In Kind Contributions in the life of an ERIC

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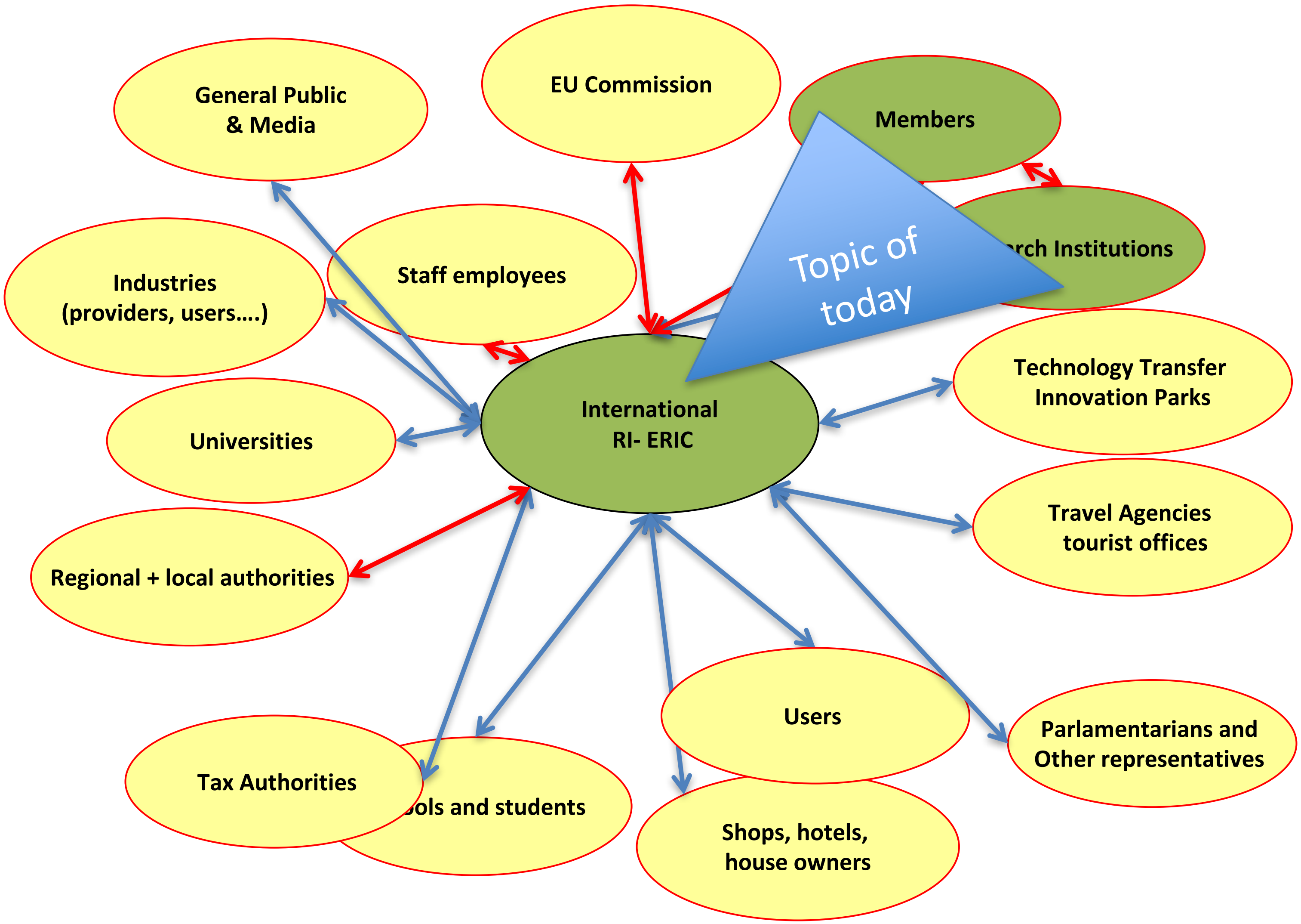
Contributions and Stakeholders



IKCs are many more than what we normally consider!! In few cases the Contributions are «also» in cash (in one direction, red arrows), most are «in kind!» (blue arrows).
All are important for sustainability! Today we focus on the «hard» ones (the Triangle)

The ERIC Perimeter(s)

Often there is reference to the "perimeter" of the ERIC, e.g. to define the "area" of application of the ERIC specific rights and commitments, or the "hardness" of IKC transfer.

Taking into account the structure of most distributed ERICs, we can distinguish:

- An "inner core" perimeter, defining the area of actions where the ERIC is in full legal control and responsibility. This is the area where Audited accounting is needed, e.g. to use ERIC procurement and tax exemptions.
- An "integrated operations perimeter", defining the wider area where, based on statutes and agreements, a number of different legal entities act together as a unique facility. In this area the accounting/reporting is needed more for the definition of the role of each partner in the consortium

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Why so many IKCs?

