clear and definite political will are necessary to complete this transition. Additionally, so that the political will does not degrade into mere voluntarism, giving continuity to CBC initiatives is a must. This seems to be the key issue, given the great economic problems, the associated risks, and the social challenges that must be faced by both Spain and Portugal.

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