- Historically RIs have had IKCs: e.g. CERN for construction/ upgrades, ESRF for operation (CRG on beamlines), but mostly based on “geographical transfer” from the contributing Country.
- With distributed ERICs most Members prefer to contribute in-kind: this means that the cash expenditure is inside the Country (returns to national industries, opening national facilities, more employment, less brain-drain……etc).
- For these reasons ERICs have expanded the use of IKCs (defined in Statutes and official guidelines) including both new and pre-existing facilities and their operation, both with and without site-transfer.

A more specific definition of IKC

In-kind contributions represent a non-cash benefit (and risk) transfer of <u>Goods and Services and/or Personnel</u> based on Statute and/or Agreements involving (directly or indirectly) the Members and planned in yearly programs approved by the GA.
This transfer must ensure/facilitate the construction and/or operation, and should reflect in the yearly budget and accounts of the ERIC, either in a auditable or in a statistical/narrative form.

The goods and services are transferred to the ERIC either through availability or property. Personnel, qualified for the assigned activity, is made available* for tasks planned in yearly programs, or for longer-term management structure.
In general, IKCs are accompanied by cash contributions, to allow enough independent capability to the ERIC.

* The methods and titles for the availability of personnel are strongly connected to their legal employment framework

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Some warnings

- In Kind Contributions are not for a specific "one-on-one return" (e.g. not for "buying a service"), but for jointly developing a common goal. This is the base for defining them as "Contributions" not subject to VAT.
- This is different from the commercial/industrial environment, where exchange with no "direct return" is rare.
- The expanded scope of IKCs, plus the opportunity, under strict conditions, to use tax and procurement rule exemptions, require new focus.

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Different cases of IKCs

Based on the experience, the following types of IKCs can be listed:

- IKCs for new construction in same or different country, with possible exemptions for procurement rules and Taxes
- IKCs to assemble/operate new ERIC with existing facilities (no transfer, no new procurement, no VAT but possibly Excise exemptions)
- IKC for upgrades and for operation (a mixture of the above)

These IKCs are approved at GA (Member's) level, and delivered directly by Member (rare) or through a separate Entity (ad hoc or representing)

Values should always be accounted/reported, to understand size and scope of the RI and define Commitments and Sustainability.

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Transferring the IKCs

- An IKC implies a transfer from the Contributor (the ERIC Member or its delegated Entity) to the ERIC. IKCs can be transferred physically or only contractually, not necessarily including ownership or employment.
- The transfer can go from full transfer of ownership/availability (and responsibility) to more loosely defined agreements to operate within a common program.
- Many choices between full ownership/availability to part-time/full-time “availability” (100% or x%).
- Other aspects to be defined (maintenance, liabilities/insurance, technical life and devaluation, what happens at end-of life or decommissioning……….)
- The transfer and its details must be based on some type of agreement, formalized between contributor and receiver

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Accounting the IKCs (general)

- The planned or effected transfer should be reported, respectively, in the yearly budget or in the accounts and reports of the ERIC
- Depending on the type of transfer, the accounting/reporting of the value of the contribution may go from “auditable” to “declared”, to “indicative/statistical” or only “narrative”.
- This also depends on the use of the values, (e.g. audited if to get co-funding or indicative if only for internal purpose). This use may also imply specific issues (as, e.g. the voting and access rights, the cash contributions….) and may also depend on the degree of trust between the partners…
- Also (e.g. for tax purpose) there may be the need to define clearly if the IKC is in the “ERIC’s core perimeter” for the (non-economic) ERIC’s “sole-purpose”, or “promiscuous” use.

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Accounting the IKCs (summary)

The value of KPIs can be assessed/accounted in different ways, depending on the type of transfer and the use of the values:

Indicatively:

- Direct/audited procurement cost (when specifically required)
- Agreed cost book value (independent on real cost met).
- Estimated historical/market cost or “fair value”
- Estimated “standard” or “statistical” values
- Described by narratives (overlap with KPI)

The Statutes (or internal Rules) should lay down the procedure for the GA to decide on in-kind contributions and how to include them in the ERIC budget and accounts and define the procedure for assessing their values, and how to report on them accordingly

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About more complex transfers

- Here we focus on contractual contributions provided by the Members (most often through a delegated entity*: a "triangular" transfer).

- Often there is a lack of clear "delegation" from Member to delegated Entity: e.g. is this including cash contribution to the Entity by the Member?, or IKC's are on the Entities budget?

- This lack of clarity may reflect on difficulties by the Entity in defining its Agreements with the ERIC.

* In the next talk about VAT some more of it.

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